
SENATE BILL 6045

State of Washington 60th Legislature 2007 Regular Session

By Senators Haugen, Swecker, Spanel and Murray

Read first time 02/15/2007. Referred to Committee on Transportation.

1 AN ACT Relating to transportation regulation; amending RCW
2 7.60.005, 7.60.025, 8.24.040, 9.26A.110, 9.73.070, 10.93.020,
3 15.65.610, 15.66.270, 18.27.090, 19.02.050, 19.28.311, 19.29A.010,
4 19.86.170, 19.122.020, 19.122.027, 19.122.035, 19.122.055, 19.138.021,
5 19.158.020, 19.158.110, 19.182.110, 19.250.010, 19.280.020, 23.86.400,
6 23B.01.590, 24.06.600, 28A.160.010, 28A.160.100, 28A.160.120,
7 28A.335.320, 34.05.380, 34.12.020, 35.02.160, 35.13.280, 35.21.455,
8 35.58.240, 35.58.250, 35.84.060, 35.92.052, 35.97.040, 35A.14.900,
9 35A.21.125, 35A.81.010, 36.57.040, 36.57A.090, 36.57A.100, 36.58.040,
10 36.58.045, 36.58.050, 36.58A.030, 36.58A.040, 36.86.100, 38.52.520,
11 38.52.530, 39.34.085, 39.35C.030, 41.26.030, 41.26.030, 42.17.2401,
12 42.17.241, 42.56.330, 43.20A.725, 43.21F.055, 43.21F.060, 43.21G.080,
13 43.44.130, 43.52.450, 43.59.010, 43.59.040, 46.04.480, 46.16.125,
14 46.25.170, 46.30.020, 46.32.010, 46.32.080, 46.32.090, 46.32.100,
15 46.48.175, 46.52.060, 46.61.350, 46.61.410, 46.72.010, 46.72.040,
16 46.72.050, 46.72.060, 46.73.010, 46.73.020, 46.76.010, 46.76.067,
17 47.06.050, 47.06A.020, 47.06A.040, 47.12.066, 47.32.140, 47.36.050,
18 47.36.070, 47.76.230, 47.76.240, 47.79.020, 48.22.110, 53.08.005,
19 54.04.045, 54.04.100, 54.16.005, 54.16.040, 54.44.020, 54.48.030,
20 54.48.040, 64.04.200, 69.04.960, 69.04.980, 70.74.010, 70.74.191,
21 70.94.610, 70.95.030, 70.95.090, 70.95.235, 70.95.320, 70.95.400,

1 70.95J.020, 70.95K.010, 70.95K.030, 70.95K.040, 70.95N.030, 70.116.134,
2 79.36.380, 79.36.400, 79.36.410, 79.36.600, 79.36.630, 79.36.640,
3 79.110.040, 79.110.050, 80.01.010, 80.01.040, 80.01.080, 80.01.300,
4 80.04.010, 80.08.010, 80.12.010, 80.16.010, 80.24.060, 80.28.075,
5 80.28.190, 80.28.210, 80.28.220, 80.28.240, 80.28.250, 80.36.390,
6 80.36.400, 80.36.430, 80.36.500, 80.36.520, 80.36.540, 80.36.555,
7 80.36.560, 80.36.620, 80.40.010, 80.40.040, 80.40.050, 80.50.030,
8 80.54.070, 80.60.010, 81.04.010, 81.04.080, 81.04.160, 81.08.010,
9 81.12.010, 81.20.010, 81.20.020, 81.24.010, 81.24.050, 81.24.070,
10 81.24.080, 81.28.010, 81.44.010, 81.44.020, 81.44.040, 81.44.032,
11 81.44.065, 81.44.070, 81.48.015, 81.53.010, 81.53.020, 81.53.050,
12 51.53.070, 81.53.080, 81.53.110, 81.53.120, 81.53.130, 81.53.140,
13 81.53.150, 81.53.160, 81.53.170, 81.53.180, 81.53.190, 81.53.200,
14 81.53.210, 81.53.220, 81.53.240, 81.53.250, 81.53.261, 81.53.271,
15 81.53.275, 81.53.281, 81.53.291, 81.53.420, 81.61.020, 81.61.030,
16 81.61.040, 81.77.010, 81.77.040, 81.104.120, 81.112.090, 82.08.0255,
17 82.12.0256, 82.14B.030, 82.16.010, 82.16.055, 82.26.105, 82.36.285,
18 82.38.080, 84.12.230, 87.03.015, 87.03.115, 87.03.137, 87.03.828,
19 87.03.840, and 88.16.190; reenacting and amending RCW 39.29.040,
20 39.35C.080, 46.16.160, 46.44.105, 46.61.687, 46.74.010, 47.60.120, and
21 82.14B.030; adding a new section to chapter 46.16 RCW; adding a new
22 section to chapter 81.04 RCW; adding a new section to chapter 81.28
23 RCW; adding a new section to chapter 81.44 RCW; adding a new section to
24 chapter 81.53 RCW; adding a new chapter to Title 46 RCW; adding new
25 chapters to Title 80 RCW; adding a new chapter to Title 81 RCW;
26 recodifying RCW 46.32.080, 46.32.100, 81.77.010, 81.77.015, 81.77.020,
27 81.77.0201, 81.77.030, 81.77.040, 81.77.050, 81.77.060, 81.77.070,
28 81.77.080, 81.77.090, 81.77.100, 81.77.110, 81.77.120, 81.77.130,
29 81.77.140, 81.77.160, 81.77.170, 81.77.180, 81.77.185, 81.77.190,
30 81.88.005, 81.88.010, 81.88.020, 81.88.030, 81.88.040, 81.88.050,
31 81.88.060, 81.88.070, 81.88.080, 81.88.090, 81.88.100, 81.88.110,
32 81.88.140, 81.88.150, 81.88.900, 81.88.901, 81.88.902, 81.108.010,
33 81.108.020, 81.108.030, 81.108.040, 81.108.050, 81.108.060, 81.108.070,
34 81.108.080, 81.108.090, 81.108.100, 81.108.110, 81.108.900, and
35 81.108.901; repealing RCW 19.27A.035, 36.54.180, 49.17.350, 70.95.900,
36 81.01.010, 81.24.020, 81.24.030, 81.24.090, 81.40.010, 81.40.095,
37 81.44.096, 81.44.098, 81.44.099, 81.66.010, 81.66.020, 81.66.030,
38 81.66.040, 81.66.050, 81.66.060, 81.68.010, 81.68.015, 81.68.020,

1 81.68.030, 81.68.040, 81.68.046, 81.68.050, 81.68.060, 81.68.065,
2 81.68.070, 81.68.080, 81.68.090, 81.70.010, 81.70.020, 81.70.030,
3 81.70.220, 81.70.230, 81.70.240, 81.70.250, 81.70.260, 81.70.270,
4 81.70.280, 81.70.290, 81.70.300, 81.70.310, 81.70.320, 81.70.330,
5 81.70.340, 81.70.350, 81.70.360, 81.80.010, 81.80.020, 81.80.030,
6 81.80.040, 81.80.045, 81.80.050, 81.80.060, 81.80.070, 81.80.080,
7 81.80.090, 81.80.100, 81.80.110, 81.80.115, 81.80.120, 81.80.130,
8 81.80.132, 81.80.140, 81.80.150, 81.80.170, 81.80.175, 81.80.190,
9 81.80.195, 81.80.200, 81.80.211, 81.80.220, 81.80.230, 81.80.240,
10 81.80.250, 81.80.260, 81.80.270, 81.80.272, 81.80.280, 81.80.290,
11 81.80.301, 81.80.305, 81.80.312, 81.80.318, 81.80.321, 81.80.330,
12 81.80.340, 81.80.345, 81.80.346, 81.80.355, 81.80.357, 81.80.360,
13 81.80.370, 81.80.371, 81.80.375, 81.80.380, 81.80.381, 81.80.391,
14 81.80.395, 81.80.400, 81.80.410, 81.80.420, 81.80.430, 81.80.440,
15 81.80.450, 81.80.460, 81.84.010, 81.84.020, 81.84.025, 81.84.030,
16 81.84.040, 81.84.050, 81.84.060, and 81.84.070; prescribing penalties;
17 providing an effective date; providing a contingent effective date;
18 providing an expiration date; and providing a contingent expiration
19 date.

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

21 **Sec. 1.** RCW 7.60.005 and 2004 c 165 s 2 are each amended to read
22 as follows:

23 The definitions in this section apply throughout this chapter
24 unless the context requires otherwise.

25 (1) "Court" means the superior court of this state in which the
26 receivership is pending.

27 (2) "Entity" means a person other than a natural person.

28 (3) "Estate" means the entirety of the property with respect to
29 which a receiver's appointment applies, but does not include trust fund
30 taxes or property of an individual person exempt from execution under
31 the laws of this state. Estate property includes any nonexempt
32 interest in property that is partially exempt, including fee title to
33 property subject to a homestead exemption under chapter 6.13 RCW.

34 (4) "Executory contract" means a contract where the obligation of
35 both the person over whose property the receiver is appointed and the
36 other party to the contract are so far unperformed that the failure of

1 either party to the contract to complete performance would constitute
2 a material breach of the contract, thereby excusing the other party's
3 performance of the contract.

4 (5) "Insolvent" or "insolvency" means a financial condition of a
5 person such that the sum of the person's debts and other obligations is
6 greater than all of that person's property, at a fair valuation,
7 exclusive of (a) property transferred, concealed, or removed with
8 intent to hinder, delay, or defraud any creditors of the person, and
9 (b) any property exempt from execution under any statutes of this
10 state.

11 (6) "Lien" means a charge against or interest in property to secure
12 payment of a debt or the performance of an obligation.

13 (7) "Notice and a hearing" or any similar phrase means notice and
14 opportunity for a hearing.

15 (8) "Person" means an individual, corporation, limited liability
16 company, general partnership, limited partnership, limited liability
17 partnership, association, governmental entity, or other entity, of any
18 kind or nature.

19 (9) "Property" includes all right, title, and interests, both legal
20 and equitable, and including any community property interest, in or
21 with respect to any property of a person with respect to which a
22 receiver is appointed, regardless of the manner by which the property
23 has been or is acquired. "Property" includes any proceeds, products,
24 offspring, rents, or profits of or from property in the estate.
25 "Property" does not include any power that a person may exercise solely
26 for the benefit of another person or trust fund taxes.

27 (10) "Receiver" means a person appointed by the court as the
28 court's agent, and subject to the court's direction, to take possession
29 of, manage, or dispose of property of a person.

30 (11) "Receivership" means the case in which the receiver is
31 appointed. "General receivership" means a receivership in which a
32 general receiver is appointed. "Custodial receivership" means a
33 receivership in which a custodial receiver is appointed.

34 (12) "Security interest" means a lien created by an agreement.

35 (13) "State agent" and "state agency" means any office, department,
36 division, bureau, board, commission, or other agency of the state of
37 Washington or of any subdivision thereof, or any individual acting in
38 an official capacity on behalf of any state agent or state agency.

1 (14) "Utility" means a person providing any service regulated by
2 the utilities ((and ~~transportation~~)) commission.

3 **Sec. 2.** RCW 7.60.025 and 2006 c 52 s 1 are each amended to read as
4 follows:

5 (1) A receiver may be appointed by the superior court of this state
6 in the following instances, but except in any case in which a
7 receiver's appointment is expressly required by statute, or any case in
8 which a receiver's appointment is sought by a state agent whose
9 authority to seek the appointment of a receiver is expressly conferred
10 by statute, or any case in which a receiver's appointment with respect
11 to real property is sought under (b)(ii) of this subsection, a receiver
12 shall be appointed only if the court additionally determines that the
13 appointment of a receiver is reasonably necessary and that other
14 available remedies either are not available or are inadequate:

15 (a) On application of any party, when the party is determined to
16 have a probable right to or interest in property that is a subject of
17 the action and in the possession of an adverse party, or when the
18 property or its revenue-producing potential is in danger of being lost
19 or materially injured or impaired. A receiver may be appointed under
20 this subsection (1)(a) whether or not the application for appointment
21 of a receiver is combined with, or is ancillary to, an action seeking
22 a money judgment or other relief;

23 (b) Provisionally, during the pendency of any action to foreclose
24 upon any lien against or for forfeiture of any interest in real or
25 personal property, or after notice of a trustee's sale has been given
26 under RCW 61.24.040, or after notice of forfeiture has been given under
27 RCW 61.30.040, on application of any person, when the interest in the
28 property that is the subject of foreclosure or forfeiture of the person
29 seeking the receiver's appointment is determined to be probable and
30 either:

31 (i) The property or its revenue-producing potential is in danger of
32 being lost or materially injured or impaired; or

33 (ii) The appointment of a receiver with respect to the real or
34 personal property that is the subject of the action, the notice of
35 trustee's sale or notice of forfeiture is provided for by agreement or
36 is reasonably necessary to effectuate or enforce an assignment of rents
37 or other revenues from the property;

- 1 (c) After judgment, in order to give effect to the judgment;
- 2 (d) To dispose of property according to provisions of a judgment
3 dealing with its disposition;
- 4 (e) To the extent that property is not exempt from execution, at
5 the instance of a judgment creditor either before or after the issuance
6 of any execution, to preserve or protect it, or prevent its transfer;
- 7 (f) If and to the extent that property is subject to execution to
8 satisfy a judgment, to preserve the property during the pendency of an
9 appeal, or when an execution has been returned unsatisfied, or when an
10 order requiring a judgment debtor to appear for proceedings
11 supplemental to judgment has been issued and the judgment debtor fails
12 to submit to examination as ordered;
- 13 (g) Upon an attachment of real or personal property when the
14 property attached is of a perishable nature or is otherwise in danger
15 of waste, impairment, or destruction, or where the abandoned property's
16 owner has absconded with, secreted, or abandoned the property, and it
17 is necessary to collect, conserve, manage, control, or protect it, or
18 to dispose of it promptly, or when the court determines that the nature
19 of the property or the exigency of the case otherwise provides cause
20 for the appointment of a receiver;
- 21 (h) In an action by a transferor of real or personal property to
22 avoid or rescind the transfer on the basis of fraud, or in an action to
23 subject property or a fund to the payment of a debt;
- 24 (i) In an action against any person who is not an individual if the
25 object of the action is the dissolution of that person, or if that
26 person has been dissolved, or if that person is insolvent or is not
27 generally paying the person's debts as those debts become due unless
28 they are the subject of bona fide dispute, or if that person is in
29 imminent danger of insolvency;
- 30 (j) In accordance with RCW 7.08.030 (4) and (6), in cases in which
31 a general assignment for the benefit of creditors has been made;
- 32 (k) In quo warranto proceedings under chapter 7.56 RCW;
- 33 (l) As provided under RCW 11.64.022;
- 34 (m) In an action by the department of licensing under RCW
35 18.35.220(3) with respect to persons engaged in the business of
36 dispensing of hearing aids, RCW 18.85.350 in the case of persons
37 engaged in the business of a real estate broker, associate real estate

1 broker, or real estate salesperson, or RCW 19.105.470 with respect to
2 persons engaged in the business of camping resorts;

3 (n) In an action under RCW 18.44.470 or 18.44.490 in the case of
4 persons engaged in the business of escrow agents;

5 (o) Upon a petition with respect to a nursing home in accordance
6 with and subject to receivership provisions under chapter 18.51 RCW;

7 (p) Under RCW 19.40.071(3), in connection with a proceeding for
8 relief with respect to a transfer fraudulent as to a creditor or
9 creditors;

10 (q) Under RCW 19.100.210(1), in an action by the attorney general
11 or director of financial institutions to restrain any actual or
12 threatened violation of the franchise investment protection act;

13 (r) In an action by the attorney general or by a prosecuting
14 attorney under RCW 19.110.160 with respect to a seller of business
15 opportunities;

16 (s) In an action by the director of financial institutions under
17 RCW 21.20.390 in cases involving actual or threatened violations of the
18 securities act of Washington or under RCW 21.30.120 in cases involving
19 actual or threatened violations of chapter 21.30 RCW with respect to
20 certain businesses and transactions involving commodities;

21 (t) In an action for or relating to dissolution of a business
22 corporation under RCW 23B.14.065, 23B.14.300, 23B.14.310, or
23 23B.14.320, for dissolution of a nonprofit corporation under RCW
24 24.03.270, for dissolution of a mutual corporation under RCW 24.06.305,
25 or in any other action for the dissolution or winding up of any other
26 entity provided for by Title 23, 23B, 24, or 25 RCW;

27 (u) In any action in which the dissolution of any public or private
28 entity is sought, in any action involving any dispute with respect to
29 the ownership or governance of such an entity, or upon the application
30 of a person having an interest in such an entity when the appointment
31 is reasonably necessary to protect the property of the entity or its
32 business or other interests;

33 (v) Under RCW 25.05.215, in aid of a charging order with respect to
34 a partner's interest in a partnership;

35 (w) Under and subject to RCW 30.44.100, 30.44.270, and 30.56.030,
36 in the case of a bank or trust company or, under and subject to RCW
37 32.24.070 through 32.24.090, in the case of a mutual savings bank;

- 1 (x) Under and subject to RCW 31.12.637 and 31.12.671 through
2 31.12.724, in the case of credit unions;
- 3 (y) Upon the application of the director of financial institutions
4 under RCW 31.35.090 in actions to enforce chapter 31.35 RCW applicable
5 to agricultural lenders, under RCW 31.40.120 in actions to enforce
6 chapter 31.40 RCW applicable to entities engaged in federally
7 guaranteed small business loans, under RCW 31.45.160 in actions to
8 enforce chapter 31.45 RCW applicable to persons licensed as check
9 cashers or check sellers, or under RCW 19.230.230 in actions to enforce
10 chapter 19.230 RCW applicable to persons licensed under the uniform
11 money services act;
- 12 (z) Under RCW 35.82.090 or 35.82.180, with respect to a housing
13 project;
- 14 (aa) Under RCW 39.84.160 or 43.180.360, in proceedings to enforce
15 rights under any revenue bonds issued for the purpose of financing
16 industrial development facilities or bonds of the Washington state
17 housing finance commission, or any financing document securing any such
18 bonds;
- 19 (bb) Under and subject to RCW 43.70.195, in an action by the
20 secretary of health or by a local health officer with respect to a
21 public water system;
- 22 (cc) As contemplated by RCW 61.24.030, with respect to real
23 property that is the subject of nonjudicial foreclosure proceedings
24 under chapter 61.24 RCW;
- 25 (dd) As contemplated by RCW 61.30.030(3), with respect to real
26 property that is the subject of judicial or nonjudicial forfeiture
27 proceedings under chapter 61.30 RCW;
- 28 (ee) Under RCW 64.32.200(2), in an action to foreclose upon a lien
29 for common expenses against a dwelling unit subject to the horizontal
30 property regimes act, chapter 64.32 RCW;
- 31 (ff) Under RCW 64.34.364(10), in an action by a unit owners'
32 association to foreclose a lien for nonpayment of delinquent
33 assessments against condominium units;
- 34 (gg) Upon application of the attorney general under RCW
35 64.36.220(3), in aid of any writ or order restraining or enjoining
36 violations of chapter 64.36 RCW applicable to timeshares;
- 37 (hh) Under RCW 70.95A.050(3), in aid of the enforcement of payment

1 or performance of municipal bonds issued with respect to facilities
2 used to abate, control, or prevent pollution;

3 (ii) Upon the application of the department of social and health
4 services under RCW 74.42.580, in cases involving nursing homes;

5 (jj) Upon the application of the utilities (~~and transportation~~)
6 commission under RCW 80.28.040, with respect to a water company that
7 has failed to comply with an order of such commission within the time
8 deadline specified therein;

9 (kk) Under RCW 87.56.065, in connection with the dissolution of an
10 irrigation district;

11 (ll) Upon application of the attorney general or the department of
12 licensing, in any proceeding that either of them are authorized by
13 statute to bring to enforce Title 18 or 19 RCW; the securities act of
14 Washington, chapter 21.20 RCW; the Washington commodities act, chapter
15 21.30 RCW; the land development act, chapter 58.19 RCW; or under
16 chapter 64.36 RCW relating to the regulation of timeshares;

17 (mm) Upon application of the director of financial institutions in
18 any proceeding that the director of financial institutions is
19 authorized to bring to enforce chapters 31.35, 31.40, and 31.45 RCW; or

20 (nn) In such other cases as may be provided for by law, or when, in
21 the discretion of the court, it may be necessary to secure ample
22 justice to the parties.

23 (2) The superior courts of this state shall appoint as receiver of
24 property located in this state a person who has been appointed by a
25 federal or state court located elsewhere as receiver with respect to
26 the property specifically or with respect to the owner's property
27 generally, upon the application of the person or of any party to that
28 foreign proceeding, and following the appointment shall give effect to
29 orders, judgments, and decrees of the foreign court affecting the
30 property in this state held by the receiver, unless the court
31 determines that to do so would be manifestly unjust or inequitable.
32 The venue of such a proceeding may be any county in which the person
33 resides or maintains any office, or any county in which any property
34 over which the receiver is to be appointed is located at the time the
35 proceeding is commenced.

36 (3) At least seven days' notice of any application for the
37 appointment of a receiver shall be given to the owner of property to be
38 subject thereto and to all other parties in the action, and to other

1 parties in interest as the court may require. If any execution by a
2 judgment creditor under Title 6 RCW or any application by a judgment
3 creditor for the appointment of a receiver, with respect to property
4 over which the receiver's appointment is sought, is pending in any
5 other action at the time the application is made, then notice of the
6 application for the receiver's appointment also shall be given to the
7 judgment creditor in the other action. The court may shorten or expand
8 the period for notice of an application for the appointment of a
9 receiver upon good cause shown.

10 (4) The order appointing a receiver in all cases shall reasonably
11 describe the property over which the receiver is to take charge, by
12 category, individual items, or both if the receiver is to take charge
13 of less than all of the owner's property. If the order appointing a
14 receiver does not expressly limit the receiver's authority to
15 designated property or categories of property of the owner, the
16 receiver is a general receiver with the authority to take charge over
17 all of the owner's property, wherever located.

18 (5) The court may condition the appointment of a receiver upon the
19 giving of security by the person seeking the receiver's appointment, in
20 such amount as the court may specify, for the payment of costs and
21 damages incurred or suffered by any person should it later be
22 determined that the appointment of the receiver was wrongfully
23 obtained.

24 **Sec. 3.** RCW 8.24.040 and 1913 c 133 s 3 are each amended to read
25 as follows:

26 That any person or corporation availing themselves of the
27 provisions of this chapter for the purpose of acquiring a right-of-way
28 for a logging road, as a condition precedent, contract and agree to
29 carry and convey over such roads to either termini thereof any of the
30 timber or other produce of the lands through which such right is
31 acquired at any and all times, so long as said road is maintained and
32 operated, and at reasonable prices; and a failure so to do shall
33 terminate such right-of-way. (~~The reasonableness of the rate shall be~~
34 ~~subject to determination by the utilities and transportation~~
35 ~~commission.))~~

1 **Sec. 4.** RCW 9.26A.110 and 2003 c 53 s 20 are each amended to read
2 as follows:

3 (1) Every person who, with intent to evade the provisions of any
4 order or rule of the ((Washington)) utilities ((and transportation))
5 commission or of any tariff, price list, contract, or any other filing
6 lawfully submitted to the commission by any telephone, telegraph, or
7 telecommunications company, or with intent to defraud, obtains
8 telephone, telegraph, or telecommunications service from any telephone,
9 telegraph, or telecommunications company through: (a) The use of a
10 false or fictitious name or telephone number; (b) the unauthorized use
11 of the name or telephone number of another; (c) the physical or
12 electronic installation of, rearrangement of, or tampering with any
13 equipment, or use of a telecommunications device; (d) the commission of
14 computer trespass; or (e) any other trick, deceit, or fraudulent
15 device, is guilty of a misdemeanor.

16 (2) If the value of the telephone, telegraph, or telecommunications
17 service that any person obtains in violation of this section during a
18 period of ninety days exceeds fifty dollars in the aggregate, then such
19 person is guilty of a gross misdemeanor.

20 (3) If the value of the telephone, telegraph, or telecommunications
21 service that any person obtains in violation of this section during a
22 period of ninety days exceeds two hundred fifty dollars in the
23 aggregate, then such person is guilty of a class C felony punishable
24 according to chapter 9A.20 RCW.

25 (4) For any act that constitutes a violation of both this section
26 and RCW 9.26A.115 the provisions of RCW 9.26A.115 shall be exclusive.

27 **Sec. 5.** RCW 9.73.070 and 1994 c 49 s 1 are each amended to read as
28 follows:

29 (1) The provisions of this chapter shall not apply to any activity
30 in connection with services provided by a common carrier pursuant to
31 its tariffs on file with the ((Washington)) utilities ((and
32 transportation)) commission or the federal communication commission and
33 any activity of any officer, agent or employee of a common carrier who
34 performs any act otherwise prohibited by this law in the construction,
35 maintenance, repair and operations of the common carrier's
36 communications services, facilities, or equipment or incident to the
37 use of such services, facilities or equipment. Common carrier as used

1 in this section means any person engaged as a common carrier or public
2 service company for hire in intrastate, interstate or foreign
3 communication by wire or radio or in intrastate, interstate or foreign
4 radio transmission of energy.

5 (2) The provisions of this chapter shall not apply to:

6 (a) Any common carrier automatic number, caller, or location
7 identification service that has been approved by the ((Washington))
8 utilities ((and transportation)) commission; or

9 (b) A 911 or enhanced 911 emergency service as defined in RCW
10 82.14B.020, for purposes of aiding public health or public safety
11 agencies to respond to calls placed for emergency assistance.

12 **Sec. 6.** RCW 10.93.020 and 2006 c 284 s 16 are each amended to read
13 as follows:

14 As used in this chapter, the following terms have the meanings
15 indicated unless the context clearly requires otherwise.

16 (1) "General authority Washington law enforcement agency" means any
17 agency, department, or division of a municipal corporation, political
18 subdivision, or other unit of local government of this state, and any
19 agency, department, or division of state government, having as its
20 primary function the detection and apprehension of persons committing
21 infractions or violating the traffic or criminal laws in general, as
22 distinguished from a limited authority Washington law enforcement
23 agency, and any other unit of government expressly designated by
24 statute as a general authority Washington law enforcement agency. The
25 Washington state patrol and the department of fish and wildlife are
26 general authority Washington law enforcement agencies.

27 (2) "Limited authority Washington law enforcement agency" means any
28 agency, political subdivision, or unit of local government of this
29 state, and any agency, department, or division of state government,
30 having as one of its functions the apprehension or detection of persons
31 committing infractions or violating the traffic or criminal laws
32 relating to limited subject areas, including but not limited to, the
33 state departments of natural resources and social and health services,
34 the state gambling commission, the state lottery commission, the state
35 parks and recreation commission, the state utilities ((and
36 transportation)) commission, the state liquor control board, the office
37 of the insurance commissioner, and the state department of corrections.

1 (3) "General authority Washington peace officer" means any full-
2 time, fully compensated and elected, appointed, or employed officer of
3 a general authority Washington law enforcement agency who is
4 commissioned to enforce the criminal laws of the state of Washington
5 generally.

6 (4) "Limited authority Washington peace officer" means any full-
7 time, fully compensated officer of a limited authority Washington law
8 enforcement agency empowered by that agency to detect or apprehend
9 violators of the laws in some or all of the limited subject areas for
10 which that agency is responsible. A limited authority Washington peace
11 officer may be a specially commissioned Washington peace officer if
12 otherwise qualified for such status under this chapter.

13 (5) "Specially commissioned Washington peace officer", for the
14 purposes of this chapter, means any officer, whether part-time or full-
15 time, compensated or not, commissioned by a general authority
16 Washington law enforcement agency to enforce some or all of the
17 criminal laws of the state of Washington, who does not qualify under
18 this chapter as a general authority Washington peace officer for that
19 commissioning agency, specifically including reserve peace officers,
20 and specially commissioned full-time, fully compensated peace officers
21 duly commissioned by the states of Oregon or Idaho or any such peace
22 officer commissioned by a unit of local government of Oregon or Idaho.
23 A reserve peace officer is an individual who is an officer of a
24 Washington law enforcement agency who does not serve such agency on a
25 full-time basis but who, when called by the agency into active service,
26 is fully commissioned on the same basis as full-time peace officers to
27 enforce the criminal laws of the state.

28 (6) "Federal peace officer" means any employee or agent of the
29 United States government who has the authority to carry firearms and
30 make warrantless arrests and whose duties involve the enforcement of
31 criminal laws of the United States.

32 (7) "Agency with primary territorial jurisdiction" means a city or
33 town police agency which has responsibility for police activity within
34 its boundaries; or a county police or sheriff's department which has
35 responsibility with regard to police activity in the unincorporated
36 areas within the county boundaries; or a statutorily authorized port
37 district police agency or four-year state college or university police

1 agency which has responsibility for police activity within the
2 statutorily authorized enforcement boundaries of the port district,
3 state college, or university.

4 (8) "Primary commissioning agency" means (a) the employing agency
5 in the case of a general authority Washington peace officer, a limited
6 authority Washington peace officer, an Indian tribal peace officer, or
7 a federal peace officer, and (b) the commissioning agency in the case
8 of a specially commissioned Washington peace officer (i) who is
9 performing functions within the course and scope of the special
10 commission and (ii) who is not also a general authority Washington
11 peace officer, a limited authority Washington peace officer, an Indian
12 tribal peace officer, or a federal peace officer.

13 (9) "Primary function of an agency" means that function to which
14 greater than fifty percent of the agency's resources are allocated.

15 (10) "Mutual law enforcement assistance" includes, but is not
16 limited to, one or more law enforcement agencies aiding or assisting
17 one or more other such agencies through loans or exchanges of personnel
18 or of material resources, for law enforcement purposes.

19 **Sec. 7.** RCW 15.65.610 and 1961 c 256 s 61 are each amended to read
20 as follows:

21 ~~((Nothing in))~~ This chapter ~~((contained shall))~~ does not apply to
22 any order, rule, or regulation ~~((issued or issuable by the Washington~~
23 ~~utilities and transportation commission or the interstate commerce~~
24 ~~commission))~~ with respect to the operation of common carriers.

25 **Sec. 8.** RCW 15.66.270 and 1961 c 11 s 15.66.270 are each amended
26 to read as follows:

27 ~~((Nothing in))~~ This chapter ~~((contained shall))~~ does not apply to:

28 (1) Any order, rule, or regulation ~~((issued or issuable by the~~
29 ~~Washington utilities and transportation commission or the interstate~~
30 ~~commerce commission))~~ with respect to the operation of common carriers;

31 (2) Any provision of the statutes of the state of Washington
32 relating to the apple ~~((advertising))~~ commission (chapter 15.24 RCW),
33 to the soft tree fruits commission (chapter 15.28 RCW), or to the dairy
34 products commission (chapter 15.44 RCW). No marketing agreement or
35 order shall be issued with respect to apples, soft tree fruits, or

1 dairy products for the purposes specified in RCW 15.66.030 (1) or
2 ((~~15.66.030~~))(2).

3 **Sec. 9.** RCW 18.27.090 and 2003 c 399 s 401 are each amended to
4 read as follows:

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

6 (1) An authorized representative of the United States government,
7 the state of Washington, or any incorporated city, town, county,
8 township, irrigation district, reclamation district, or other municipal
9 or political corporation or subdivision of this state;

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

12 (3) Public utilities operating under the regulations of the
13 utilities ((and—transportation)) commission in construction,
14 maintenance, or development work incidental to their own business;

15 (4) Any construction, repair, or operation incidental to the
16 discovering or producing of petroleum or gas, or the drilling, testing,
17 abandoning, or other operation of any petroleum or gas well or any
18 surface or underground mine or mineral deposit when performed by an
19 owner or lessee;

20 (5) The sale or installation of any finished products, materials,
21 or articles of merchandise that are not actually fabricated into and do
22 not become a permanent fixed part of a structure;

23 (6) Any construction, alteration, improvement, or repair of
24 personal property performed by the registered or legal owner, or by a
25 mobile/manufactured home retail dealer or manufacturer licensed under
26 chapter 46.70 RCW who shall warranty service and repairs under chapter
27 46.70 RCW;

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

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

34 (9) Any work or operation on one undertaking or project by one or
35 more contracts, the aggregate contract price of which for labor and
36 materials and all other items is less than five hundred dollars, such
37 work or operations being considered as of a casual, minor, or

1 inconsequential nature. The exemption prescribed in this subsection
2 does not apply in any instance wherein the work or construction is only
3 a part of a larger or major operation, whether undertaken by the same
4 or a different contractor, or in which a division of the operation is
5 made into contracts of amounts less than five hundred dollars for the
6 purpose of evasion of this chapter or otherwise. The exemption
7 prescribed in this subsection does not apply to a person who advertises
8 or puts out any sign or card or other device which might indicate to
9 the public that he or she is a contractor, or that he or she is
10 qualified to engage in the business of contractor;

11 (10) Any construction or operation incidental to the construction
12 and repair of irrigation and drainage ditches of regularly constituted
13 irrigation districts or reclamation districts; or to farming, dairying,
14 agriculture, viticulture, horticulture, or stock or poultry raising; or
15 to clearing or other work upon land in rural districts for fire
16 prevention purposes; except when any of the above work is performed by
17 a registered contractor;

18 (11) An owner who contracts for a project with a registered
19 contractor, except that this exemption shall not deprive the owner of
20 the protections of this chapter against registered and unregistered
21 contractors;

22 (12) Any person working on his or her own property, whether
23 occupied by him or her or not, and any person working on his or her
24 personal residence, whether owned by him or her or not but this
25 exemption shall not apply to any person otherwise covered by this
26 chapter who constructs an improvement on his or her own property with
27 the intention and for the purpose of selling the improved property;

28 (13) Owners of commercial properties who use their own employees to
29 do maintenance, repair, and alteration work in or upon their own
30 properties;

31 (14) A licensed architect or civil or professional engineer acting
32 solely in his or her professional capacity, an electrician licensed
33 under the laws of the state of Washington, or a plumber licensed under
34 the laws of the state of Washington or licensed by a political
35 subdivision of the state of Washington while operating within the
36 boundaries of such political subdivision. The exemption provided in
37 this subsection is applicable only when the licensee is operating
38 within the scope of his or her license;

1 (15) Any person who engages in the activities herein regulated as
2 an employee of a registered contractor with wages as his or her sole
3 compensation or as an employee with wages as his or her sole
4 compensation;

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

8 (17) A mobile/manufactured home dealer or manufacturer who
9 subcontracts the installation, set-up, or repair work to actively
10 registered contractors. This exemption only applies to the
11 installation, set-up, or repair of the mobile/manufactured homes that
12 were manufactured or sold by the mobile/manufactured home dealer or
13 manufacturer;

14 (18) An entity who holds a valid electrical contractor's license
15 under chapter 19.28 RCW that employs a certified journeyman
16 electrician, a certified residential specialty electrician, or an
17 electrical trainee meeting the requirements of chapter 19.28 RCW to
18 perform plumbing work that is incidentally, directly, and immediately
19 appropriate to the like-in-kind replacement of a household appliance or
20 other small household utilization equipment that requires limited
21 electric power and limited waste and/or water connections. An
22 electrical trainee must be supervised by a certified electrician while
23 performing plumbing work.

24 **Sec. 10.** RCW 19.02.050 and 1997 c 391 s 11 are each amended to
25 read as follows:

26 The legislature hereby directs the full participation by the
27 following agencies in the implementation of this chapter:

- 28 (1) Department of agriculture;
- 29 (2) Secretary of state;
- 30 (3) Department of social and health services;
- 31 (4) Department of revenue;
- 32 (5) Department of fish and wildlife;
- 33 (6) (~~Department of~~) Employment security department;
- 34 (7) Department of labor and industries;
- 35 (8) Department of community, trade, and economic development;
- 36 (9) Liquor control board;
- 37 (10) Department of health;

- 1 (11) Department of licensing;
- 2 (12) Parks and recreation commission;
- 3 (13) Utilities (~~(and transportation)~~) commission; and
- 4 (14) Other agencies as determined by the governor.

5 **Sec. 11.** RCW 19.28.311 and 2005 c 280 s 1 are each amended to read
6 as follows:

7 There is hereby created an electrical board, consisting of fifteen
8 members to be appointed by the governor with the advice of the director
9 of labor and industries as herein provided. It shall be the purpose
10 and function of the board to advise the director on all matters
11 pertaining to the enforcement of this chapter including, but not
12 limited to standards of electrical and telecommunications installation,
13 minimum inspection procedures, and the adoption of rules pertaining to
14 the electrical inspection division: PROVIDED, HOWEVER, That no rules
15 shall be amended or repealed until the electrical board has first had
16 an opportunity to consider any proposed amendments or repeals and had
17 an opportunity to make recommendations to the director relative
18 thereto. The members of the electrical board shall be selected and
19 appointed as follows: One member shall be an employee or officer of a
20 corporation or public agency generating or distributing electric power;
21 one member must be an employee or officer of a facilities-based
22 telecommunications service provider regulated by the (~~Washington~~
23 ~~state~~) utilities (~~(and transportation)~~) commission; three members
24 shall be licensed electrical contractors: PROVIDED, That one of these
25 members may be a representative of a trade association in the
26 electrical industry; one member shall be a licensed telecommunications
27 contractor; one member shall be an employee, or officer, or
28 representative of a corporation or firm engaged in the business of
29 manufacturing or distributing electrical and telecommunications
30 materials, equipment, or devices; one member shall be a person with
31 knowledge of the electrical industry, not related to the electrical
32 industry, to represent the public; three members shall be certified
33 electricians; one member shall be a telecommunications worker; one
34 member shall be a licensed professional electrical engineer qualified
35 to do business in the state of Washington and designated as a
36 registered communications distribution designer; one member shall be an
37 outside line worker; and one nonvoting member must be a building

1 official from an incorporated city or town with an electrical
2 inspection program established under RCW 19.28.141. The regular term
3 of each member shall be four years: PROVIDED, HOWEVER, The original
4 board shall be appointed on June 9, 1988, for the following terms: The
5 first term of the member representing a corporation or public agency
6 generating or distributing electric power shall serve four years; two
7 members representing licensed electrical contractors shall serve three
8 years; the member representing a manufacturer or distributor of
9 electrical equipment or devices shall serve three years; the member
10 representing the public and one member representing licensed electrical
11 contractors shall serve two years; the three members selected as
12 certified electricians shall serve for terms of one, two, and three
13 years, respectively; the member selected as the licensed professional
14 electrical engineer shall serve for one year. In appointing the
15 original board, the governor shall give due consideration to the value
16 of continuity in membership from predecessor boards. Thereafter, the
17 governor shall appoint or reappoint board members for terms of four
18 years and to fill vacancies created by the completion of the terms of
19 the original members. When new positions are created, the governor may
20 appoint the initial members to the new positions to staggered terms of
21 one to three years. The governor shall also fill vacancies caused by
22 death, resignation, or otherwise for the unexpired term of such members
23 by appointing their successors from the same business classification.
24 The same procedure shall be followed in making such subsequent
25 appointments as is provided for the original appointments. The board,
26 at this first meeting shall elect one of its members to serve as
27 chairman. Any person acting as the chief electrical inspector shall
28 serve as secretary of the board during his or her tenure as chief state
29 inspector. Meetings of the board shall be held at least quarterly in
30 accordance with a schedule established by the board. Each member of
31 the board shall receive compensation in accordance with RCW 43.03.240
32 and shall be reimbursed for travel expenses in accordance with RCW
33 43.03.050 and 43.03.060 which shall be paid out of the electrical
34 license fund, upon vouchers approved by the director of labor and
35 industries.

36 **Sec. 12.** RCW 19.29A.010 and 2000 c 213 s 2 are each amended to
37 read as follows:

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

3 (1) "Biomass generation" means electricity derived from burning
4 solid organic fuels from wood, forest, or field residue, or dedicated
5 energy crops that do not include wood pieces that have been treated
6 with chemical preservatives such as creosote, pentachlorophenol, or
7 copper-chroma-arsenic.

8 (2) "Bonneville power administration system mix" means a generation
9 mix sold by the Bonneville power administration that is net of any
10 resource specific sales and that is net of any electricity sold to
11 direct service industrial customers, as defined in section 3(8) of the
12 Pacific Northwest electric power planning and conservation act (16
13 U.S.C. Sec. 839(a)(8)).

14 (3) "Coal generation" means the electricity produced by a
15 generating facility that burns coal as the primary fuel source.

16 (4) "Commission" means the utilities (~~and transportation~~)
17 commission.

18 (5) "Conservation" means an increase in efficiency in the use of
19 energy use that yields a decrease in energy consumption while providing
20 the same or higher levels of service. Conservation includes low-income
21 weatherization programs.

22 (6) "Consumer-owned utility" means a municipal electric utility
23 formed under Title 35 RCW, a public utility district formed under Title
24 54 RCW, an irrigation district formed under chapter 87.03 RCW, a
25 cooperative formed under chapter 23.86 RCW, or a mutual corporation or
26 association formed under chapter 24.06 RCW, that is engaged in the
27 business of distributing electricity to more than one retail electric
28 customer in the state.

29 (7) "Declared resource" means an electricity source specifically
30 identified by a retail supplier to serve retail electric customers. A
31 declared resource includes a stated quantity of electricity tied
32 directly to a specified generation facility or set of facilities either
33 through ownership or contract purchase, or a contractual right to a
34 stated quantity of electricity from a specified generation facility or
35 set of facilities.

36 (8) "Department" means the department of community, trade, and
37 economic development.

1 (9) "Electricity information coordinator" means the organization
2 selected by the department under RCW 19.29A.080 to: (a) Compile
3 generation data in the Northwest power pool by generating project and
4 by resource category; (b) compare the quantity of electricity from
5 declared resources reported by retail suppliers with available
6 generation from such resources; (c) calculate the net system power mix;
7 and (d) coordinate with other comparable organizations in the western
8 interconnection.

9 (10) "Electric meters in service" means those meters that record in
10 at least nine of twelve calendar months in any calendar year not less
11 than two hundred fifty kilowatt hours per month.

12 (11) "Electricity product" means the electrical energy produced by
13 a generating facility or facilities that a retail supplier sells or
14 offers to sell to retail electric customers in the state of Washington,
15 provided that nothing in this title shall be construed to mean that
16 electricity is a good or product for the purposes of Title 62A RCW, or
17 any other purpose. It does not include electrical energy generated on-
18 site at a retail electric customer's premises.

19 (12) "Electric utility" means a consumer-owned or investor-owned
20 utility as defined in this section.

21 (13) "Electricity" means electric energy measured in kilowatt
22 hours, or electric capacity measured in kilowatts, or both.

23 (14) "Fuel mix" means the actual or imputed sources of electricity
24 sold to retail electric customers, expressed in terms of percentage
25 contribution by resource category. The total fuel mix included in each
26 disclosure shall total one hundred percent.

27 (15) "Geothermal generation" means electricity derived from thermal
28 energy naturally produced within the earth.

29 (16) "Governing body" means the council of a city or town, the
30 commissioners of an irrigation district, municipal electric utility, or
31 public utility district, or the board of directors of an electric
32 cooperative or mutual association that has the authority to set and
33 approve rates.

34 (17) "High efficiency cogeneration" means electricity produced by
35 equipment, such as heat or steam used for industrial, commercial,
36 heating, or cooling purposes, that meets the federal energy regulatory
37 commission standards for qualifying facilities under the public utility
38 regulatory policies act of 1978.

1 (18) "Hydroelectric generation" means a power source created when
2 water flows from a higher elevation to a lower elevation and the flow
3 is converted to electricity in one or more generators at a single
4 facility.

5 (19) "Investor-owned utility" means a company owned by investors
6 that meets the definition of RCW 80.04.010 and is engaged in
7 distributing electricity to more than one retail electric customer in
8 the state.

9 (20) "Landfill gas generation" means electricity produced by a
10 generating facility that uses waste gases produced by the decomposition
11 of organic materials in landfills.

12 (21) "Natural gas generation" means electricity produced by a
13 generating facility that burns natural gas as the primary fuel source.

14 (22) "Northwest power pool" means the generating resources included
15 in the United States portion of the Northwest power pool area as
16 defined by the western systems coordinating council.

17 (23) "Net system power mix" means the fuel mix in the Northwest
18 power pool, net of: (a) Any declared resources in the Northwest power
19 pool identified by in-state retail suppliers or out-of-state entities
20 that offer electricity for sale to retail electric customers; (b) any
21 electricity sold by the Bonneville power administration to direct
22 service industrial customers; and (c) any resource specific sales made
23 by the Bonneville power administration.

24 (24) "Oil generation" means electricity produced by a generating
25 facility that burns oil as the primary fuel source.

26 (25) "Proprietary customer information" means: (a) Information
27 that relates to the source and amount of electricity used by a retail
28 electric customer, a retail electric customer's payment history, and
29 household data that is made available by the customer solely by virtue
30 of the utility-customer relationship; and (b) information contained in
31 a retail electric customer's bill.

32 (26) "Renewable resources" means electricity generation facilities
33 fueled by: (a) Water; (b) wind; (c) solar energy; (d) geothermal
34 energy; (e) landfill gas; or (f) biomass energy based on solid organic
35 fuels from wood, forest, or field residues, or dedicated energy crops
36 that do not include wood pieces that have been treated with chemical
37 preservatives such as creosote, pentachlorophenol, or copper-chrome-
38 arsenic.

1 (27) "Resale" means the purchase and subsequent sale of electricity
2 for profit, but does not include the purchase and the subsequent sale
3 of electricity at the same rate at which the electricity was purchased.

4 (28) "Retail electric customer" means a person or entity that
5 purchases electricity for ultimate consumption and not for resale.

6 (29) "Retail supplier" means an electric utility that offers an
7 electricity product for sale to retail electric customers in the state.

8 (30) "Small utility" means any consumer-owned utility with twenty-
9 five thousand or fewer electric meters in service, or that has an
10 average of seven or fewer customers per mile of distribution line.

11 (31) "Solar generation" means electricity derived from radiation
12 from the sun that is directly or indirectly converted to electrical
13 energy.

14 (32) "State" means the state of Washington.

15 (33) "Waste incineration generation" means electricity derived from
16 burning solid or liquid wastes from businesses, households,
17 municipalities, or waste treatment operations.

18 (34) "Wind generation" means electricity created by movement of air
19 that is converted to electrical energy.

20 **Sec. 13.** RCW 19.86.170 and 1977 c 49 s 1 are each amended to read
21 as follows:

22 Nothing in this chapter shall apply to actions or transactions
23 otherwise permitted, prohibited, or regulated under laws administered
24 by the insurance commissioner of this state, the ((Washington))
25 utilities ((and—transportation)) commission, the federal power
26 commission, or actions or transactions permitted by any other
27 regulatory body or officer acting under statutory authority of this
28 state or the United States: PROVIDED, HOWEVER, That actions and
29 transactions prohibited or regulated under the laws administered by the
30 insurance commissioner shall be subject to the provisions of RCW
31 19.86.020 and all sections of chapter 216, Laws of 1961 and chapter
32 19.86 RCW which provide for the implementation and enforcement of RCW
33 19.86.020 except that nothing required or permitted to be done pursuant
34 to Title 48 RCW shall be construed to be a violation of RCW 19.86.020:
35 PROVIDED, FURTHER, That actions or transactions specifically permitted
36 within the statutory authority granted to any regulatory board or
37 commission established within Title 18 RCW shall not be construed to be

1 a violation of chapter 19.86 RCW: PROVIDED, FURTHER, That this chapter
2 shall apply to actions and transactions in connection with the
3 disposition of human remains.

4 RCW 9A.20.010(2) shall not be applicable to the terms of this
5 chapter and no penalty or remedy shall result from a violation of this
6 chapter except as expressly provided herein.

7 **Sec. 14.** RCW 19.122.020 and 2005 c 448 s 1 are each amended to
8 read as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter:

11 (1) "Business day" means any day other than Saturday, Sunday, or a
12 legal local, state, or federal holiday.

13 (2) "Damage" includes the substantial weakening of structural or
14 lateral support of an underground facility, penetration, impairment, or
15 destruction of any underground protective coating, housing, or other
16 protective device, or the severance, partial or complete, of any
17 underground facility to the extent that the project owner or the
18 affected utility owner determines that repairs are required.

19 (3) "Emergency" means any condition constituting a clear and
20 present danger to life or property, or a customer service outage.

21 (4) "Excavation" means any operation in which earth, rock, or other
22 material on or below the ground is moved or otherwise displaced by any
23 means, except the tilling of soil less than twelve inches in depth for
24 agricultural purposes, or road and ditch maintenance that does not
25 change the original road grade or ditch flowline.

26 (5) "Excavation confirmation code" means a code or ticket issued by
27 the one-number locator service for the site where an excavation is
28 planned. The code must be accompanied by the date and time it was
29 issued.

30 (6) "Excavator" means any person who engages directly in
31 excavation.

32 (7) "Gas" means natural gas, flammable gas, or toxic or corrosive
33 gas.

34 (8) "Hazardous liquid" means: (a) Petroleum, petroleum products,
35 or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195
36 as in effect on March 1, 1998; and (b) carbon dioxide. The utilities

1 ((~~and transportation~~)) commission may by rule incorporate by reference
2 other substances designated as hazardous by the secretary of
3 transportation.

4 (9) "Identified facility" means any underground facility which is
5 indicated in the project plans as being located within the area of
6 proposed excavation.

7 (10) "Identified but unlocatable underground facility" means an
8 underground facility which has been identified but cannot be located
9 with reasonable accuracy.

10 (11) "Locatable underground facility" means an underground facility
11 which can be field-marked with reasonable accuracy.

12 (12) "Marking" means the use of stakes, paint, or other clearly
13 identifiable materials to show the field location of underground
14 facilities, in accordance with the current color code standard of the
15 American public works association. Markings shall include
16 identification letters indicating the specific type of the underground
17 facility.

18 (13) "Notice" or "notify" means contact in person or by telephone
19 or other electronic methods that results in the receipt of a valid
20 excavation confirmation code.

21 (14) "One-number locator service" means a service through which a
22 person can notify utilities and request field-marking of underground
23 facilities.

24 (15) "Operator" means the individual conducting the excavation.

25 (16) "Person" means an individual, partnership, franchise holder,
26 association, corporation, a state, a city, a county, or any subdivision
27 or instrumentality of a state, and its employees, agents, or legal
28 representatives.

29 (17) "Pipeline" or "pipeline system" means all or parts of a
30 pipeline facility through which hazardous liquid or gas moves in
31 transportation, including, but not limited to, line pipe, valves, and
32 other appurtenances connected to line pipe, pumping units, fabricated
33 assemblies associated with pumping units, metering and delivery
34 stations and fabricated assemblies therein, and breakout tanks.
35 "Pipeline" or "pipeline system" does not include process or transfer
36 pipelines as defined in RCW 81.88.010 (as recodified by this act).

37 (18) "Pipeline company" means a person or entity constructing,
38 owning, or operating a pipeline for transporting hazardous liquid or

1 gas. A pipeline company does not include: (a) Distribution systems
2 owned and operated under franchise for the sale, delivery, or
3 distribution of natural gas at retail; or (b) excavation contractors or
4 other contractors that contract with a pipeline company.

5 (19) "Reasonable accuracy" means location within twenty-four inches
6 of the outside dimensions of both sides of an underground facility.

7 (20) "Transmission pipeline" means a pipeline that transports
8 hazardous liquid or gas within a storage field, or transports hazardous
9 liquid or gas from an interstate pipeline or storage facility to a
10 distribution main or a large volume hazardous liquid or gas user, or
11 operates at a hoop stress of twenty percent or more of the specified
12 minimum yield strength.

13 (21) "Underground facility" means any item buried or placed below
14 ground for use in connection with the storage or conveyance of water,
15 sewage, electronic, telephonic or telegraphic communications,
16 cablevision, electric energy, petroleum products, gas, gaseous vapors,
17 hazardous liquids, or other substances and including but not limited to
18 pipes, sewers, conduits, cables, valves, lines, wires, manholes,
19 attachments, and those parts of poles or anchors below ground. This
20 definition does not include pipelines as defined in subsection (17) of
21 this section, but does include distribution systems owned and operated
22 under franchise for the sale, delivery, or distribution of natural gas
23 at retail.

24 **Sec. 15.** RCW 19.122.027 and 2005 c 448 s 2 are each amended to
25 read as follows:

26 (1) The utilities (~~(and transportation)~~) commission shall cause to
27 be established a single statewide toll-free telephone number to be used
28 for referring excavators to the appropriate one-number locator service.

29 (2) The utilities (~~(and transportation)~~) commission, in
30 consultation with the Washington utilities coordinating council, shall
31 establish minimum standards and best management practices for one-
32 number locator services.

33 (3) One-number locator services shall be operated by
34 nongovernmental agencies.

35 **Sec. 16.** RCW 19.122.035 and 2000 c 191 s 19 are each amended to
36 read as follows:

1 (1) After a pipeline company has been notified by an excavator
2 pursuant to RCW 19.122.033 that excavation work will uncover any
3 portion of the pipeline, the pipeline company shall ensure that the
4 pipeline section in the vicinity of the excavation is examined for
5 damage prior to being reburied.

6 (2) Immediately upon receiving information of third-party damage to
7 a hazardous liquid pipeline, the company that operates the pipeline
8 shall terminate the flow of hazardous liquid in that pipeline until it
9 has visually inspected the pipeline. After visual inspection, the
10 operator of the hazardous liquid pipeline shall determine whether the
11 damaged pipeline section should be replaced or repaired, or whether it
12 is safe to resume pipeline operation. Immediately upon receiving
13 information of third-party damage to a gas pipeline, the company that
14 operates the pipeline shall conduct a visual inspection of the pipeline
15 to determine whether the flow of gas through that pipeline should be
16 terminated, and whether the damaged pipeline should be replaced or
17 repaired. A record of the pipeline company's inspection report and
18 test results shall be provided to the utilities ((and transportation))
19 commission consistent with reporting requirements under 49 C.F.R. 195
20 Subpart B.

21 (3) Pipeline companies shall immediately notify local first
22 responders and the department of any reportable release of a hazardous
23 liquid from a pipeline. Pipeline companies shall immediately notify
24 local first responders and the commission of any blowing gas leak from
25 a gas pipeline that has ignited or represents a probable hazard to
26 persons or property. Pipeline companies shall take all appropriate
27 steps to ensure the public safety in the event of a release of
28 hazardous liquid or gas under this subsection.

29 (4) No damaged pipeline may be buried until it is repaired or
30 relocated. The pipeline company shall arrange for repairs or
31 relocation of a damaged pipeline as soon as is practical or may permit
32 the excavator to do necessary repairs or relocation at a mutually
33 acceptable price.

34 **Sec. 17.** RCW 19.122.055 and 2005 c 448 s 3 are each amended to
35 read as follows:

36 (1)(a) Any excavator who fails to notify the one-number locator

1 service and causes damage to a hazardous liquid or gas pipeline is
2 subject to a civil penalty of not more than ten thousand dollars for
3 each violation.

4 (b) The civil penalty in this subsection may also be imposed on any
5 excavator who violates RCW 19.122.090.

6 (2) All civil penalties recovered under this section shall be
7 deposited into the pipeline safety account created in RCW 81.88.050 (as
8 recodified by this act).

9 **Sec. 18.** RCW 19.138.021 and 2001 c 44 s 1 are each amended to read
10 as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout this chapter.

13 (1) "Department" means the department of licensing.

14 (2) "Director" means the director of licensing or the director's
15 designee.

16 (3) "Sale of travel-related benefits" means the sale of travel
17 services if the travel services are not identified at the time of the
18 sale with respect to dates, price, or location and includes:

19 (a) Sales of travel club memberships;

20 (b) Sales of vacation certificates or other documents that purport
21 to grant the holder of the certificate or other document the ability to
22 obtain future travel services, with or without additional
23 consideration; or

24 (c) Sales of travel-industry member benefits including those
25 through either or both the issuance and sale or the consulting with or
26 advising for consideration of persons in connection with the obtaining
27 of international airlines travel agent network identification cards or
28 memberships.

29 (4) "Travel club" means a seller of travel that sells memberships
30 to consumers, where the initial membership or maintenance dues are at
31 least twice the amount of the annual membership or maintenance dues.

32 (5) "Seller of travel-related benefits" means a person, firm, or
33 corporation that transacts business with Washington consumers for the
34 sale of travel-related benefits.

35 (6) "Seller of travel" means a person, firm, or corporation both
36 inside and outside the state of Washington, who transacts business with
37 Washington consumers.

1 (a) "Seller of travel" includes a travel agent and any person who
2 is an independent contractor or outside agent for a travel agency or
3 other seller of travel whose principal duties include consulting with
4 and advising persons concerning travel arrangements or accommodations
5 in the conduct or administration of its business. If a seller of
6 travel is employed by a seller of travel who is registered under this
7 chapter, the employee need not also be registered.

8 (b) "Seller of travel" does not include:

9 (i) An air carrier;

10 (ii) An owner or operator of a vessel, including an ocean common
11 carrier as defined in 46 U.S.C. App. 1702(18), an owner or charterer of
12 a vessel that is required to establish its financial responsibility in
13 accordance with the requirements of the federal maritime commission, 46
14 U.S.C. App. 817 (e), and a steamboat company whether or not operating
15 over and upon the waters of this state;

16 (iii) A motor carrier;

17 (iv) A rail carrier;

18 (v) A charter party carrier of passengers (~~as defined in RCW~~
19 ~~81.70.020~~);

20 (vi) An auto transportation company (~~as defined in RCW~~
21 ~~81.68.010~~);

22 (vii) A hotel or other lodging accommodation;

23 (viii) An affiliate of any person or entity described in (b)(i)
24 through (vii) of this subsection (~~(+6)(b)~~) that is primarily engaged
25 in the sale of travel services provided by the person or entity. For
26 purposes of this subsection (6)(b)(viii), an "affiliate" means a person
27 or entity owning, owned by, or under common ownership, with "owning,"
28 "owned," and "ownership" referring to equity holdings of at least
29 eighty percent;

30 (ix) Direct providers of transportation by air, sea, or ground, or
31 hotel or other lodging accommodations who do not book or arrange any
32 other travel services.

33 (7) "Travel services" includes transportation by air, sea, or
34 ground, hotel or any lodging accommodations, package tours, or vouchers
35 or coupons to be redeemed for future travel or accommodations for a
36 fee, commission, or other valuable consideration.

37 (8) "Advertisement" includes, but is not limited to, a written or
38 graphic representation in a card, brochure, newspaper, magazine,

1 directory listing, or display, and oral, written, or graphic
2 representations made by radio, television, or cable transmission that
3 relates to travel services.

4 (9) "Transacts business with Washington consumers" means to
5 directly offer or sell travel services or travel-related benefits to
6 Washington consumers, including the placement of advertising in media
7 based in the state of Washington or that is primarily directed to
8 Washington residents. Advertising placed in national print or
9 electronic media alone does not constitute "transacting business with
10 Washington consumers." Those entities who only wholesale travel
11 services are not "transacting business with Washington consumers" for
12 the purposes of this chapter.

13 **Sec. 19.** RCW 19.158.020 and 2003 c 39 s 12 are each amended to
14 read as follows:

15 Unless the context requires otherwise, the definitions in this
16 section apply throughout this chapter.

17 (1) A "commercial telephone solicitor" is any person who engages in
18 commercial telephone solicitation, including service bureaus.

19 (2) "Commercial telephone solicitation" means:

20 (a) An unsolicited telephone call to a person initiated by a
21 salesperson and conversation for the purpose of inducing the person to
22 purchase or invest in property, goods, or services;

23 (b) Other communication with a person where:

24 (i) A free gift, award, or prize is offered to a purchaser who has
25 not previously purchased from the person initiating the communication;
26 and

27 (ii) A telephone call response is invited; and

28 (iii) The salesperson intends to complete a sale or enter into an
29 agreement to purchase during the course of the telephone call;

30 (c) Other communication with a person which misrepresents the
31 price, quality, or availability of property, goods, or services and
32 which invites a response by telephone or which is followed by a call to
33 the person by a salesperson;

34 (d) For purposes of this section, "other communication" means a
35 written or oral notification or advertisement transmitted through any
36 means.

1 (3) A "commercial telephone solicitor" does not include any of the
2 following:

3 (a) A person engaging in commercial telephone solicitation where:

4 (i) The solicitation is an isolated transaction and not done in the
5 course of a pattern of repeated transactions of like nature; or

6 (ii) Less than sixty percent of such person's prior year's sales
7 were made as a result of a commercial telephone solicitation as defined
8 in this chapter. Where more than sixty percent of a seller's prior
9 year's sales were made as a result of commercial telephone
10 solicitations, the service bureau contracting to provide commercial
11 telephone solicitation services to the seller shall be deemed a
12 commercial telephone solicitor;

13 (b) A person making calls for religious, charitable, political, or
14 other noncommercial purposes;

15 (c) A person soliciting business solely from purchasers who have
16 previously purchased from the business enterprise for which the person
17 is calling;

18 (d) A person soliciting:

19 (i) Without the intent to complete or obtain provisional acceptance
20 of a sale during the telephone solicitation; and

21 (ii) Who does not make the major sales presentation during the
22 telephone solicitation; and

23 (iii) Who only makes the major sales presentation or arranges for
24 the major sales presentation to be made at a later face-to-face meeting
25 between the salesperson and the purchaser;

26 (e) A person selling a security which is exempt from registration
27 under RCW 21.20.310;

28 (f) A person licensed under RCW 18.85.090 when the solicited
29 transaction is governed by that law;

30 (g) A person registered under RCW 18.27.060 when the solicited
31 transaction is governed by that law;

32 (h) A person licensed under RCW 48.17.150 when the solicited
33 transaction is governed by that law;

34 (i) Any person soliciting the sale of a franchise who is registered
35 under RCW 19.100.140;

36 (j) A person primarily soliciting the sale of a newspaper of
37 general circulation, a magazine or periodical, or contractual plans,
38 including book or record clubs: (i) Under which the seller provides

1 the consumer with a form which the consumer may use to instruct the
2 seller not to ship the offered merchandise; and (ii) which is regulated
3 by the federal trade commission trade regulation concerning "use of
4 negative option plans by sellers in commerce";

5 (k) Any supervised financial institution or parent, subsidiary, or
6 affiliate thereof. As used in this section, "supervised financial
7 institution" means any commercial bank, trust company, savings and loan
8 association, mutual savings banks, credit union, industrial loan
9 company, personal property broker, consumer finance lender, commercial
10 finance lender, or insurer, provided that the institution is subject to
11 supervision by an official or agency of this state or the United
12 States;

13 (l) A person soliciting the sale of a prearrangement funeral
14 service contract registered under RCW 18.39.240 and 18.39.260;

15 (m) A person licensed to enter into prearrangement contracts under
16 RCW 68.05.155 when acting subject to that license;

17 (n) A person soliciting the sale of services provided by a cable
18 television system operating under authority of a franchise or permit;

19 (o) A person or affiliate of a person whose business is regulated
20 by the utilities (~~and transportation~~) commission or the federal
21 communications commission;

22 (p) A person soliciting the sale of agricultural products, as
23 defined in RCW 20.01.010 where the purchaser is a business;

24 (q) An issuer or subsidiary of an issuer that has a class of
25 securities that is subject to section 12 of the securities exchange act
26 of 1934 (15 U.S.C. Sec. 781) and that is either registered or exempt
27 from registration under paragraph (A), (B), (C), (E), (F), (G), or (H)
28 of subsection (g) of that section;

29 (r) A commodity broker-dealer as defined in RCW 21.30.010 and
30 registered with the commodity futures trading commission;

31 (s) A business-to-business sale where:

32 (i) The purchaser business intends to resell the property or goods
33 purchased, or

34 (ii) The purchaser business intends to use the property or goods
35 purchased in a recycling, reuse, remanufacturing or manufacturing
36 process;

37 (t) A person licensed under RCW 19.16.110 when the solicited
38 transaction is governed by that law;

1 (u) A person soliciting the sale of food intended for immediate
2 delivery to and immediate consumption by the purchaser;

3 (v) A person soliciting the sale of food fish or shellfish when
4 that person is licensed pursuant to the provisions of Title 77 RCW.

5 (4) "Purchaser" means a person who is solicited to become or does
6 become obligated to a commercial telephone solicitor.

7 (5) "Salesperson" means any individual employed, appointed, or
8 authorized by a commercial telephone solicitor, whether referred to by
9 the commercial telephone solicitor as an agent, representative, or
10 independent contractor, who attempts to solicit or solicits a sale on
11 behalf of the commercial telephone solicitor.

12 (6) "Service bureau" means a commercial telephone solicitor who
13 contracts with any person to provide commercial telephone solicitation
14 services.

15 (7) "Seller" means any person who contracts with any service bureau
16 to purchase commercial telephone solicitation services.

17 (8) "Person" includes any individual, firm, association,
18 corporation, partnership, joint venture, sole proprietorship, or any
19 other business entity.

20 (9) "Free gift, award, or prize" means a gratuity which the
21 purchaser believes of a value equal to or greater than the value of the
22 specific product, good, or service sought to be sold to the purchaser
23 by the seller.

24 (10) "Solicit" means to initiate contact with a purchaser for the
25 purpose of attempting to sell property, goods or services, where such
26 purchaser has expressed no previous interest in purchasing, investing
27 in, or obtaining information regarding the property, goods, or services
28 attempted to be sold.

29 **Sec. 20.** RCW 19.158.110 and 1989 c 20 s 11 are each amended to
30 read as follows:

31 (1) Within the first minute of the telephone call, a commercial
32 telephone solicitor or salesperson shall:

33 (a) Identify himself or herself, the company on whose behalf the
34 solicitation is being made, the property, goods, or services being
35 sold; and

36 (b) Terminate the telephone call within ten seconds if the

1 purchaser indicates he or she does not wish to continue the
2 conversation.

3 (2) If at any time during the telephone contact, the purchaser
4 states or indicates that he or she does not wish to be called again by
5 the commercial telephone solicitor or wants to have his or her name and
6 individual telephone number removed from the telephone lists used by
7 the commercial telephone solicitor:

8 (a) The commercial telephone solicitor shall not make any
9 additional commercial telephone solicitation of the called party at
10 that telephone number within a period of at least one year; and

11 (b) The commercial telephone solicitor shall not sell or give the
12 called party's name and telephone number to another commercial
13 telephone solicitor: PROVIDED, That the commercial telephone
14 solicitor may return the list, including the called party's name and
15 telephone number, to the company or organization from which it received
16 the list.

17 (3) The utilities (~~(and transportation)~~) commission shall by rule
18 ensure that telecommunications companies inform their residential
19 customers of the provisions of this section. The notification may be
20 made by:

21 (a) Annual inserts in the billing statements mailed to residential
22 customers; or

23 (b) Conspicuous publication of the notice in the consumer
24 information pages of local telephone directories.

25 (4) If a sale or an agreement to purchase is completed, the
26 commercial telephone solicitor must inform the purchaser of his or her
27 cancellation rights as enunciated in this chapter, state the
28 registration number issued by the department of licensing, and give the
29 street address of the seller.

30 (5) If, at any time prior to sale or agreement to purchase, the
31 commercial telephone solicitor's registration number is requested by
32 the purchaser, it must be provided.

33 (6) All oral disclosures required by this section shall be made in
34 a clear and intelligible manner.

35 **Sec. 21.** RCW 19.182.110 and 1993 c 476 s 13 are each amended to
36 read as follows:

1 If a person takes an adverse action with respect to a consumer that
2 is based, in whole or in part, on information contained in a consumer
3 report, the person shall:

4 (1) Provide written notice of the adverse action to the consumer,
5 except verbal notice may be given by a person in an adverse action
6 involving a business regulated by the (~~Washington~~) utilities (~~and~~
7 ~~transportation~~) commission or involving an application for the rental
8 or leasing of residential real estate if such verbal notice does not
9 impair a consumer's ability to obtain a credit report without charge
10 under RCW 19.182.100(2); and

11 (2) Provide the consumer with the name, address, and telephone
12 number of the consumer reporting agency that furnished the report to
13 the person.

14 **Sec. 22.** RCW 19.250.010 and 2005 c 322 s 1 are each amended to
15 read as follows:

16 (1) A radio communications service company, as defined in RCW
17 80.04.010, or any direct or indirect affiliate or agent of a provider,
18 shall not include the phone number of any subscriber for inclusion in
19 any directory of any form, nor shall it sell the contents of any
20 directory data base, without first obtaining the express, opt-in
21 consent of that subscriber. The subscriber's consent must be obtained
22 either in writing or electronically, and a receipt must be provided to
23 the subscriber. The consent shall be a separate document or located on
24 a separate screen or web page that has the sole purpose of authorizing
25 a radio communications service company to include the subscriber's
26 phone number in a publicly available directory assistance data base.
27 In obtaining the subscriber's consent, the provider shall unambiguously
28 disclose that, by consenting, the subscriber agrees to have the
29 subscriber's phone number sold or licensed as part of a list of
30 subscribers and that the phone number may be included in a publicly
31 available directory assistance data base. The provider must also
32 disclose that by consenting to be included in the directory, the
33 subscriber may incur additional charges for receiving unsolicited calls
34 or text messages.

35 (2) A subscriber who provides express consent pursuant to
36 subsection (1) of this section may revoke that consent at any time. A

1 radio communications service company shall comply with the subscriber's
2 request to opt out within a reasonable period of time, not to exceed
3 sixty days.

4 (3) A subscriber shall not be charged for opting not to be listed
5 in the directory.

6 (4) This section does not apply to the provision of telephone
7 numbers, for the purposes indicated, to:

8 (a) Any law enforcement agency, fire protection agency, public
9 health agency, public environmental health agency, city or county
10 emergency services planning agency, or private for-profit corporation
11 operating under contract with, and at the direction of, one or more of
12 these agencies, for the exclusive purpose of responding to a 911 call
13 or communicating an imminent threat to life or property. Information
14 or records provided to a private for-profit corporation pursuant to (b)
15 of this subsection shall be held in confidence by that corporation and
16 by any individual employed by or associated with that corporation.
17 Such information or records shall not be open to examination for any
18 purpose not directly connected with the administration of the services
19 specified in this subsection;

20 (b) A lawful process issued under state or federal law;

21 (c) A telecommunications company providing service between service
22 areas for the provision of telephone services to the subscriber between
23 service areas, or to third parties for the limited purpose of providing
24 billing services;

25 (d) A telecommunications company to effectuate a customer's request
26 to transfer the customer's assigned telephone number from the
27 customer's existing provider of telecommunications services to a new
28 provider of telecommunications services;

29 (e) The utilities (~~and transportation~~) commission pursuant to its
30 jurisdiction and control over telecommunications companies; and

31 (f) A sales agent to provide the subscriber's cell phone numbers to
32 the cellular provider for the limited purpose of billing and customer
33 service.

34 (5) Every knowing violation of this section is punishable by a fine
35 of up to fifty thousand dollars for each violation.

36 (6) The attorney general may bring actions to enforce compliance
37 with this section. For the first violation by any company or

1 organization of this section, the attorney general may notify the
2 company with a letter of warning that the section has been violated.

3 (7) No telecommunications company, nor any official or employee of
4 a telecommunications company, shall be subject to criminal or civil
5 liability for the release of customer information as authorized by this
6 section.

7 **Sec. 23.** RCW 19.280.020 and 2006 c 195 s 2 are each amended to
8 read as follows:

9 The definitions in this section apply throughout this chapter
10 unless the context clearly requires otherwise.

11 (1) "Commission" means the utilities (~~(and transportation)~~)
12 commission.

13 (2) "Conservation and efficiency resources" means any reduction in
14 electric power consumption that results from increases in the
15 efficiency of energy use, production, transmission, or distribution.

16 (3) "Consumer-owned utility" includes a municipal electric utility
17 formed under Title 35 RCW, a public utility district formed under Title
18 54 RCW, an irrigation district formed under chapter 87.03 RCW, a
19 cooperative formed under chapter 23.86 RCW, a mutual corporation or
20 association formed under chapter 24.06 RCW, a port district formed
21 under Title 53 RCW, or a water-sewer district formed under Title 57
22 RCW, that is engaged in the business of distributing electricity to one
23 or more retail electric customers in the state.

24 (4) "Department" means the department of community, trade, and
25 economic development.

26 (5) "Electric utility" means a consumer-owned or investor-owned
27 utility.

28 (6) "Full requirements customer" means an electric utility that
29 relies on the Bonneville power administration for all power needed to
30 supply its total load requirement other than that served by
31 nondispatchable generating resources totaling no more than six
32 megawatts or renewable resources.

33 (7) "Governing body" means the elected board of directors, city
34 council, commissioners, or board of any consumer-owned utility.

35 (8) "High efficiency cogeneration" means the sequential production
36 of electricity and useful thermal energy from a common fuel source,

1 where, under normal operating conditions, the facility has a useful
2 thermal energy output of no less than thirty-three percent of the total
3 energy output.

4 (9) "Integrated resource plan" means an analysis describing the mix
5 of generating resources and conservation and efficiency resources that
6 will meet current and projected needs at the lowest reasonable cost to
7 the utility and its ratepayers and that complies with the requirements
8 specified in RCW 19.280.030(1).

9 (10) "Investor-owned utility" means a corporation owned by
10 investors that meets the definition in RCW 80.04.010 and is engaged in
11 distributing electricity to more than one retail electric customer in
12 the state.

13 (11) "Lowest reasonable cost" means the lowest cost mix of
14 generating resources and conservation and efficiency resources
15 determined through a detailed and consistent analysis of a wide range
16 of commercially available resources. At a minimum, this analysis must
17 consider resource cost, market-volatility risks, demand-side resource
18 uncertainties, resource dispatchability, resource effect on system
19 operation, the risks imposed on the utility and its ratepayers, public
20 policies regarding resource preference adopted by Washington state or
21 the federal government, and the cost of risks associated with
22 environmental effects including emissions of carbon dioxide.

23 (12) "Plan" means either an "integrated resource plan" or a
24 "resource plan."

25 (13) "Renewable resources" means electricity generation facilities
26 fueled by: (a) Water; (b) wind; (c) solar energy; (d) geothermal
27 energy; (e) landfill gas; (f) biomass energy utilizing animal waste,
28 solid organic fuels from wood, forest, or field residues or dedicated
29 energy crops that do not include wood pieces that have been treated
30 with chemical preservatives such as creosote, pentachlorophenol, or
31 copper-chrome-arsenic; (g) byproducts of pulping or wood manufacturing
32 processes, including but not limited to bark, wood chips, sawdust, and
33 lignin in spent pulping liquors; (h) ocean thermal, wave, or tidal
34 power; or (i) gas from sewage treatment facilities.

35 (14) "Resource plan" means an assessment that estimates electricity
36 loads and resources over a defined period of time and complies with the
37 requirements in RCW 19.280.030(2).

1 **Sec. 24.** RCW 23.86.400 and 1996 c 32 s 1 are each amended to read
2 as follows:

3 (1) As used in this section:

4 (a) "Attachment" means the affixation or installation of any wire,
5 cable or other physical material capable of carrying electronic
6 impulses or light waves for the carrying of intelligence for
7 telecommunications or television, including, but not limited to cable,
8 and any related device, apparatus, or auxiliary equipment upon any pole
9 owned or controlled in whole or in part by one or more locally
10 regulated utilities where the installation has been made with the
11 necessary consent.

12 (b) "Locally regulated utility" means an electric service
13 cooperative organized under this chapter and not subject to rate or
14 service regulation by the utilities ((and transportation)) commission.

15 (c) "Nondiscriminatory" means that pole owners may not arbitrarily
16 differentiate among or between similar classes of persons approved for
17 attachments.

18 (2) All rates, terms, and conditions made, demanded, or received by
19 a locally regulated utility for attachments to its poles must be just,
20 reasonable, nondiscriminatory, and sufficient. A locally regulated
21 utility shall levy attachment space rental rates that are uniform for
22 the same class of service within the locally regulated utility service
23 area.

24 (3) Nothing in this section shall be construed or is intended to
25 confer upon the utilities ((and transportation)) commission any
26 authority to exercise jurisdiction over locally regulated utilities.

27 **Sec. 25.** RCW 23B.01.590 and 1989 c 165 s 25 are each amended to
28 read as follows:

29 The annual fee required to be paid to the ((Washington)) utilities
30 ((and transportation)) commission by any public service corporation
31 shall be deducted from the annual license fee provided in this title
32 and the excess only shall be collected.

33 It shall be the duty of the commission to furnish to the secretary
34 of state on or before July 1st of each year a list of all public
35 service corporations with the amount of annual license fees paid to the
36 commission for the current year.

1 **Sec. 26.** RCW 24.06.600 and 1996 c 32 s 2 are each amended to read
2 as follows:

3 (1) As used in this section:

4 (a) "Attachment" means the affixation or installation of any wire,
5 cable or other physical material capable of carrying electronic
6 impulses or light waves for the carrying of intelligence for
7 telecommunications or television, including, but not limited to cable,
8 and any related device, apparatus, or auxiliary equipment upon any pole
9 owned or controlled in whole or in part by one or more locally
10 regulated utilities where the installation has been made with the
11 necessary consent.

12 (b) "Locally regulated utility" means (~~(an [a])~~) a mutual
13 corporation organized under this chapter for the purpose of providing
14 utility service and not subject to rate or service regulation by the
15 utilities (~~(and transportation)~~) commission.

16 (c) "Nondiscriminatory" means that pole owners may not arbitrarily
17 differentiate among or between similar classes of persons approved for
18 attachments.

19 (2) All rates, terms, and conditions made, demanded, or received by
20 a locally regulated utility for attachments to its poles must be just,
21 reasonable, nondiscriminatory, and sufficient. A locally regulated
22 utility shall levy attachment space rental rates that are uniform for
23 the same class of service within the locally regulated utility service
24 area.

25 (3) Nothing in this section shall be construed or is intended to
26 confer upon the utilities (~~(and transportation)~~) commission any
27 authority to exercise jurisdiction over locally regulated utilities.

28 **Sec. 27.** RCW 28A.160.010 and 1990 c 33 s 132 are each amended to
29 read as follows:

30 The operation of each local school district's student
31 transportation program is declared to be the responsibility of the
32 respective board of directors, and each board of directors shall
33 determine such matters as which individual students shall be
34 transported and what routes shall be most efficiently utilized. State
35 moneys allocated to local districts for student transportation shall be
36 spent only for student transportation activities, but need not be spent

1 by the local district in the same manner as calculated and allocated by
2 the state.

3 A school district is authorized to provide for the transportation
4 of students enrolled in the school or schools of the district both in
5 the case of students who reside within the boundaries of the district
6 and of students who reside outside the boundaries of the district.

7 When children are transported from one school district to another
8 the board of directors of the respective districts may enter into a
9 written contract providing for a division of the cost of such
10 transportation between the districts.

11 School districts may use school buses and drivers hired by the
12 district or commercial chartered bus service for the transportation of
13 school children and the school employees necessary for their
14 supervision to and from any school activities within or without the
15 school district during or after school hours and whether or not a
16 required school activity, so long as the school board has officially
17 designated it as a school activity. For any extra-curricular uses, the
18 school board shall charge an amount sufficient to reimburse the
19 district for its cost.

20 In addition to the right to contract for the use of buses provided
21 in RCW 28A.160.080 and 28A.160.090, any school district may contract to
22 furnish the use of school buses of that district to other users who are
23 engaged in conducting an educational or recreational program supported
24 wholly or in part by tax funds or programs for elderly persons at times
25 when those buses are not needed by that district and under such terms
26 as will fully reimburse such school district for all costs related or
27 incident thereto: PROVIDED, HOWEVER, That no such use of school
28 district buses shall be permitted except where other public ((~~or~~
29 ~~private~~)) transportation ((~~certificated or licensed by the Washington~~
30 ~~utilities and transportation commission~~)) or properly licensed for-hire
31 passenger transportation is not reasonably available to the user:
32 PROVIDED FURTHER, That no user shall be required to accept any charter
33 bus for services which the user believes might place the health or
34 safety of the children or elderly persons in jeopardy.

35 Whenever any persons are transported by the school district in its
36 own motor vehicles and by its own employees, the board may provide
37 insurance to protect the district against loss, whether by reason of

1 theft, fire or property damage to the motor vehicle or by reason of
2 liability of the district to persons from the operation of such motor
3 vehicle.

4 The board may provide insurance by contract purchase for payment of
5 hospital and medical expenses for the benefit of persons injured while
6 they are on, getting on, or getting off any vehicles enumerated herein
7 without respect to any fault or liability on the part of the school
8 district or operator. This insurance may be provided without cost to
9 the persons notwithstanding the provisions of RCW 28A.400.350.

10 If the transportation of children or elderly persons is arranged
11 for by contract of the district with some person, the board may require
12 such contractor to procure such insurance as the board deems advisable.

13 **Sec. 28.** RCW 28A.160.100 and 2006 c 263 s 907 are each amended to
14 read as follows:

15 In addition to the authority otherwise provided in RCW 28A.160.010
16 through 28A.160.120 to school districts for the transportation of
17 persons, whether school children, school personnel, or otherwise, any
18 school district authorized to use school buses and drivers hired by the
19 district for the transportation of school children to and from a school
20 activity, along with such school employees as necessary for their
21 supervision, shall, if such school activity be an interscholastic
22 activity, be authorized to transport members of the general public to
23 such event and utilize the school district's buses, transportation
24 equipment and facilities, and employees therefor: PROVIDED, That
25 provision shall be made for the reimbursement and payment to the school
26 district by such members of the general public of not less than the
27 district's actual costs and the reasonable value of the use of the
28 district's buses and facilities provided in connection with such
29 transportation: PROVIDED FURTHER, That wherever (~~private~~) public
30 ~~transportation (certified or licensed by the utilities and~~
31 ~~transportation commission or public)~~ or properly licensed for-hire
32 passenger transportation is reasonably available, this section shall
33 not apply.

34 **Sec. 29.** RCW 28A.160.120 and 1974 ex.s. c 93 s 1 are each amended
35 to read as follows:

36 Any school district board of directors or any intermediate school

1 district board may enter into agreements pursuant to chapter 39.34 RCW
2 or chapter 35.58 RCW, as now or hereafter amended, with any city, town,
3 county, metropolitan municipal corporation, and any federal or other
4 state governmental entity, or any combination of the foregoing, for the
5 purpose of providing for the transportation of students and/or members
6 of the public through the use, in whole or part, of the school
7 district's buses, transportation equipment and facilities, and
8 employees: PROVIDED, That any agreement entered into for purposes of
9 transportation pursuant to this section shall conform with the
10 provisions of RCW 35.58.250 where applicable and shall provide for the
11 reimbursement and payment to the school district of not less than the
12 district's actual costs and the reasonable value of the use of the
13 district's buses, and transportation equipment and supplies which are
14 incurred and otherwise provided in connection with the transportation
15 of members of the public or other noncommon school purposes: PROVIDED
16 FURTHER, That wherever public transportation((~~7~~)) or ((~~private~~))
17 properly licensed for-hire passenger transportation ((~~certified or~~
18 ~~licensed by the Washington utilities and transportation commission~~)) is
19 not reasonably available, the school district or intermediate school
20 district may transport members of the public so long as they are
21 reimbursed for the cost of such transportation, and such transportation
22 has been approved by any metropolitan municipal corporation performing
23 public transportation pursuant to chapter 35.58 RCW in the area to be
24 served by the district.

25 **Sec. 30.** RCW 28A.335.320 and 1995 c 243 s 4 are each amended to
26 read as follows:

27 By January 1, 1997, or one year after enhanced 911 service becomes
28 available or a private switch automatic location identification service
29 approved by the ((~~Washington~~)) utilities ((~~and transportation~~))
30 commission is available from the serving local exchange
31 telecommunications company, whichever is later, all common and public
32 schools located in counties that provide enhanced 911 service shall
33 provide persons using school facilities direct access to telephones
34 that are connected to the public switched network such that calls to
35 911 result in automatic location identification for each telephone in
36 a format that is compatible with the existing and planned county
37 enhanced 911 system during all times that the facility is in use. Any

1 school district acquiring a private telecommunications system that
2 allows connection to the public switched network after January 1, 1997,
3 shall assure that the telecommunications system is connected to the
4 public switched network such that calls to 911 result in automatic
5 location identification for each telephone in a format that is
6 compatible with the existing or planned county enhanced 911 system.

7 **Sec. 31.** RCW 34.05.380 and 1989 c 175 s 11 are each amended to
8 read as follows:

9 (1) Each agency shall file in the office of the code reviser a
10 certified copy of all rules it adopts, except for rules contained in
11 tariffs filed with or published by the (~~Washington~~) utilities (~~and~~
12 ~~transportation~~) commission. The code reviser shall place upon each
13 rule a notation of the time and date of filing and shall keep a
14 permanent register of filed rules open to public inspection. In filing
15 a rule, each agency shall use the standard form prescribed for this
16 purpose by the code reviser.

17 (2) Emergency rules adopted under RCW 34.05.350 become effective
18 upon filing unless a later date is specified in the order of adoption.
19 All other rules become effective upon the expiration of thirty days
20 after the date of filing, unless a later date is required by statute or
21 specified in the order of adoption.

22 (3) A rule may become effective immediately upon its filing with
23 the code reviser or on any subsequent date earlier than that
24 established by subsection (2) of this section, if the agency
25 establishes that effective date in the adopting order and finds that:

26 (a) Such action is required by the state or federal Constitution,
27 a statute, or court order;

28 (b) The rule only delays the effective date of another rule that is
29 not yet effective; or

30 (c) The earlier effective date is necessary because of imminent
31 peril to the public health, safety, or welfare.

32 The finding and a brief statement of the reasons therefor required
33 by this subsection shall be made a part of the order adopting the rule.

34 (4) With respect to a rule made effective pursuant to subsection
35 (3) of this section, each agency shall make reasonable efforts to make
36 the effective date known to persons who may be affected by it.

1 **Sec. 32.** RCW 34.12.020 and 2002 c 354 s 226 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) "Office" means the office of administrative hearings.

6 (2) "Administrative law judge" means any person appointed by the
7 chief administrative law judge to conduct or preside over hearings as
8 provided in this chapter.

9 (3) "Hearing" means an adjudicative proceeding within the meaning
10 of RCW 34.05.010(1) conducted by a state agency under RCW 34.05.413
11 through 34.05.476.

12 (4) "State agency" means any state board, commission, department,
13 or officer authorized by law to make rules or to conduct adjudicative
14 proceedings, except those in the legislative or judicial branches, the
15 growth management hearings boards, the utilities (~~and transportation~~)
16 commission, the pollution control hearings board, the shorelines
17 hearings board, the forest practices appeals board, the environmental
18 hearings office, the board of industrial insurance appeals, the
19 Washington personnel resources board, the public employment relations
20 commission, and the board of tax appeals.

21 **Sec. 33.** RCW 35.02.160 and 1997 c 171 s 1 are each amended to read
22 as follows:

23 The incorporation of any territory as a city or town shall cancel,
24 as of the effective date of such incorporation, any franchise or permit
25 theretofore granted to any person, firm, or corporation by the state of
26 Washington, or by the governing body of such incorporated territory,
27 authorizing or otherwise permitting the operation of any public
28 transportation, garbage disposal, or other similar public service
29 business or facility within the limits of the incorporated territory,
30 but the holder of any such franchise or permit canceled pursuant to
31 this section shall be forthwith granted by the incorporating city or
32 town a franchise to continue such business within the incorporated
33 territory for a term of not less than the remaining term of the
34 original franchise or permit, or not less than seven years, whichever
35 is the shorter period, and the incorporating city or town, by
36 franchise, permit, or public operation, shall not extend similar or
37 competing services to the incorporated territory except upon a proper

1 showing of the inability or refusal of such person, firm, or
2 corporation to adequately service said incorporated territory at a
3 reasonable price: PROVIDED, That the provisions of this section shall
4 not preclude the purchase by the incorporating city or town of said
5 franchise, business, or facilities at an agreed or negotiated price, or
6 from acquiring the same by condemnation upon payment of damages,
7 including a reasonable amount for the loss of the franchise or permit.
8 In the event that any person, firm, or corporation whose franchise or
9 permit has been canceled by the terms of this section shall suffer any
10 measurable damages as a result of any incorporation pursuant to the
11 provisions of chapter 35.02 RCW, such person, firm, or corporation
12 shall have a right of action against any city or town causing such
13 damages.

14 After the incorporation of any city or town, the utilities (~~and~~
15 ~~transportation~~) commission shall continue to regulate solid waste
16 collection within the limits of the incorporated city or town until
17 such time as the city or town notifies the commission, in writing, of
18 its decision to contract for solid waste collection or provide solid
19 waste collection itself (~~pursuant to RCW 81.77.020~~) as provided by
20 law. In the event the incorporated city or town at any time decides to
21 contract for solid waste collection or decides to undertake solid waste
22 collection itself, the holder of any such franchise or permit that is
23 so canceled in whole or in part shall be forthwith granted by the
24 incorporated city or town a franchise to continue such business within
25 the incorporated territory for a term of not less than the remaining
26 term of the original franchise or permit, or not less than seven years,
27 whichever is the shorter period, and the incorporated city or town, by
28 franchise, permit, or public operation, shall not extend similar or
29 competing services to the incorporated territory except upon a proper
30 showing of the inability or refusal of such person, firm, or
31 corporation to adequately service the incorporated territory at a
32 reasonable price. Upon the effective date specified by the city or
33 town council's ordinance or resolution to have the city or town
34 contract for solid waste collection or undertake solid waste collection
35 itself, the transition period specified in this section begins to run.
36 This section does not preclude the purchase by the incorporated city or
37 town of the franchise, business, or facilities at an agreed or
38 negotiated price, or from acquiring the same by condemnation upon

1 payment of damages, including a reasonable amount for the loss of the
2 franchise or permit. In the event that any person, firm, or
3 corporation whose franchise or permit has been canceled in whole or in
4 part by the terms of this section suffers any measurable damages as a
5 result of any incorporation pursuant to this chapter, such person,
6 firm, or corporation has a right of action against any city or town
7 causing such damages.

8 **Sec. 34.** RCW 35.13.280 and 1997 c 171 s 2 are each amended to read
9 as follows:

10 The annexation by any city or town of any territory pursuant to
11 those provisions of chapter 35.10 RCW which relate to the annexation of
12 a city or town to a city or town, or pursuant to the provisions of
13 chapter 35.13 RCW shall cancel, as of the effective date of such
14 annexation, any franchise or permit theretofore granted to any person,
15 firm, or corporation by the state of Washington, or by the governing
16 body of such annexed territory, authorizing or otherwise permitting the
17 operation of any public transportation, garbage disposal, or other
18 similar public service business or facility within the limits of the
19 annexed territory, but the holder of any such franchise or permit
20 canceled pursuant to this section shall be forthwith granted by the
21 annexing city or town a franchise to continue such business within the
22 annexed territory for a term of not less than seven years from the date
23 of issuance thereof, and the annexing city or town, by franchise,
24 permit, or public operation, shall not extend similar or competing
25 services to the annexed territory except upon a proper showing of the
26 inability or refusal of such person, firm, or corporation to adequately
27 service said annexed territory at a reasonable price: PROVIDED, That
28 the provisions of this section shall not preclude the purchase by the
29 annexing city or town of said franchise, business, or facilities at an
30 agreed or negotiated price, or from acquiring the same by condemnation
31 upon payment of damages, including a reasonable amount for the loss of
32 the franchise or permit. In the event that any person, firm, or
33 corporation whose franchise or permit has been canceled by the terms of
34 this section shall suffer any measurable damages as a result of any
35 annexation pursuant to the provisions of the laws above-mentioned, such
36 person, firm, or corporation shall have a right of action against any
37 city or town causing such damages.

1 After an annexation by a city or town, the utilities (~~and~~
2 ~~transportation~~) commission shall continue to regulate solid waste
3 collection within the limits of the annexed territory until such time
4 as the city or town notifies the commission, in writing, of its
5 decision to contract for solid waste collection or provide solid waste
6 collection itself (~~pursuant to RCW 81.77.020~~) as provided by law. In
7 the event the annexing city or town at any time decides to contract for
8 solid waste collection or decides to undertake solid waste collection
9 itself, the holder of any such franchise or permit that is so canceled
10 in whole or in part shall be forthwith granted by the annexing city or
11 town a franchise to continue such business within the annexed territory
12 for a term of not less than the remaining term of the original
13 franchise or permit, or not less than seven years, whichever is the
14 shorter period, and the city or town, by franchise, permit, or public
15 operation, shall not extend similar or competing services to the
16 annexed territory except upon a proper showing of the inability or
17 refusal of such person, firm, or corporation to adequately service the
18 annexed territory at a reasonable price. Upon the effective date
19 specified by the city or town council's ordinance or resolution to have
20 the city or town contract for solid waste collection or undertake solid
21 waste collection itself, the transition period specified in this
22 section begins to run. This section does not preclude the purchase by
23 the annexing city or town of the franchise, business, or facilities at
24 an agreed or negotiated price, or from acquiring the same by
25 condemnation upon payment of damages, including a reasonable amount for
26 the loss of the franchise or permit. In the event that any person,
27 firm, or corporation whose franchise or permit has been canceled by the
28 terms of this section suffers any measurable damages as a result of any
29 annexation pursuant to this chapter, such person, firm, or corporation
30 has a right of action against any city or town causing such damages.

31 **Sec. 35.** RCW 35.21.455 and 1996 c 32 s 3 are each amended to read
32 as follows:

33 (1) As used in this section:

34 (a) "Attachment" means the affixation or installation of any wire,
35 cable or other physical material capable of carrying electronic
36 impulses or light waves for the carrying of intelligence for
37 telecommunications or television, including, but not limited to cable,

1 and any related device, apparatus, or auxiliary equipment upon any pole
2 owned or controlled in whole or in part by one or more locally
3 regulated utilities where the installation has been made with the
4 necessary consent.

5 (b) "Locally regulated utility" means a city owning and operating
6 an electric utility not subject to rate or service regulation by the
7 utilities ((and transportation)) commission.

8 (c) "Nondiscriminatory" means that pole owners may not arbitrarily
9 differentiate among or between similar classes of persons approved for
10 attachments.

11 (2) All rates, terms, and conditions made, demanded, or received by
12 a locally regulated utility for attachments to its poles must be just,
13 reasonable, nondiscriminatory, and sufficient. A locally regulated
14 utility shall levy attachment space rental rates that are uniform for
15 the same class of service within the locally regulated utility service
16 area.

17 (3) Nothing in this section shall be construed or is intended to
18 confer upon the utilities ((and transportation)) commission any
19 authority to exercise jurisdiction over locally regulated utilities.

20 **Sec. 36.** RCW 35.58.240 and 1981 c 25 s 1 are each amended to read
21 as follows:

22 If a metropolitan municipal corporation shall be authorized to
23 perform the function of metropolitan transportation, it shall have the
24 following powers in addition to the general powers granted by this
25 chapter:

26 (1) To prepare, adopt, and carry out a general comprehensive plan
27 for public transportation service which will best serve the residents
28 of the metropolitan area and to amend said plan from time to time to
29 meet changed conditions and requirements.

30 (2) To acquire by purchase, condemnation, gift, or grant and to
31 lease, construct, add to, improve, replace, repair, maintain, operate,
32 and regulate the use of metropolitan transportation facilities and
33 properties within or without the metropolitan area, including systems
34 of surface, underground, or overhead railways, tramways, buses, or any
35 other means of local transportation except taxis, and including
36 escalators, moving sidewalks, or other people-moving systems, passenger
37 terminal and parking facilities and properties, and such other

1 facilities and properties as may be necessary for passenger and
2 vehicular access to and from such people-moving systems, terminal and
3 parking facilities and properties, together with all lands, rights of
4 way, property, equipment, and accessories necessary for such systems
5 and facilities. Public transportation facilities and properties which
6 are owned by any city may be acquired or used by the metropolitan
7 municipal corporation only with the consent of the city council of the
8 city owning such facilities. Cities are hereby authorized to convey or
9 lease such facilities to metropolitan corporations or to contract for
10 their joint use on such terms as may be fixed by agreement between the
11 city council of such city and the metropolitan council, without
12 submitting the matter to the voters of such city.

13 ~~((The facilities and properties of a metropolitan public
14 transportation system whose vehicles will operate primarily within the
15 rights of way of public streets, roads, or highways, may be acquired,
16 developed and operated without the corridor and design hearings which
17 are required by RCW 35.58.273 for mass transit facilities operating on
18 a separate right of way.))~~

19 (3) To fix rates, tolls, fares, and charges for the use of such
20 facilities and to establish various routes and classes of service.
21 Fares or charges may be adjusted or eliminated for any distinguishable
22 class of users including, but not limited to, senior citizens,
23 ~~((handicapped))~~ persons with disabilities, and students. Classes of
24 service and fares will be maintained in the several parts of the
25 metropolitan area at such levels as will provide, insofar as reasonably
26 practicable, that the portion of any annual transit operating deficit
27 of the metropolitan municipal corporation attributable to the operation
28 of all routes, taken as a whole, which are located within the central
29 city is approximately in proportion to the portion of total taxes
30 collected by or on behalf of the metropolitan municipal corporation for
31 transit purposes within the central city, and that the portion of such
32 annual transit operating deficit attributable to the operation of all
33 routes, taken as a whole, which are located outside the central city,
34 is approximately in proportion to the portion of such taxes collected
35 outside the central city.

36 ~~((In the event any metropolitan municipal corporation shall extend
37 its metropolitan transportation function to any area or service already
38 offered by any company holding a certificate of public convenience and~~

1 ~~necessity from the Washington utilities and transportation commission~~
2 ~~under RCW 81.68.040, it shall by purchase or condemnation acquire at~~
3 ~~the fair market value, from the person holding the existing certificate~~
4 ~~for providing the services, that portion of the operating authority and~~
5 ~~equipment representing the services within the area of public~~
6 ~~operation.))~~

7 **Sec. 37.** RCW 35.58.250 and 1965 c 7 s 35.58.250 are each amended
8 to read as follows:

9 Except in accordance with an agreement made as provided herein,
10 upon the effective date on which the metropolitan municipal corporation
11 commences to perform the metropolitan transportation function, no
12 person or private corporation shall operate a local public passenger
13 transportation service within the metropolitan area with the exception
14 of taxis, busses owned or operated by a school district or private
15 school, and busses owned or operated by any corporation or organization
16 solely for the purposes of the corporation or organization and for the
17 use of which no fee or fare is charged.

18 An agreement may be entered into between the metropolitan municipal
19 corporation and any person or corporation legally operating a local
20 public passenger transportation service wholly within or partly within
21 and partly without the metropolitan area and on said effective date
22 under which such person or corporation may continue to operate such
23 service or any part thereof for such time and upon such terms and
24 conditions as provided in such agreement. Where any such local public
25 passenger transportation service will be required to cease to operate
26 within the metropolitan area, the commission may agree with the owner
27 of such service to purchase the assets used in providing such service,
28 or if no agreement can be reached, the commission shall condemn such
29 assets in the manner provided herein for the condemnation of other
30 properties.

31 ~~((Wherever a))~~ Any privately owned public carrier ~~((operates))~~
32 operating wholly or partly within a metropolitan municipal
33 corporation~~((, the Washington utilities and transportation commission))~~
34 shall ~~((continue to exercise jurisdiction over such operation))~~ comply
35 with all rules and safety requirements as provided by law.

1 **Sec. 38.** RCW 35.84.060 and 2003 c 363 s 302 are each amended to
2 read as follows:

3 Every municipal corporation which owns or operates an urban public
4 transportation system as defined in RCW 47.04.082 within its corporate
5 limits may acquire, construct, extend, own, or operate such urban
6 public transportation system to any point or points not to exceed
7 fifteen miles outside of its corporate limits(~~((:—PROVIDED, That no~~
8 ~~municipal corporation shall extend its urban public transportation~~
9 ~~system beyond its corporate limits to operate in any territory already~~
10 ~~served by a privately operated auto transportation company holding a~~
11 ~~certificate of public convenience and necessity from the utilities and~~
12 ~~transportation commission))~~).

13 As a condition of receiving state funding, the municipal
14 corporation shall submit a maintenance management plan for
15 certification by the transportation commission or its successor entity.
16 The plan must inventory all transportation system assets within the
17 direction and control of the municipality, and provide a preservation
18 plan based on lowest life-cycle cost methodologies.

19 **Sec. 39.** RCW 35.92.052 and 1997 c 230 s 1 are each amended to read
20 as follows:

21 (1) Except as provided in subsection (3) of this section, cities of
22 the first class which operate electric generating facilities and
23 distribution systems shall have power and authority to participate and
24 enter into agreements for the use or undivided ownership of high
25 voltage transmission facilities and capacity rights in those facilities
26 and for the undivided ownership of any type of electric generating
27 plants and facilities, including, but not limited to, nuclear and other
28 thermal power generating plants and facilities and transmission
29 facilities including, but not limited to, related transmission
30 facilities, to be called "common facilities"; and for the planning,
31 financing, acquisition, construction, operation, and maintenance with:
32 (a) Each other; (b) electrical companies which are subject to the
33 jurisdiction of the ((Washington)) utilities ((and transportation))
34 commission or the regulatory commission of any other state, to be
35 called "regulated utilities"; (c) rural electric cooperatives,
36 including generation and transmission cooperatives in any state; (d)
37 municipal corporations, utility districts, or other political

1 subdivisions in any state; and (e) any agency of the United States
2 authorized to generate or transmit electrical energy. It shall be
3 provided in such agreements that each city shall use or own a
4 percentage of any common facility equal to the percentage of the money
5 furnished or the value of property supplied by it for the acquisition
6 and construction of or additions or improvements to the facility and
7 shall own and control or provide for the use of a like percentage of
8 the electrical transmission or output.

9 (2) A city using or owning common facilities under this section may
10 issue revenue bonds or other obligations to finance the city's share of
11 the use or ownership of the common facilities.

12 (3) Cities of the first class shall have the power and authority to
13 participate and enter into agreements for the use or undivided
14 ownership of a coal-fired thermal electric generating plant and
15 facility placed in operation before July 1, 1975, including related
16 common facilities, and for the planning, financing, acquisition,
17 construction, operation, and maintenance of the plant and facility. It
18 shall be provided in such agreements that each city shall use or own a
19 percentage of any common facility equal to the percentage of the money
20 furnished or the value of property supplied by the city for the
21 acquisition and construction of or additions or improvements to the
22 facility and shall own and control or provide for the use of a like
23 percentage of the electrical transmission or output of the facility.
24 Cities may enter into agreements under this subsection with each other,
25 with regulated utilities, with rural electric cooperatives, with
26 utility districts, with electric companies subject to the jurisdiction
27 of the regulatory commission of any other state, and with any power
28 marketer subject to the jurisdiction of the federal energy regulatory
29 commission.

30 (4) The agreement must provide that each participant shall defray
31 its own interest and other payments required to be made or deposited in
32 connection with any financing undertaken by it to pay its percentage of
33 the money furnished or value of property supplied by it for the
34 planning, acquisition, and construction of any common facility, or any
35 additions or betterments. The agreement shall provide a uniform method
36 of determining and allocating operation and maintenance expenses of a
37 common facility.

1 (5) Each city participating in the ownership, use, or operation of
2 a common facility shall pay all taxes chargeable to its share of the
3 common facility and the electric energy generated under any applicable
4 statutes and may make payments during preliminary work and construction
5 for any increased financial burden suffered by any county or other
6 existing taxing district in the county in which the common facility is
7 located, under agreement with such county or taxing district.

8 (6) In carrying out the powers granted in this section, each such
9 city shall be severally liable only for its own acts and not jointly or
10 severally liable for the acts, omissions, or obligations of others. No
11 money or property supplied by any such city for the planning,
12 financing, acquisition, construction, operation, or maintenance of, or
13 addition or improvement to any common facility shall be credited or
14 otherwise applied to the account of any other participant therein, nor
15 shall the undivided share of any city in any common facility be
16 charged, directly or indirectly, with any debt or obligation of any
17 other participant or be subject to any lien as a result thereof. No
18 action in connection with a common facility shall be binding upon any
19 city unless authorized or approved by resolution or ordinance of its
20 governing body.

21 (7) Any city acting jointly outside the state of Washington, by
22 mutual agreement with any participant under authority of this section,
23 shall not acquire properties owned or operated by any public utility
24 district, by any regulated utility, or by any public utility owned by
25 a municipality without the consent of the utility owning or operating
26 the property, and shall not participate in any condemnation proceeding
27 to acquire such properties.

28 **Sec. 40.** RCW 35.97.040 and 1983 c 216 s 4 are each amended to read
29 as follows:

30 In addition to the general powers under RCW 35.97.030, and not by
31 way of limitation, municipalities have the following specific powers:

32 (1) The usual powers of a corporation, to be exercised for public
33 purposes;

34 (2) To acquire by purchase, gift, or condemnation property or
35 interests in property within and without the municipality, necessary
36 for the construction and operation of heating systems, including
37 additions and extensions of heating systems. No municipality may

1 acquire any heat source by condemnation. To the extent judged
2 economically feasible by the municipality, public property and rights
3 of way shall be utilized in lieu of private property acquired by
4 condemnation. The municipality shall determine in cooperation with
5 existing users that addition of district heating facilities to any
6 public property or rights of way shall not be a hazard or interference
7 with existing uses or, if so, that the cost for any relocation of
8 facilities of existing users shall be a cost and expense of installing
9 the heating facility;

10 (3) To acquire, install, add to, maintain, and operate heating
11 facilities at a heat source or to serve particular consumers of heat,
12 whether such facilities are located on property owned by the
13 municipality, by the consumer of heat, or otherwise;

14 (4) To sell, lease, or otherwise dispose of heating facilities;

15 (5) To contract for the operation of heating facilities;

16 (6) To apply and qualify for and receive any private or federal
17 grants, loans, or other funds available for carrying out the objects of
18 the municipality under this chapter;

19 (7) Full and exclusive authority to sell and regulate and control
20 the use, distribution, rates, service, charges, and price of all heat
21 supplied by the municipality and to carry out any other powers and
22 duties under this chapter free from the jurisdiction and control of the
23 utilities (~~and transportation~~) commission;

24 (8) To utilize fuels other than the heat sources described in RCW
25 35.97.020 on a standby basis, to meet start up and emergency
26 requirements, to meet peak demands, or to supplement those heat sources
27 as necessary to provide a reliable and economically feasible supply of
28 heat;

29 (9) To the extent permitted by the state Constitution, to make
30 loans for the purpose of enabling suppliers or consumers of heat to
31 finance heating facilities;

32 (10) To enter into cooperative agreements providing for the
33 acquisition, construction, ownership, financing, use, control, and
34 regulation of heating systems and heating facilities by more than one
35 municipality or by one or more municipalities on behalf of other
36 municipalities.

1 **Sec. 41.** RCW 35A.14.900 and 1997 c 171 s 3 are each amended to
2 read as follows:

3 The annexation by any code city of any territory pursuant to this
4 chapter shall cancel, as of the effective date of such annexation, any
5 franchise or permit theretofore granted to any person, firm, or
6 corporation by the state of Washington, or by the governing body of
7 such annexed territory, authorizing or otherwise permitting the
8 operation of any public utility, including but not limited to, public
9 electric, water, transportation, garbage disposal, or other similar
10 public service business or facility within the limits of the annexed
11 territory, but the holder of any such franchise or permit canceled
12 pursuant to this section shall be forthwith granted by the annexing
13 code city a franchise to continue such business within the annexed
14 territory for a term of not less than seven years from the date of
15 issuance thereof, and the annexing code city, by franchise, permit, or
16 public operation, shall not extend similar or competing services to the
17 annexed territory except upon a proper showing of the inability or
18 refusal of such person, firm, or corporation to adequately service said
19 annexed territory at a reasonable price: PROVIDED, That the provisions
20 of this section shall not preclude the purchase by the annexing code
21 city of said franchise, business, or facilities at an agreed or
22 negotiated price, or from acquiring the same by condemnation upon
23 payment of damages, including a reasonable amount for the loss of the
24 franchise or permit. In the event that any person, firm, or
25 corporation whose franchise or permit has been canceled by the terms of
26 this section shall suffer any measurable damages as a result of any
27 annexation pursuant to the provisions of the laws above-mentioned, such
28 person, firm, or corporation shall have a right of action against any
29 code city causing such damages.

30 After an annexation by a code city, the utilities (~~and~~
31 ~~transportation~~) commission shall continue to regulate solid waste
32 collection within the limits of the annexed territory until such time
33 as the city notifies the commission, in writing, of its decision to
34 contract for solid waste collection or provide solid waste collection
35 itself (~~pursuant to RCW 81.77.020~~) as provided by law. In the event
36 the annexing city at any time decides to contract for solid waste
37 collection or decides to undertake solid waste collection itself, the
38 holder of any such franchise or permit that is so canceled in whole or

1 in part shall be forthwith granted by the annexing city a franchise to
2 continue such business within the annexed territory for a term of not
3 less than the remaining term of the original franchise or permit, or
4 not less than seven years, whichever is the shorter period, and the
5 city, by franchise, permit, or public operation, shall not extend
6 similar or competing services to the annexed territory except upon a
7 proper showing of the inability or refusal of such person, firm, or
8 corporation to adequately service the annexed territory at a reasonable
9 price. Upon the effective date specified by the code city council's
10 ordinance or resolution to have the code city contract for solid waste
11 collection or undertake solid waste collection itself, the transition
12 period specified in this section begins to run. This section does not
13 preclude the purchase by the annexing city of the franchise, business,
14 or facilities at an agreed or negotiated price, or from acquiring the
15 same by condemnation upon payment of damages, including a reasonable
16 amount for the loss of the franchise or permit. In the event that any
17 person, firm, or corporation whose franchise or permit has been
18 canceled by the terms of this section suffers any measurable damages as
19 a result of any annexation pursuant to this chapter, such person, firm,
20 or corporation has a right of action against any city causing such
21 damages.

22 **Sec. 42.** RCW 35A.21.125 and 1996 c 32 s 4 are each amended to read
23 as follows:

24 (1) As used in this section:

25 (a) "Attachment" means the affixation or installation of any wire,
26 cable or other physical material capable of carrying electronic
27 impulses or light waves for the carrying of intelligence for
28 telecommunications or television, including, but not limited to cable,
29 and any related device, apparatus, or auxiliary equipment upon any pole
30 owned or controlled in whole or in part by one or more locally
31 regulated utilities where the installation has been made with the
32 necessary consent.

33 (b) "Locally regulated utility" means a code city owning and
34 operating an electric utility not subject to rate or service regulation
35 by the utilities (~~and transportation~~) commission.

36 (c) "Nondiscriminatory" means that pole owners may not arbitrarily

1 differentiate among or between similar classes of persons approved for
2 attachments.

3 (2) All rates, terms, and conditions made, demanded, or received by
4 a locally regulated utility for attachments to its poles must be just,
5 reasonable, nondiscriminatory, and sufficient. A locally regulated
6 utility shall levy attachment space rental rates that are uniform for
7 the same class of service within the locally regulated utility service
8 area.

9 (3) Nothing in this section shall be construed or is intended to
10 confer upon the utilities (~~and transportation~~) commission any
11 authority to exercise jurisdiction over locally regulated utilities.

12 **Sec. 43.** RCW 35A.81.010 and 1983 c 3 s 73 are each amended to read
13 as follows:

14 (~~Motor vehicles owned and operated by any code city shall be~~
15 ~~exempt from the provisions of chapter 81.80 RCW, except where~~
16 ~~specifically otherwise provided.)) Urban passenger transportation
17 systems shall receive a refund of the amount of the motor vehicle fuel
18 tax paid on each gallon of motor vehicle fuel used in such systems to
19 the extent authorized by chapter 82.36 RCW. Notwithstanding any
20 provision of the law to the contrary, every urban passenger
21 transportation system as defined in RCW 82.38.080 shall be exempt from
22 the provisions of chapter 82.38 RCW which requires the payment of use
23 fuel taxes.~~

24 **Sec. 44.** RCW 36.57.040 and 1982 c 10 s 6 are each amended to read
25 as follows:

26 Every county transportation authority created to perform the
27 function of public transportation pursuant to RCW 36.57.020 shall have
28 the following powers:

29 (1) To prepare, adopt, carry out, and amend a general comprehensive
30 plan for public transportation service.

31 (2) To acquire by purchase, condemnation, gift, or grant and to
32 lease, construct, add to, improve, replace, repair, maintain, operate,
33 and regulate the use of any transportation facilities and properties,
34 including terminal and parking facilities, together with all lands,
35 rights of way, property, equipment, and accessories necessary for such
36 systems and facilities.

1 (3) To fix rates, tolls, fares, and charges for the use of such
2 facilities and to establish various routes and classes of service.
3 Fares or charges may be adjusted or eliminated for any distinguishable
4 class of users including, but not limited to senior citizens,
5 (~~handicapped~~) persons with disabilities, and students.

6 ~~(4) ((If a county transit authority extends its transportation
7 function to any area in which service is already offered by any company
8 holding a certificate of public convenience and necessity from the
9 Washington utilities and transportation commission under RCW 81.68.040,
10 to acquire by purchase or condemnation at the fair market value, from
11 the person holding the existing certificate for providing the services,
12 that portion of the operating authority and equipment representing the
13 services within the area of public operation, or to contract with such
14 person or corporation to continue to operate such service or any part
15 thereof for time and upon such terms and conditions as provided by
16 contract.~~

17 ~~(5))~~(a) To contract with the United States or any agency thereof,
18 any state or agency thereof, any metropolitan municipal corporation,
19 any other county, city, special district, or governmental agency and
20 any private person, firm, or corporation for the purpose of receiving
21 gifts or grants or securing loans or advances for preliminary planning
22 and feasibility studies, or for the design, construction, operation, or
23 maintenance of transportation facilities and ambulance services:
24 PROVIDED, That before the authority enters into any such contract for
25 the provision of ambulance service, it shall submit to the voters a
26 proposition authorizing such contracting authority, and a majority of
27 those voting thereon shall have approved the proposition; and

28 (b) To contract with any governmental agency or with any private
29 person, firm, or corporation for the use by either contracting party of
30 all or any part of the facilities, structures, lands, interests in
31 lands, air rights over lands, and rights of way of all kinds which are
32 owned, leased, or held by the other party and for the purpose of
33 planning, constructing, or operating any facility or performing any
34 service related to transportation which the county is authorized to
35 operate or perform, on such terms as may be agreed upon by the
36 contracting parties: PROVIDED, That before any contract for the lease
37 or operation of any transportation facilities shall be let to any

1 private person, firm, or corporation, competitive bids shall first be
2 called for and contracts awarded in accord with the procedures
3 established in accord with RCW 36.32.240, 36.32.250, and 36.32.270.

4 ~~((+6+))~~ (5) In addition to all other powers and duties, an
5 authority shall have the power to own, construct, purchase, lease, add
6 to, and maintain any real and personal property or property rights
7 necessary for the conduct of the affairs of the authority. An
8 authority may sell, lease, convey, or otherwise dispose of any
9 authority real or personal property no longer necessary for the conduct
10 of the affairs of the authority. An authority may enter into contracts
11 to carry out the provisions of this section.

12 **Sec. 45.** RCW 36.57A.090 and 1981 c 25 s 4 are each amended to read
13 as follows:

14 A public transportation benefit area authority shall have the
15 following powers in addition to the general powers granted by this
16 chapter:

17 (1) To prepare, adopt, and carry out a general comprehensive plan
18 for public transportation service which will best serve the residents
19 of the public transportation benefit area and to amend said plan from
20 time to time to meet changed conditions and requirements.

21 (2) To acquire by purchase, condemnation, gift, or grant and to
22 lease, construct, add to, improve, replace, repair, maintain, operate,
23 and regulate the use of transportation facilities and properties within
24 or without the public transportation benefit area or the state,
25 including systems of surface, underground, or overhead railways,
26 tramways, buses, or any other means of local transportation except
27 taxis, and including escalators, moving sidewalks, or other people-
28 moving systems, passenger terminal and parking facilities and
29 properties, and such other facilities and properties as may be
30 necessary for passenger and vehicular access to and from such people-
31 moving systems, terminal and parking facilities and properties,
32 together with all lands, rights of way, property, equipment, and
33 accessories necessary for such systems and facilities. Public
34 transportation facilities and properties which are owned by any city
35 may be acquired or used by the public transportation benefit area
36 authority only with the consent of the city council of the city owning
37 such facilities. Cities are hereby authorized to convey or lease such

1 facilities to a public transportation benefit area authority or to
2 contract for their joint use on such terms as may be fixed by agreement
3 between the city council of such city and the public transportation
4 benefit area authority, without submitting the matter to the voters of
5 such city.

6 ~~((The facilities and properties of a public transportation benefit
7 area system whose vehicles will operate primarily within the rights of
8 way of public streets, roads, or highways, may be acquired, developed,
9 and operated without the corridor and design hearings which are
10 required by RCW 35.58.273, as now or hereafter amended, for mass
11 transit facilities operating on a separate right of way.))~~

12 (3) To fix rates, tolls, fares, and charges for the use of such
13 facilities and to establish various routes and classes of service.
14 Fares or charges may be adjusted or eliminated for any distinguishable
15 class of users including, but not limited to, senior citizens,
16 ~~((handicapped))~~ persons with disabilities, and students.

17 ~~((In the event any person holding a certificate of public
18 convenience and necessity from the Washington utilities and
19 transportation commission under RCW 81.68.040 has operated under such
20 certificate for a continuous period of one year prior to the date of
21 certification and is offering service within the public transportation
22 benefit area on the date of the certification by the county canvassing
23 board that a majority of votes cast authorize a tax to be levied and
24 collected by the public transportation benefit area authority, such
25 authority may by purchase or condemnation acquire at the fair market
26 value, from the person holding the existing certificate for providing
27 the services, that portion of the operating authority and equipment
28 representing the services within the area of public operation. The
29 person holding such existing certificate may require the public
30 transportation benefit area authority to initiate such purchase of
31 those assets of such person, existing as of the date of the county
32 canvassing board certification, within sixty days after the date of
33 such certification.))~~

34 **Sec. 46.** RCW 36.57A.100 and 2003 c 83 s 210 are each amended to
35 read as follows:

36 Except in accordance with an agreement made as provided in this
37 section or in accordance with the provisions of RCW 36.57A.090(3) as

1 now or hereafter amended, upon the effective date on which the public
2 transportation benefit area commences to perform the public
3 transportation service, no person or private corporation shall operate
4 a local public passenger transportation service, including passenger-
5 only ferry service, within the public transportation benefit area with
6 the exception of taxis, buses owned or operated by a school district or
7 private school, and buses owned or operated by any corporation or
8 organization solely for the purposes of the corporation or organization
9 and for the use of which no fee or fare is charged.

10 An agreement may be entered into between the public transportation
11 benefit area authority and any person or corporation legally operating
12 a local public passenger transportation service, including passenger-
13 only ferry service, wholly within or partly within and partly without
14 the public transportation benefit area and on said effective date under
15 which such person or corporation may continue to operate such service
16 or any part thereof for such time and upon such terms and conditions as
17 provided in such agreement. Such agreement shall provide for a
18 periodic review of the terms and conditions contained therein. Where
19 any such local public passenger transportation service, including
20 passenger-only ferry service, will be required to cease to operate
21 within the public transportation benefit area, the public
22 transportation benefit area authority may agree with the owner of such
23 service to purchase the assets used in providing such service, or if no
24 agreement can be reached, the public transportation benefit area
25 authority shall condemn such assets in the manner and by the same
26 procedure as is or may be provided by law for the condemnation of other
27 properties for cities of the first class, except insofar as such laws
28 may be inconsistent with the provisions of this chapter.

29 ~~((Wherever a privately owned public carrier operates wholly or
30 partly within a public transportation benefit area, the Washington
31 utilities and transportation commission shall continue to exercise
32 jurisdiction over such operation as provided by law.))~~

33 **Sec. 47.** RCW 36.58.040 and 1992 c 131 s 3 are each amended to read
34 as follows:

35 (1) The legislative authority of a county may by ordinance provide
36 for the establishment of a system or systems of solid waste handling
37 for all unincorporated areas of the county or for portions thereof. A

1 county may designate a disposal site or sites for all solid waste
2 collected in the unincorporated areas pursuant to the provisions of a
3 comprehensive solid waste plan adopted pursuant to chapter 70.95 RCW.
4 However, for any solid waste collected by a private hauler operating
5 under a certificate granted by the (~~Washington~~) utilities (~~and~~
6 ~~transportation~~) commission (~~under the provisions of chapter 81.77~~
7 RCW), and which certificate is for collection in a geographic area
8 lying in more than one county, such designation of disposal sites shall
9 be pursuant to an interlocal agreement between the involved counties.

10 (2) A county may construct, lease, purchase, acquire, add to,
11 alter, or extend solid waste handling systems, plants, sites, or other
12 facilities and shall have full jurisdiction and authority to manage,
13 regulate, maintain, utilize, operate, control, and establish the rates
14 and charges for those solid waste handling systems, plants, sites, or
15 other facilities. A county may enter into agreements with public or
16 private parties to: (~~(1)~~) (a) Construct, purchase, acquire, lease,
17 add to, alter, extend, maintain, manage, utilize, or operate publicly
18 or privately owned or operated solid waste handling systems, plants,
19 sites, or other facilities; (~~(2)~~) (b) establish rates and charges for
20 those systems, plants, sites, or other facilities; (~~(3)~~) (c)
21 designate particular publicly or privately owned or operated systems,
22 plants, sites, or other facilities as disposal sites; (~~(4)~~) (d)
23 process, treat, or convert solid waste into other valuable or useful
24 materials or products; and (~~(5)~~) (e) sell the material or products of
25 those systems, plants, or other facilities.

26 (3) The legislative authority of a county may award contracts for
27 solid waste handling that provide that a county provide for a minimum
28 periodic fee or other method of compensation in consideration of the
29 operational availability of those solid waste handling systems, plants,
30 sites, or other facilities at a specified minimum level, without regard
31 to the ownership of the systems, plants, sites or other facilities, or
32 the amount of solid waste actually handled during all or any part of
33 the contract. When a minimum level of solid waste is specified in a
34 contract entered into under this section, there shall be a specific
35 allocation of financial responsibility in the event the amount of solid
36 waste handled falls below the minimum level provided in the contract.
37 Solid waste handling systems, plants, sites, or other facilities
38 constructed, purchased, acquired, leased, added to, altered, extended,

1 maintained, managed, utilized, or operated pursuant to this section,
2 whether publicly or privately owned, shall be in substantial compliance
3 with the solid waste management plan applicable to the county adopted
4 pursuant to chapter 70.95 RCW. Agreements relating to such solid waste
5 handling systems, (~~(plans—plants)~~) plants, sites, or other facilities
6 may be for such term and may contain such covenants, conditions, and
7 remedies as the legislative authority of the county may deem necessary
8 or appropriate.

9 (4) As used in this chapter, the terms "solid waste" and "solid
10 waste handling" shall be as defined in RCW 70.95.030.

11 (5) The legislative authority of a county may:

12 (~~(+1)~~) (a) By ordinance award a contract to collect source
13 separated recyclable materials from residences within unincorporated
14 areas. The legislative authority has complete authority to manage,
15 regulate, and fix the price of the source separated recyclable
16 collection service. The contracts may provide that the county pay
17 minimum periodic fees to a municipal entity or permit holder; or

18 (~~(+2)~~) (b) Notify the commission in writing to carry out and
19 implement the provisions of the waste reduction and recycling element
20 of the comprehensive solid waste management plan.

21 (6) This election may be made by counties at any time after July
22 23, 1989. An initial election must be made no later than ninety days
23 following approval of the local comprehensive waste management plan
24 required by RCW 70.95.090.

25 (7) Nothing in this section shall be construed to authorize the
26 operation of a solid waste collection system by counties or to
27 authorize counties to affect the authority of the utilities (~~and~~
28 ~~transportation~~) commission under RCW 81.77.020 (as recodified by this
29 act).

30 **Sec. 48.** RCW 36.58.045 and 1989 c 431 s 15 are each amended to
31 read as follows:

32 (1) The legislative authority of any county may impose a fee upon
33 the solid waste collection services of a solid waste collection company
34 operating within the unincorporated areas of the county, to fund the
35 administration and planning expenses that may be incurred by the county
36 in complying with the requirements in RCW 70.95.090. The fee may be in

1 addition to any other solid waste services fees and charges a county
2 may legally impose.

3 (2) Each county imposing the fee authorized by this section shall
4 notify the ((Washington)) utilities ((and transportation)) commission
5 and the affected solid waste collection companies of the amount of the
6 fee ninety days prior to its implementation.

7 **Sec. 49.** RCW 36.58.050 and 1975-'76 2nd ex.s. c 58 s 3 are each
8 amended to read as follows:

9 When a comprehensive solid waste plan, as provided in RCW
10 70.95.080, incorporates the use of transfer stations, such stations
11 shall be considered part of the disposal site and as such, along with
12 the transportation of solid wastes between disposal sites, shall be
13 exempt from regulation by the ((Washington)) utilities ((and
14 transportation)) commission ((as provided in)) under chapter 81.77 RCW
15 (as recodified by this act).

16 Each county may enter into contracts for the hauling of trailers of
17 solid wastes from these transfer stations to disposal sites and return
18 either by (1) the normal bidding process, or (2) negotiation with the
19 qualified collection company servicing the area under ((authority of))
20 chapter 81.77 RCW (as recodified by this act).

21 **Sec. 50.** RCW 36.58A.030 and 1971 ex.s. c 293 s 4 are each amended
22 to read as follows:

23 No solid waste collection district shall be established in an area
24 within the county boundaries unless the county legislative authority,
25 after the hearing regarding formation of such district, determines from
26 that hearing that mandatory solid waste collection is in the public
27 interest and necessary for the preservation of public health. Such
28 determination by the county legislative authority shall require the
29 utilities ((and transportation)) commission to investigate and make a
30 finding as to the ability and willingness of the existing garbage and
31 refuse collection companies servicing the area to provide the required
32 service.

33 If the utilities ((and transportation)) commission finds that the
34 existing garbage and refuse collection company or companies are unable
35 or unwilling to provide the required service it shall proceed to issue

1 a certificate of public need and necessity to any qualified person or
2 corporation in accordance with the provisions of RCW 81.77.040 (as
3 recodified by this act).

4 The utilities (~~((and transportation))~~) commission shall notify the
5 county legislative authority within sixty days of its findings and
6 actions and if no qualified garbage and refuse collection company or
7 companies are available in the proposed solid waste collection
8 district, the county legislative authority may provide county garbage
9 and refuse collection services in the area and charge and collect
10 reasonable fees therefor. The county shall not provide service in any
11 portion of the area found by the utilities (~~((and transportation))~~)
12 commission to be receiving adequate service from an existing
13 certificated carrier unless the county shall acquire the rights of such
14 existing certificated carrier by purchase or condemnation.

15 **Sec. 51.** RCW 36.58A.040 and 1971 ex.s. c 293 s 6 are each amended
16 to read as follows:

17 If any garbage and refuse collection company certified by the
18 utilities (~~((and transportation))~~) commission which operates in any solid
19 waste collection district fails to collect any fees due and payable to
20 it for garbage and refuse collection services, such company may request
21 the county to collect such fees. Upon the collection of such fees, the
22 county shall pay one-half of the fees actually collected to the garbage
23 and refuse collection company entitled to receive such and shall
24 deposit the remaining one-half in the county general fund.

25 When the county undertakes to collect such fees as requested by the
26 garbage and refuse collection companies, the county shall be subrogated
27 to all of the rights of such companies. Any such fees which the county
28 fails to collect shall become liens on the real or personal property of
29 the persons owing such fees and the county may take all appropriate
30 legal action to enforce such liens.

31 **Sec. 52.** RCW 36.86.100 and 1983 c 19 s 1 are each amended to read
32 as follows:

33 Each railroad company shall keep its right of way clear of all
34 brush and timber in the vicinity of a railroad grade crossing with a
35 county road for a distance of one hundred feet from the crossing in
36 such a manner as to permit a person upon the road to obtain an

1 unobstructed view in both directions of an approaching train. The
2 county legislative authority shall cause brush and timber to be cleared
3 from the right of way of county roads in the proximity of a railroad
4 grade crossing for a distance of one hundred feet from the crossing in
5 such a manner as to permit a person traveling upon the road to obtain
6 an unobstructed view in both directions of an approaching train. It is
7 unlawful to erect or maintain a sign, signboard, or billboard within a
8 distance of one hundred feet from the point of intersection of the road
9 and railroad grade crossing located outside the corporate limits of any
10 city or town unless, after thirty days notice to the ((Washington))
11 utilities ((and transportation)) commission and the railroad operating
12 the crossing, the county legislative authority determines that it does
13 not obscure the sight distance of a person operating a vehicle or train
14 approaching the grade crossing.

15 When a person who has erected or who maintains such a sign,
16 signboard, or billboard or when a railroad company permits such brush
17 or timber in the vicinity of a railroad grade crossing with a county
18 road or permits the surface of a grade crossing to become inconvenient
19 or dangerous for passage and who has the duty to maintain it, fails,
20 neglects, or refuses to remove or cause to be removed such brush,
21 timber, sign, signboard, or billboard, or maintain the surface of the
22 crossing, the utilities ((and transportation)) commission upon
23 complaint of the county legislative authority or upon complaint of any
24 party interested, or upon its own motion, shall enter upon a hearing in
25 the manner now provided for hearings with respect to railroad-highway
26 grade crossings, and make and enforce proper orders for the removal of
27 the brush, timber, sign, signboard or billboard, or maintenance of the
28 crossing. Nothing in this section prevents the posting or maintaining
29 thereon of highway or road signs or traffic devices giving directions
30 or distances for the information of the public when the signs conform
31 to the "Manual for Uniform Traffic Control Devices" issued by the state
32 department of transportation. The county legislative authority shall
33 inspect highway grade crossings and make complaint of the violation of
34 any provisions of this section.

35 **Sec. 53.** RCW 38.52.520 and 1991 c 54 s 4 are each amended to read
36 as follows:

1 A state enhanced 911 coordination office, headed by the state
2 enhanced 911 coordinator, is established in the emergency management
3 division of the department. Duties of the office shall include:

4 (1) Coordinating and facilitating the implementation and operation
5 of enhanced 911 emergency communications systems throughout the state;

6 (2) Seeking advice and assistance from, and providing staff support
7 for, the enhanced 911 advisory committee; and

8 (3) Recommending to the utilities (~~(and transportation)~~) commission
9 by August 31st of each year the level of the state enhanced 911 excise
10 tax for the following year.

11 **Sec. 54.** RCW 38.52.530 and 2006 c 210 s 1 are each amended to read
12 as follows:

13 The enhanced 911 advisory committee is created to advise and assist
14 the state enhanced 911 coordinator in coordinating and facilitating the
15 implementation and operation of enhanced 911 throughout the state. The
16 director shall appoint members of the committee who represent diverse
17 geographical areas of the state and include state residents who are
18 members of the national emergency number association, the associated
19 public communications officers Washington chapter, the Washington state
20 fire chiefs association, the Washington association of sheriffs and
21 police chiefs, the Washington state council of fire fighters, the
22 Washington state council of police officers, the Washington ambulance
23 association, the state fire protection policy board, the Washington
24 fire commissioners association, the Washington state patrol, the
25 association of Washington cities, the Washington state association of
26 counties, the utilities (~~(and transportation)~~) commission or commission
27 staff, a representative of a voice over internet protocol company, and
28 an equal number of representatives of large and small local exchange
29 telephone companies and large and small radio communications service
30 companies offering commercial mobile radio service in the state. This
31 section expires December 31, 2011.

32 **Sec. 55.** RCW 39.29.040 and 2002 c 260 s 11 and 2002 c 200 s 2 are
33 each reenacted and amended to read as follows:

34 This chapter does not apply to:

35 (1) Contracts specifying a fee of less than five thousand dollars

1 if the total of the contracts from that agency with the contractor
2 within a fiscal year does not exceed five thousand dollars;

3 (2) Contracts awarded to companies that furnish a service where the
4 tariff is established by the utilities (~~and transportation~~)
5 commission or other public entity;

6 (3) Intergovernmental agreements awarded to any governmental
7 entity, whether federal, state, or local and any department, division,
8 or subdivision thereof;

9 (4) Contracts awarded for services to be performed for a standard
10 fee, when the standard fee is established by the contracting agency or
11 any other governmental entity and a like contract is available to all
12 qualified applicants;

13 (5) Contracts for services that are necessary to the conduct of
14 collaborative research if prior approval is granted by the funding
15 source;

16 (6) Contracts for client services except as otherwise indicated in
17 this chapter;

18 (7) Contracts for architectural and engineering services as defined
19 in RCW 39.80.020, which shall be entered into under chapter 39.80 RCW;

20 (8) Contracts for the employment of expert witnesses for the
21 purposes of litigation;

22 (9) Contracts for bank supervision authorized under RCW 30.38.040;
23 and

24 (10) Contracts for interpreter services and interpreter brokerage
25 services on behalf of limited-English speaking or sensory-impaired
26 applicants and recipients of public assistance.

27 **Sec. 56.** RCW 39.34.085 and 1977 c 46 s 1 are each amended to read
28 as follows:

29 In addition to the other powers granted by chapter 39.34 RCW, one
30 or more cities or towns or a county, or any combination thereof, may
31 enter into agreements with each other or with a public transportation
32 agency of a contiguous state, or contiguous Canadian province, to allow
33 a city or such other transportation agency to operate bus service for
34 the transportation of the general public within the territorial
35 boundaries of such city and/or county or to allow such city and/or
36 county to operate such bus service within the jurisdiction of such
37 other public agency (~~when no such existing bus certificate of public~~

1 ~~convenience and necessity has been authorized by the Washington~~
2 ~~utilities and transportation commission: PROVIDED, HOWEVER, That such~~
3 ~~transportation may extend beyond the territorial boundaries of either~~
4 ~~party to the agreement if the agreement so provides, and if such~~
5 ~~service is not in conflict with existing bus service authorized by the~~
6 ~~Washington utilities and transportation commission. The provisions of~~
7 ~~this section shall be cumulative and nonexclusive and shall not affect~~
8 ~~any other right granted by this chapter or any other provision of~~
9 ~~law)).~~

10 **Sec. 57.** RCW 39.35C.030 and 1996 c 186 s 407 are each amended to
11 read as follows:

12 (1) The department shall consult with the local utilities to
13 develop priorities for energy conservation projects pursuant to this
14 chapter, cooperate where possible with existing utility programs, and
15 consult with the local utilities prior to implementing projects in
16 their service territory.

17 (2) A local utility shall be offered the initial opportunity to
18 participate in the development of conservation projects in the
19 following manner:

20 (a) Before initiating projects in a local utility service
21 territory, the department shall notify the local utility in writing, on
22 an annual basis, of public facilities in the local utility's service
23 territory at which the department anticipates cost-effective
24 conservation projects will be developed.

25 (b) Within sixty days of receipt of this notification, the local
26 utility may express interest in these projects by submitting to the
27 department a written description of the role the local utility is
28 willing to perform in developing and acquiring the conservation at
29 these facilities. This role may include any local utility conservation
30 programs which would be available to the public facility, any
31 competitive bidding or solicitation process which the local utility
32 will be undertaking in accordance with the rules of the utilities (~~and~~
33 ~~transportation~~) commission or the public utility district, municipal
34 utility, cooperative, or mutual governing body for which the public
35 facility would be eligible, or any other role the local utility may be
36 willing to perform.

1 (c) Upon receipt of the written description from the local utility,
2 the department shall, through discussions with the local utility, and
3 with involvement from state agencies and school districts responsible
4 for the public facilities, develop a plan for coordinated delivery of
5 conservation services and financing or make a determination of whether
6 to participate in the local utility's competitive bidding or
7 solicitation process. The plan shall identify the local utility in
8 roles that the local utility is willing to perform and that are
9 consistent with the provisions of RCW 39.35C.040(2) (d) and (e).

10 **Sec. 58.** RCW 39.35C.080 and 1996 c 186 s 412 and 1996 c 33 s 4 are
11 each reenacted and amended to read as follows:

12 It is the intention of chapter 201, Laws of 1991 that the state and
13 its agencies are compensated fairly for the energy provided to
14 utilities from cogeneration at state facilities. Such compensation may
15 include revenues from sales of electricity or thermal energy to
16 utilities, lease of state properties, and value of thermal energy
17 provided to the facility. It is also the intent of chapter 201, Laws
18 of 1991 that the state and its agencies be accorded the opportunity to
19 compete on a fair and reasonable basis to fulfill a utility's new
20 resource acquisition needs when selling the energy produced from
21 cogeneration projects at state facilities through energy purchase
22 agreements.

23 (1)(a) The department and state agencies may participate in any
24 utility request for resource proposal process, as either established
25 under the rules and regulations of the utilities (~~and transportation~~)
26 commission, or by the governing board of a public utility district,
27 municipal utility, cooperative, or mutual.

28 (b) If a local utility does not have a request for resource
29 proposal pending, the (~~energy office [department]~~) department or a
30 state agency may negotiate an equitable and mutually beneficial energy
31 purchase agreement with that utility.

32 (2) To ensure an equitable allocation of benefits to the state and
33 its agencies, the following conditions shall apply to energy purchase
34 agreements negotiated between utilities and state agencies:

35 (a) An energy purchase agreement shall be approved by both the
36 department and the affected state agency.

1 (b) The department and the state agency shall work together
2 throughout the planning and negotiation process for energy purchase
3 agreements, unless the department determines that its participation
4 will not further the purposes of this section.

5 (c) Before approving an energy purchase agreement, the department
6 shall review the proposed agreement for its technical and economic
7 feasibility, the degree of certainty of benefits, the degree of
8 financial risk assumed by the state and/or the state agency, the
9 benefits offered to the state and/or state agency, and other such
10 factors as the department deems prudent. The department shall approve
11 an energy purchase agreement unless it finds that such an agreement
12 would not result in an equitable allocation of costs and benefits, in
13 which case the transaction shall be disapproved.

14 (3)(a) The state or state agency shall comply with and shall be
15 bound by applicable avoided cost schedules, electric power wheeling
16 charges, interconnection requirements, utility tariffs, and regulatory
17 provisions to the same extent it would be required to comply and would
18 be bound if it were a private citizen. The state shall neither seek
19 regulatory advantage, nor change regulations, regulatory policy,
20 process, or decisions to its advantage as a seller of cogenerated
21 energy. Nothing contained in chapter 201, Laws of 1991 shall be
22 construed to mandate or require public or private utilities to wheel
23 electric energy resources within or beyond their service territories.
24 Nothing in chapter 201, Laws of 1991 authorizes any state agency or
25 school district to make any sale of energy or waste heat beyond the
26 explicit provisions of chapter 201, Laws of 1991. Nothing contained in
27 chapter 201, Laws of 1991 requires a utility to purchase energy from
28 the state or a state agency or enter into any agreement in connection
29 with a cogeneration facility.

30 (b) The state shall neither construct, nor be party to an agreement
31 for developing a cogeneration project at a state facility for the
32 purpose of supplying its own electrical needs, unless it can show that
33 such an arrangement would be in the economic interest of the state
34 taking into account the cost of (i) interconnection requirements, as
35 specified by the local electric utility, (ii) standby charges, as may
36 be required by the local electric utility, and (iii) the current price
37 of electricity offered by the local electric utility. If the local
38 electric utility can demonstrate that the cogeneration project may

1 place an undue burden on the electric utility, the department or the
2 state agency shall attempt to negotiate a mutually beneficial agreement
3 that would minimize the burden upon the ratepayers of the local
4 electric utility.

5 (4) Any party to an energy purchase agreement may, within thirty
6 days of any decision made pursuant to subsection (2)(c) of this section
7 to disapprove the agreement made pursuant to this section, request an
8 independent reviewer who is mutually agreeable to all parties to review
9 the decision. The parties shall within thirty days of selection submit
10 to the independent reviewer documentation supporting their positions.
11 The independent reviewer shall render advice regarding the validity of
12 the disapproval within an additional thirty days.

13 (5) For the purposes of this section, "waste heat" means the
14 thermal energy that otherwise would be released to the environment from
15 an industrial process, electric generation, or other process.

16 **Sec. 59.** RCW 41.26.030 and 2005 c 459 s 1 are each amended to read
17 as follows:

18 As used in this chapter, unless a different meaning is plainly
19 required by the context:

20 (1) "Retirement system" means the "Washington law enforcement
21 officers' and fire fighters' retirement system" provided herein.

22 (2)(a) "Employer" for plan 1 members, means the legislative
23 authority of any city, town, county, or district or the elected
24 officials of any municipal corporation that employs any law enforcement
25 officer and/or fire fighter, any authorized association of such
26 municipalities, and, except for the purposes of RCW 41.26.150, any
27 labor guild, association, or organization, which represents the fire
28 fighters or law enforcement officers of at least seven cities of over
29 20,000 population and the membership of each local lodge or division of
30 which is composed of at least sixty percent law enforcement officers or
31 fire fighters as defined in this chapter.

32 (b) "Employer" for plan 2 members, means the following entities to
33 the extent that the entity employs any law enforcement officer and/or
34 fire fighter:

35 (i) The legislative authority of any city, town, county, or
36 district;

37 (ii) The elected officials of any municipal corporation;

1 (iii) The governing body of any other general authority law
2 enforcement agency; or

3 (iv) A four-year institution of higher education having a fully
4 operational fire department as of January 1, 1996.

5 (3) "Law enforcement officer" beginning January 1, 1994, means any
6 person who is commissioned and employed by an employer on a full time,
7 fully compensated basis to enforce the criminal laws of the state of
8 Washington generally, with the following qualifications:

9 (a) No person who is serving in a position that is basically
10 clerical or secretarial in nature, and who is not commissioned shall be
11 considered a law enforcement officer;

12 (b) Only those deputy sheriffs, including those serving under a
13 different title pursuant to county charter, who have successfully
14 completed a civil service examination for deputy sheriff or the
15 equivalent position, where a different title is used, and those persons
16 serving in unclassified positions authorized by RCW 41.14.070 except a
17 private secretary will be considered law enforcement officers;

18 (c) Only such full time commissioned law enforcement personnel as
19 have been appointed to offices, positions, or ranks in the police
20 department which have been specifically created or otherwise expressly
21 provided for and designated by city charter provision or by ordinance
22 enacted by the legislative body of the city shall be considered city
23 police officers;

24 (d) The term "law enforcement officer" also includes the executive
25 secretary of a labor guild, association or organization (which is an
26 employer under RCW 41.26.030(2)) if that individual has five years
27 previous membership in the retirement system established in chapter
28 41.20 RCW. The provisions of this subsection (3)(d) shall not apply to
29 plan 2 members; and

30 (e) The term "law enforcement officer" also includes a person
31 employed on or after January 1, 1993, as a public safety officer or
32 director of public safety, so long as the job duties substantially
33 involve only either police or fire duties, or both, and no other duties
34 in a city or town with a population of less than ten thousand. The
35 provisions of this subsection (3)(e) shall not apply to any public
36 safety officer or director of public safety who is receiving a
37 retirement allowance under this chapter as of May 12, 1993.

38 (4) "Fire fighter" means:

1 (a) Any person who is serving on a full time, fully compensated
2 basis as a member of a fire department of an employer and who is
3 serving in a position which requires passing a civil service
4 examination for fire fighter, and who is actively employed as such;

5 (b) Anyone who is actively employed as a full time fire fighter
6 where the fire department does not have a civil service examination;

7 (c) Supervisory fire fighter personnel;

8 (d) Any full time executive secretary of an association of fire
9 protection districts authorized under RCW 52.12.031. The provisions of
10 this subsection (4)(d) shall not apply to plan 2 members;

11 (e) The executive secretary of a labor guild, association or
12 organization (which is an employer under RCW 41.26.030(2) as now or
13 hereafter amended), if such individual has five years previous
14 membership in a retirement system established in chapter 41.16 or 41.18
15 RCW. The provisions of this subsection (4)(e) shall not apply to plan
16 2 members;

17 (f) Any person who is serving on a full time, fully compensated
18 basis for an employer, as a fire dispatcher, in a department in which,
19 on March 1, 1970, a dispatcher was required to have passed a civil
20 service examination for fire fighter;

21 (g) Any person who on March 1, 1970, was employed on a full time,
22 fully compensated basis by an employer, and who on May 21, 1971, was
23 making retirement contributions under the provisions of chapter 41.16
24 or 41.18 RCW; and

25 (h) Any person who is employed on a full-time, fully compensated
26 basis by an employer as an emergency medical technician.

27 (5) "Department" means the department of retirement systems created
28 in chapter 41.50 RCW.

29 (6) "Surviving spouse" means the surviving widow or widower of a
30 member. "Surviving spouse" shall not include the divorced spouse of a
31 member except as provided in RCW 41.26.162.

32 (7)(a) "Child" or "children" means an unmarried person who is under
33 the age of eighteen or (~~mentally or physically handicapped~~) has a
34 physical disability or mental illness as determined by the department,
35 except a (~~handicapped~~) person with a disability in the full time care
36 of a state institution, who is:

37 (i) A natural born child;

1 (ii) A stepchild where that relationship was in existence prior to
2 the date benefits are payable under this chapter;

3 (iii) A posthumous child;

4 (iv) A child legally adopted or made a legal ward of a member prior
5 to the date benefits are payable under this chapter; or

6 (v) An illegitimate child legitimized prior to the date any
7 benefits are payable under this chapter.

8 (b) A person shall also be deemed to be a child up to and including
9 the age of twenty years and eleven months while attending any high
10 school, college, or vocational or other educational institution
11 accredited, licensed, or approved by the state, in which it is located,
12 including the summer vacation months and all other normal and regular
13 vacation periods at the particular educational institution after which
14 the child returns to school.

15 (8) "Member" means any fire fighter, law enforcement officer, or
16 other person as would apply under subsection((§)) (3) or (4) of this
17 section whose membership is transferred to the Washington law
18 enforcement officers' and fire fighters' retirement system on or after
19 March 1, 1970, and every law enforcement officer and fire fighter who
20 is employed in that capacity on or after such date.

21 (9) "Retirement fund" means the "Washington law enforcement
22 officers' and fire fighters' retirement system fund" as provided for
23 herein.

24 (10) "Employee" means any law enforcement officer or fire fighter
25 as defined in subsections (3) and (4) of this section.

26 (11)(a) "Beneficiary" for plan 1 members, means any person in
27 receipt of a retirement allowance, disability allowance, death benefit,
28 or any other benefit described herein.

29 (b) "Beneficiary" for plan 2 members, means any person in receipt
30 of a retirement allowance or other benefit provided by this chapter
31 resulting from service rendered to an employer by another person.

32 (12)(a) "Final average salary" for plan 1 members, means (i) for a
33 member holding the same position or rank for a minimum of twelve months
34 preceding the date of retirement, the basic salary attached to such
35 same position or rank at time of retirement; (ii) for any other member,
36 including a civil service member who has not served a minimum of twelve
37 months in the same position or rank preceding the date of retirement,
38 the average of the greatest basic salaries payable to such member

1 during any consecutive twenty-four month period within such member's
2 last ten years of service for which service credit is allowed, computed
3 by dividing the total basic salaries payable to such member during the
4 selected twenty-four month period by twenty-four; (iii) in the case of
5 disability of any member, the basic salary payable to such member at
6 the time of disability retirement; (iv) in the case of a member who
7 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to
8 such member at the time of vesting.

9 (b) "Final average salary" for plan 2 members, means the monthly
10 average of the member's basic salary for the highest consecutive sixty
11 service credit months of service prior to such member's retirement,
12 termination, or death. Periods constituting authorized unpaid leaves
13 of absence may not be used in the calculation of final average salary.

14 (13)(a) "Basic salary" for plan 1 members, means the basic monthly
15 rate of salary or wages, including longevity pay but not including
16 overtime earnings or special salary or wages, upon which pension or
17 retirement benefits will be computed and upon which employer
18 contributions and salary deductions will be based.

19 (b) "Basic salary" for plan 2 members, means salaries or wages
20 earned by a member during a payroll period for personal services,
21 including overtime payments, and shall include wages and salaries
22 deferred under provisions established pursuant to sections 403(b),
23 414(h), and 457 of the United States Internal Revenue Code, but shall
24 exclude lump sum payments for deferred annual sick leave, unused
25 accumulated vacation, unused accumulated annual leave, or any form of
26 severance pay. In any year in which a member serves in the legislature
27 the member shall have the option of having such member's basic salary
28 be the greater of:

29 (i) The basic salary the member would have received had such member
30 not served in the legislature; or

31 (ii) Such member's actual basic salary received for nonlegislative
32 public employment and legislative service combined. Any additional
33 contributions to the retirement system required because basic salary
34 under (b)(i) of this subsection is greater than basic salary under
35 (b)(ii) of this subsection shall be paid by the member for both member
36 and employer contributions.

37 (14)(a) "Service" for plan 1 members, means all periods of
38 employment for an employer as a fire fighter or law enforcement

1 officer, for which compensation is paid, together with periods of
2 suspension not exceeding thirty days in duration. For the purposes of
3 this chapter service shall also include service in the armed forces of
4 the United States as provided in RCW 41.26.190. Credit shall be
5 allowed for all service credit months of service rendered by a member
6 from and after the member's initial commencement of employment as a
7 fire fighter or law enforcement officer, during which the member worked
8 for seventy or more hours, or was on disability leave or disability
9 retirement. Only service credit months of service shall be counted in
10 the computation of any retirement allowance or other benefit provided
11 for in this chapter.

12 (i) For members retiring after May 21, 1971 who were employed under
13 the coverage of a prior pension act before March 1, 1970, "service"
14 shall also include (A) such military service not exceeding five years
15 as was creditable to the member as of March 1, 1970, under the member's
16 particular prior pension act, and (B) such other periods of service as
17 were then creditable to a particular member under the provisions of RCW
18 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit
19 be allowed for any service rendered prior to March 1, 1970, where the
20 member at the time of rendition of such service was employed in a
21 position covered by a prior pension act, unless such service, at the
22 time credit is claimed therefor, is also creditable under the
23 provisions of such prior act.

24 (ii) A member who is employed by two employers at the same time
25 shall only be credited with service to one such employer for any month
26 during which the member rendered such dual service.

27 (b) "Service" for plan 2 members, means periods of employment by a
28 member for one or more employers for which basic salary is earned for
29 ninety or more hours per calendar month which shall constitute a
30 service credit month. Periods of employment by a member for one or
31 more employers for which basic salary is earned for at least seventy
32 hours but less than ninety hours per calendar month shall constitute
33 one-half service credit month. Periods of employment by a member for
34 one or more employers for which basic salary is earned for less than
35 seventy hours shall constitute a one-quarter service credit month.

36 Members of the retirement system who are elected or appointed to a
37 state elective position may elect to continue to be members of this
38 retirement system.

1 Service credit years of service shall be determined by dividing the
2 total number of service credit months of service by twelve. Any
3 fraction of a service credit year of service as so determined shall be
4 taken into account in the computation of such retirement allowance or
5 benefits.

6 If a member receives basic salary from two or more employers during
7 any calendar month, the individual shall receive one service credit
8 month's service credit during any calendar month in which multiple
9 service for ninety or more hours is rendered; or one-half service
10 credit month's service credit during any calendar month in which
11 multiple service for at least seventy hours but less than ninety hours
12 is rendered; or one-quarter service credit month during any calendar
13 month in which multiple service for less than seventy hours is
14 rendered.

15 (15) "Accumulated contributions" means the employee's contributions
16 made by a member, including any amount paid under RCW 41.50.165(2),
17 plus accrued interest credited thereon.

18 (16) "Actuarial reserve" means a method of financing a pension or
19 retirement plan wherein reserves are accumulated as the liabilities for
20 benefit payments are incurred in order that sufficient funds will be
21 available on the date of retirement of each member to pay the member's
22 future benefits during the period of retirement.

23 (17) "Actuarial valuation" means a mathematical determination of
24 the financial condition of a retirement plan. It includes the
25 computation of the present monetary value of benefits payable to
26 present members, and the present monetary value of future employer and
27 employee contributions, giving effect to mortality among active and
28 retired members and also to the rates of disability, retirement,
29 withdrawal from service, salary, and interest earned on investments.

30 (18) "Disability board" for plan 1 members means either the county
31 disability board or the city disability board established in RCW
32 41.26.110.

33 (19) "Disability leave" means the period of six months or any
34 portion thereof during which a member is on leave at an allowance equal
35 to the member's full salary prior to the commencement of disability
36 retirement. The definition contained in this subsection shall apply
37 only to plan 1 members.

1 (20) "Disability retirement" for plan 1 members, means the period
2 following termination of a member's disability leave, during which the
3 member is in receipt of a disability retirement allowance.

4 (21) "Position" means the employment held at any particular time,
5 which may or may not be the same as civil service rank.

6 (22) "Medical services" for plan 1 members, shall include the
7 following as minimum services to be provided. Reasonable charges for
8 these services shall be paid in accordance with RCW 41.26.150.

9 (a) Hospital expenses: These are the charges made by a hospital,
10 in its own behalf, for:

11 (i) Board and room not to exceed semiprivate room rate unless
12 private room is required by the attending physician due to the
13 condition of the patient((-));

14 (ii) Necessary hospital services, other than board and room,
15 furnished by the hospital.

16 (b) Other medical expenses: The following charges are considered
17 "other medical expenses", provided that they have not been considered
18 as "hospital expenses"((-));

19 (i) The fees of the following:

20 (A) A physician or surgeon licensed under the provisions of chapter
21 18.71 RCW;

22 (B) An osteopathic physician and surgeon licensed under the
23 provisions of chapter 18.57 RCW;

24 (C) A chiropractor licensed under the provisions of chapter 18.25
25 RCW((-));

26 (ii) The charges of a registered graduate nurse other than a nurse
27 who ordinarily resides in the member's home, or is a member of the
28 family of either the member or the member's spouse((-));

29 (iii) The charges for the following medical services and supplies:

30 (A) Drugs and medicines upon a physician's prescription;

31 (B) Diagnostic X-ray and laboratory examinations;

32 (C) X-ray, radium, and radioactive isotopes therapy;

33 (D) Anesthesia and oxygen;

34 (E) Rental of iron lung and other durable medical and surgical
35 equipment;

36 (F) Artificial limbs and eyes, and casts, splints, and trusses;

37 (G) Professional ambulance service when used to transport the

1 member to or from a hospital when injured by an accident or stricken by
2 a disease;

3 (H) Dental charges incurred by a member who sustains an accidental
4 injury to his or her teeth and who commences treatment by a legally
5 licensed dentist within ninety days after the accident;

6 (I) Nursing home confinement or hospital extended care facility;

7 (J) Physical therapy by a registered physical therapist;

8 (K) Blood transfusions, including the cost of blood and blood
9 plasma not replaced by voluntary donors;

10 (L) An optometrist licensed under the provisions of chapter 18.53
11 RCW.

12 (23) "Regular interest" means such rate as the director may
13 determine.

14 (24) "Retiree" for persons who establish membership in the
15 retirement system on or after October 1, 1977, means any member in
16 receipt of a retirement allowance or other benefit provided by this
17 chapter resulting from service rendered to an employer by such member.

18 (25) "Director" means the director of the department.

19 (26) "State actuary" or "actuary" means the person appointed
20 pursuant to RCW 44.44.010(2).

21 (27) "State elective position" means any position held by any
22 person elected or appointed to statewide office or elected or appointed
23 as a member of the legislature.

24 (28) "Plan 1" means the law enforcement officers' and fire
25 fighters' retirement system, plan 1 providing the benefits and funding
26 provisions covering persons who first became members of the system
27 prior to October 1, 1977.

28 (29) "Plan 2" means the law enforcement officers' and fire
29 fighters' retirement system, plan 2 providing the benefits and funding
30 provisions covering persons who first became members of the system on
31 and after October 1, 1977.

32 (30) "Service credit year" means an accumulation of months of
33 service credit which is equal to one when divided by twelve.

34 (31) "Service credit month" means a full service credit month or an
35 accumulation of partial service credit months that are equal to one.

36 (32) "General authority law enforcement agency" means any agency,
37 department, or division of a municipal corporation, political
38 subdivision, or other unit of local government of this state, and any

1 agency, department, or division of state government, having as its
2 primary function the detection and apprehension of persons committing
3 infractions or violating the traffic or criminal laws in general, but
4 not including the Washington state patrol. Such an agency, department,
5 or division is distinguished from a limited authority law enforcement
6 agency having as one of its functions the apprehension or detection of
7 persons committing infractions or violating the traffic or criminal
8 laws relating to limited subject areas, including but not limited to,
9 the state departments of natural resources and social and health
10 services, the state gambling commission, the state lottery commission,
11 the state parks and recreation commission, the state utilities (~~and~~
12 ~~transportation~~) commission, the state liquor control board, and the
13 state department of corrections.

14 **Sec. 60.** RCW 41.26.030 and 2003 c 388 s 2 are each amended to read
15 as follows:

16 As used in this chapter, unless a different meaning is plainly
17 required by the context:

18 (1) "Retirement system" means the "Washington law enforcement
19 officers' and fire fighters' retirement system" provided herein.

20 (2)(a) "Employer" for plan 1 members, means the legislative
21 authority of any city, town, county, or district or the elected
22 officials of any municipal corporation that employs any law enforcement
23 officer and/or fire fighter, any authorized association of such
24 municipalities, and, except for the purposes of RCW 41.26.150, any
25 labor guild, association, or organization, which represents the fire
26 fighters or law enforcement officers of at least seven cities of over
27 20,000 population and the membership of each local lodge or division of
28 which is composed of at least sixty percent law enforcement officers or
29 fire fighters as defined in this chapter.

30 (b) "Employer" for plan 2 members, means the following entities to
31 the extent that the entity employs any law enforcement officer and/or
32 fire fighter:

33 (i) The legislative authority of any city, town, county, or
34 district;

35 (ii) The elected officials of any municipal corporation;

36 (iii) The governing body of any other general authority law
37 enforcement agency; or

1 (iv) A four-year institution of higher education having a fully
2 operational fire department as of January 1, 1996.

3 (3) "Law enforcement officer" beginning January 1, 1994, means any
4 person who is commissioned and employed by an employer on a full time,
5 fully compensated basis to enforce the criminal laws of the state of
6 Washington generally, with the following qualifications:

7 (a) No person who is serving in a position that is basically
8 clerical or secretarial in nature, and who is not commissioned shall be
9 considered a law enforcement officer;

10 (b) Only those deputy sheriffs, including those serving under a
11 different title pursuant to county charter, who have successfully
12 completed a civil service examination for deputy sheriff or the
13 equivalent position, where a different title is used, and those persons
14 serving in unclassified positions authorized by RCW 41.14.070 except a
15 private secretary will be considered law enforcement officers;

16 (c) Only such full time commissioned law enforcement personnel as
17 have been appointed to offices, positions, or ranks in the police
18 department which have been specifically created or otherwise expressly
19 provided for and designated by city charter provision or by ordinance
20 enacted by the legislative body of the city shall be considered city
21 police officers;

22 (d) The term "law enforcement officer" also includes the executive
23 secretary of a labor guild, association or organization (which is an
24 employer under RCW 41.26.030(2)) if that individual has five years
25 previous membership in the retirement system established in chapter
26 41.20 RCW. The provisions of this subsection (3)(d) shall not apply to
27 plan 2 members; and

28 (e) The term "law enforcement officer" also includes a person
29 employed on or after January 1, 1993, as a public safety officer or
30 director of public safety, so long as the job duties substantially
31 involve only either police or fire duties, or both, and no other duties
32 in a city or town with a population of less than ten thousand. The
33 provisions of this subsection (3)(e) shall not apply to any public
34 safety officer or director of public safety who is receiving a
35 retirement allowance under this chapter as of May 12, 1993.

36 (4) "Fire fighter" means:

37 (a) Any person who is serving on a full time, fully compensated

1 basis as a member of a fire department of an employer and who is
2 serving in a position which requires passing a civil service
3 examination for fire fighter, and who is actively employed as such;

4 (b) Anyone who is actively employed as a full time fire fighter
5 where the fire department does not have a civil service examination;

6 (c) Supervisory fire fighter personnel;

7 (d) Any full time executive secretary of an association of fire
8 protection districts authorized under RCW 52.12.031. The provisions of
9 this subsection (4)(d) shall not apply to plan 2 members;

10 (e) The executive secretary of a labor guild, association or
11 organization (which is an employer under RCW 41.26.030(2) as now or
12 hereafter amended), if such individual has five years previous
13 membership in a retirement system established in chapter 41.16 or 41.18
14 RCW. The provisions of this subsection (4)(e) shall not apply to plan
15 2 members;

16 (f) Any person who is serving on a full time, fully compensated
17 basis for an employer, as a fire dispatcher, in a department in which,
18 on March 1, 1970, a dispatcher was required to have passed a civil
19 service examination for fire fighter; and

20 (g) Any person who on March 1, 1970, was employed on a full time,
21 fully compensated basis by an employer, and who on May 21, 1971, was
22 making retirement contributions under the provisions of chapter 41.16
23 or 41.18 RCW.

24 (5) "Department" means the department of retirement systems created
25 in chapter 41.50 RCW.

26 (6) "Surviving spouse" means the surviving widow or widower of a
27 member. "Surviving spouse" shall not include the divorced spouse of a
28 member except as provided in RCW 41.26.162.

29 (7)(a) "Child" or "children" means an unmarried person who is under
30 the age of eighteen or (~~mentally or physically handicapped~~) has a
31 physical disability or mental illness as determined by the department,
32 except a (~~handicapped~~) person with a disability in the full time care
33 of a state institution, who is:

34 (i) A natural born child;

35 (ii) A stepchild where that relationship was in existence prior to
36 the date benefits are payable under this chapter;

37 (iii) A posthumous child;

1 (iv) A child legally adopted or made a legal ward of a member prior
2 to the date benefits are payable under this chapter; or

3 (v) An illegitimate child legitimized prior to the date any
4 benefits are payable under this chapter.

5 (b) A person shall also be deemed to be a child up to and including
6 the age of twenty years and eleven months while attending any high
7 school, college, or vocational or other educational institution
8 accredited, licensed, or approved by the state, in which it is located,
9 including the summer vacation months and all other normal and regular
10 vacation periods at the particular educational institution after which
11 the child returns to school.

12 (8) "Member" means any fire fighter, law enforcement officer, or
13 other person as would apply under subsection((§)) (3) or (4) of this
14 section whose membership is transferred to the Washington law
15 enforcement officers' and fire fighters' retirement system on or after
16 March 1, 1970, and every law enforcement officer and fire fighter who
17 is employed in that capacity on or after such date.

18 (9) "Retirement fund" means the "Washington law enforcement
19 officers' and fire fighters' retirement system fund" as provided for
20 herein.

21 (10) "Employee" means any law enforcement officer or fire fighter
22 as defined in subsections (3) and (4) of this section.

23 (11)(a) "Beneficiary" for plan 1 members, means any person in
24 receipt of a retirement allowance, disability allowance, death benefit,
25 or any other benefit described herein.

26 (b) "Beneficiary" for plan 2 members, means any person in receipt
27 of a retirement allowance or other benefit provided by this chapter
28 resulting from service rendered to an employer by another person.

29 (12)(a) "Final average salary" for plan 1 members, means (i) for a
30 member holding the same position or rank for a minimum of twelve months
31 preceding the date of retirement, the basic salary attached to such
32 same position or rank at time of retirement; (ii) for any other member,
33 including a civil service member who has not served a minimum of twelve
34 months in the same position or rank preceding the date of retirement,
35 the average of the greatest basic salaries payable to such member
36 during any consecutive twenty-four month period within such member's
37 last ten years of service for which service credit is allowed, computed
38 by dividing the total basic salaries payable to such member during the

1 selected twenty-four month period by twenty-four; (iii) in the case of
2 disability of any member, the basic salary payable to such member at
3 the time of disability retirement; (iv) in the case of a member who
4 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to
5 such member at the time of vesting.

6 (b) "Final average salary" for plan 2 members, means the monthly
7 average of the member's basic salary for the highest consecutive sixty
8 service credit months of service prior to such member's retirement,
9 termination, or death. Periods constituting authorized unpaid leaves
10 of absence may not be used in the calculation of final average salary.

11 (13)(a) "Basic salary" for plan 1 members, means the basic monthly
12 rate of salary or wages, including longevity pay but not including
13 overtime earnings or special salary or wages, upon which pension or
14 retirement benefits will be computed and upon which employer
15 contributions and salary deductions will be based.

16 (b) "Basic salary" for plan 2 members, means salaries or wages
17 earned by a member during a payroll period for personal services,
18 including overtime payments, and shall include wages and salaries
19 deferred under provisions established pursuant to sections 403(b),
20 414(h), and 457 of the United States Internal Revenue Code, but shall
21 exclude lump sum payments for deferred annual sick leave, unused
22 accumulated vacation, unused accumulated annual leave, or any form of
23 severance pay. In any year in which a member serves in the legislature
24 the member shall have the option of having such member's basic salary
25 be the greater of:

26 (i) The basic salary the member would have received had such member
27 not served in the legislature; or

28 (ii) Such member's actual basic salary received for nonlegislative
29 public employment and legislative service combined. Any additional
30 contributions to the retirement system required because basic salary
31 under (b)(i) of this subsection is greater than basic salary under
32 (b)(ii) of this subsection shall be paid by the member for both member
33 and employer contributions.

34 (14)(a) "Service" for plan 1 members, means all periods of
35 employment for an employer as a fire fighter or law enforcement
36 officer, for which compensation is paid, together with periods of
37 suspension not exceeding thirty days in duration. For the purposes of
38 this chapter service shall also include service in the armed forces of

1 the United States as provided in RCW 41.26.190. Credit shall be
2 allowed for all service credit months of service rendered by a member
3 from and after the member's initial commencement of employment as a
4 fire fighter or law enforcement officer, during which the member worked
5 for seventy or more hours, or was on disability leave or disability
6 retirement. Only service credit months of service shall be counted in
7 the computation of any retirement allowance or other benefit provided
8 for in this chapter.

9 (i) For members retiring after May 21, 1971 who were employed under
10 the coverage of a prior pension act before March 1, 1970, "service"
11 shall also include (A) such military service not exceeding five years
12 as was creditable to the member as of March 1, 1970, under the member's
13 particular prior pension act, and (B) such other periods of service as
14 were then creditable to a particular member under the provisions of RCW
15 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit
16 be allowed for any service rendered prior to March 1, 1970, where the
17 member at the time of rendition of such service was employed in a
18 position covered by a prior pension act, unless such service, at the
19 time credit is claimed therefor, is also creditable under the
20 provisions of such prior act.

21 (ii) A member who is employed by two employers at the same time
22 shall only be credited with service to one such employer for any month
23 during which the member rendered such dual service.

24 (b) "Service" for plan 2 members, means periods of employment by a
25 member for one or more employers for which basic salary is earned for
26 ninety or more hours per calendar month which shall constitute a
27 service credit month. Periods of employment by a member for one or
28 more employers for which basic salary is earned for at least seventy
29 hours but less than ninety hours per calendar month shall constitute
30 one-half service credit month. Periods of employment by a member for
31 one or more employers for which basic salary is earned for less than
32 seventy hours shall constitute a one-quarter service credit month.

33 Members of the retirement system who are elected or appointed to a
34 state elective position may elect to continue to be members of this
35 retirement system.

36 Service credit years of service shall be determined by dividing the
37 total number of service credit months of service by twelve. Any

1 fraction of a service credit year of service as so determined shall be
2 taken into account in the computation of such retirement allowance or
3 benefits.

4 If a member receives basic salary from two or more employers during
5 any calendar month, the individual shall receive one service credit
6 month's service credit during any calendar month in which multiple
7 service for ninety or more hours is rendered; or one-half service
8 credit month's service credit during any calendar month in which
9 multiple service for at least seventy hours but less than ninety hours
10 is rendered; or one-quarter service credit month during any calendar
11 month in which multiple service for less than seventy hours is
12 rendered.

13 (15) "Accumulated contributions" means the employee's contributions
14 made by a member, including any amount paid under RCW 41.50.165(2),
15 plus accrued interest credited thereon.

16 (16) "Actuarial reserve" means a method of financing a pension or
17 retirement plan wherein reserves are accumulated as the liabilities for
18 benefit payments are incurred in order that sufficient funds will be
19 available on the date of retirement of each member to pay the member's
20 future benefits during the period of retirement.

21 (17) "Actuarial valuation" means a mathematical determination of
22 the financial condition of a retirement plan. It includes the
23 computation of the present monetary value of benefits payable to
24 present members, and the present monetary value of future employer and
25 employee contributions, giving effect to mortality among active and
26 retired members and also to the rates of disability, retirement,
27 withdrawal from service, salary, and interest earned on investments.

28 (18) "Disability board" for plan 1 members means either the county
29 disability board or the city disability board established in RCW
30 41.26.110.

31 (19) "Disability leave" means the period of six months or any
32 portion thereof during which a member is on leave at an allowance equal
33 to the member's full salary prior to the commencement of disability
34 retirement. The definition contained in this subsection shall apply
35 only to plan 1 members.

36 (20) "Disability retirement" for plan 1 members, means the period
37 following termination of a member's disability leave, during which the
38 member is in receipt of a disability retirement allowance.

1 (21) "Position" means the employment held at any particular time,
2 which may or may not be the same as civil service rank.

3 (22) "Medical services" for plan 1 members, shall include the
4 following as minimum services to be provided. Reasonable charges for
5 these services shall be paid in accordance with RCW 41.26.150.

6 (a) Hospital expenses: These are the charges made by a hospital,
7 in its own behalf, for:

8 (i) Board and room not to exceed semiprivate room rate unless
9 private room is required by the attending physician due to the
10 condition of the patient((~~-~~));

11 (ii) Necessary hospital services, other than board and room,
12 furnished by the hospital.

13 (b) Other medical expenses: The following charges are considered
14 "other medical expenses", provided that they have not been considered
15 as "hospital expenses"((~~-~~));

16 (i) The fees of the following:

17 (A) A physician or surgeon licensed under the provisions of chapter
18 18.71 RCW;

19 (B) An osteopathic physician and surgeon licensed under the
20 provisions of chapter 18.57 RCW;

21 (C) A chiropractor licensed under the provisions of chapter 18.25
22 RCW((~~-~~));

23 (ii) The charges of a registered graduate nurse other than a nurse
24 who ordinarily resides in the member's home, or is a member of the
25 family of either the member or the member's spouse((~~-~~));

26 (iii) The charges for the following medical services and supplies:

27 (A) Drugs and medicines upon a physician's prescription;

28 (B) Diagnostic X-ray and laboratory examinations;

29 (C) X-ray, radium, and radioactive isotopes therapy;

30 (D) Anesthesia and oxygen;

31 (E) Rental of iron lung and other durable medical and surgical
32 equipment;

33 (F) Artificial limbs and eyes, and casts, splints, and trusses;

34 (G) Professional ambulance service when used to transport the
35 member to or from a hospital when injured by an accident or stricken by
36 a disease;

37 (H) Dental charges incurred by a member who sustains an accidental

1 injury to his or her teeth and who commences treatment by a legally
2 licensed dentist within ninety days after the accident;

3 (I) Nursing home confinement or hospital extended care facility;

4 (J) Physical therapy by a registered physical therapist;

5 (K) Blood transfusions, including the cost of blood and blood
6 plasma not replaced by voluntary donors;

7 (L) An optometrist licensed under the provisions of chapter 18.53
8 RCW.

9 (23) "Regular interest" means such rate as the director may
10 determine.

11 (24) "Retiree" for persons who establish membership in the
12 retirement system on or after October 1, 1977, means any member in
13 receipt of a retirement allowance or other benefit provided by this
14 chapter resulting from service rendered to an employer by such member.

15 (25) "Director" means the director of the department.

16 (26) "State actuary" or "actuary" means the person appointed
17 pursuant to RCW 44.44.010(2).

18 (27) "State elective position" means any position held by any
19 person elected or appointed to statewide office or elected or appointed
20 as a member of the legislature.

21 (28) "Plan 1" means the law enforcement officers' and fire
22 fighters' retirement system, plan 1 providing the benefits and funding
23 provisions covering persons who first became members of the system
24 prior to October 1, 1977.

25 (29) "Plan 2" means the law enforcement officers' and fire
26 fighters' retirement system, plan 2 providing the benefits and funding
27 provisions covering persons who first became members of the system on
28 and after October 1, 1977.

29 (30) "Service credit year" means an accumulation of months of
30 service credit which is equal to one when divided by twelve.

31 (31) "Service credit month" means a full service credit month or an
32 accumulation of partial service credit months that are equal to one.

33 (32) "General authority law enforcement agency" means any agency,
34 department, or division of a municipal corporation, political
35 subdivision, or other unit of local government of this state, and any
36 agency, department, or division of state government, having as its
37 primary function the detection and apprehension of persons committing
38 infractions or violating the traffic or criminal laws in general, but

1 not including the Washington state patrol. Such an agency, department,
2 or division is distinguished from a limited authority law enforcement
3 agency having as one of its functions the apprehension or detection of
4 persons committing infractions or violating the traffic or criminal
5 laws relating to limited subject areas, including but not limited to,
6 the state departments of natural resources and social and health
7 services, the state gambling commission, the state lottery commission,
8 the state parks and recreation commission, the state utilities (~~and~~
9 ~~transportation~~) commission, the state liquor control board, and the
10 state department of corrections.

11 **Sec. 61.** RCW 42.17.2401 and 2006 c 265 s 113 are each amended to
12 read as follows:

13 For the purposes of RCW 42.17.240, the term "executive state
14 officer" includes:

15 (1) The chief administrative law judge, the director of
16 agriculture, the administrator of the Washington basic health plan, the
17 director of the department of services for the blind, the director of
18 the state system of community and technical colleges, the director of
19 community, trade, and economic development, the secretary of
20 corrections, the director of early learning, the director of ecology,
21 the commissioner of employment security, the chair of the energy
22 facility site evaluation council, the secretary of the state finance
23 committee, the director of financial management, the director of fish
24 and wildlife, the executive secretary of the forest practices appeals
25 board, the director of the gambling commission, the director of general
26 administration, the secretary of health, the administrator of the
27 Washington state health care authority, the executive secretary of the
28 health care facilities authority, the executive secretary of the higher
29 education facilities authority, the executive secretary of the horse
30 racing commission, the executive secretary of the human rights
31 commission, the executive secretary of the indeterminate sentence
32 review board, the director of the department of information services,
33 the director of the interagency committee for outdoor recreation, the
34 executive director of the state investment board, the director of labor
35 and industries, the director of licensing, the director of the lottery
36 commission, the director of the office of minority and women's business
37 enterprises, the director of parks and recreation, the director of

1 personnel, the executive director of the public disclosure commission,
2 the director of retirement systems, the director of revenue, the
3 secretary of social and health services, the chief of the Washington
4 state patrol, the executive secretary of the board of tax appeals, the
5 secretary of transportation, the secretary of the utilities (~~and~~
6 ~~transportation~~) commission, the director of veterans affairs, the
7 president of each of the regional and state universities and the
8 president of The Evergreen State College, each district and each campus
9 president of each state community college;

10 (2) Each professional staff member of the office of the governor;

11 (3) Each professional staff member of the legislature; and

12 (4) Central Washington University board of trustees, board of
13 trustees of each community college, each member of the state board for
14 community and technical colleges, state convention and trade center
15 board of directors, committee for deferred compensation, Eastern
16 Washington University board of trustees, Washington economic
17 development finance authority, The Evergreen State College board of
18 trustees, executive ethics board, forest practices appeals board,
19 forest practices board, gambling commission, life sciences discovery
20 fund authority board of trustees, Washington health care facilities
21 authority, each member of the Washington health services commission,
22 higher education coordinating board, higher education facilities
23 authority, horse racing commission, state housing finance commission,
24 human rights commission, indeterminate sentence review board, board of
25 industrial insurance appeals, information services board, interagency
26 committee for outdoor recreation, state investment board, commission on
27 judicial conduct, legislative ethics board, liquor control board,
28 lottery commission, marine oversight board, Pacific Northwest electric
29 power and conservation planning council, parks and recreation
30 commission, (~~personnel—appeals—board,~~) board of pilotage
31 commissioners, pollution control hearings board, public disclosure
32 commission, public pension commission, shorelines hearing board, public
33 employees' benefits board, salmon recovery funding board, board of tax
34 appeals, transportation commission, University of Washington board of
35 regents, utilities (~~and—transportation~~) commission, Washington state
36 maritime commission, Washington personnel resources board, Washington
37 public power supply system executive board, Washington State University

1 board of regents, Western Washington University board of trustees, and
2 fish and wildlife commission.

3 **Sec. 62.** RCW 42.17.241 and 1995 c 397 s 9 are each amended to read
4 as follows:

5 (1) The statement of financial affairs required by RCW 42.17.240
6 shall disclose for the reporting individual and each member of his or
7 her immediate family:

8 (a) Occupation, name of employer, and business address; and

9 (b) Each bank or savings account or insurance policy in which any
10 such person or persons owned a direct financial interest that exceeded
11 five thousand dollars at any time during the reporting period; each
12 other item of intangible personal property in which any such person or
13 persons owned a direct financial interest, the value of which exceeded
14 five hundred dollars during the reporting period; the name, address,
15 and nature of the entity; and the nature and highest value of each such
16 direct financial interest during the reporting period; and

17 (c) The name and address of each creditor to whom the value of five
18 hundred dollars or more was owed; the original amount of each debt to
19 each such creditor; the amount of each debt owed to each creditor as of
20 the date of filing; the terms of repayment of each such debt; and the
21 security given, if any, for each such debt: PROVIDED, That debts
22 arising out of a "retail installment transaction" as defined in chapter
23 63.14 RCW (~~((Retail Installment Sales Act))~~) need not be reported; and

24 (d) Every public or private office, directorship, and position held
25 as trustee; and

26 (e) All persons for whom any legislation, rule, rate, or standard
27 has been prepared, promoted, or opposed for current or deferred
28 compensation: PROVIDED, That for the purposes of this subsection,
29 "compensation" does not include payments made to the person reporting
30 by the governmental entity for which such person serves as an elected
31 official or state executive officer or professional staff member for
32 his or her service in office; the description of such actual or
33 proposed legislation, rules, rates, or standards; and the amount of
34 current or deferred compensation paid or promised to be paid; and

35 (f) The name and address of each governmental entity, corporation,
36 partnership, joint venture, sole proprietorship, association, union, or
37 other business or commercial entity from whom compensation has been

1 received in any form of a total value of five hundred dollars or more;
2 the value of the compensation; and the consideration given or performed
3 in exchange for the compensation; and

4 (g) The name of any corporation, partnership, joint venture,
5 association, union, or other entity in which is held any office,
6 directorship, or any general partnership interest, or an ownership
7 interest of ten percent or more; the name or title of that office,
8 directorship, or partnership; the nature of ownership interest; and
9 with respect to each such entity: (i) With respect to a governmental
10 unit in which the official seeks or holds any office or position, if
11 the entity has received compensation in any form during the preceding
12 twelve months from the governmental unit, the value of the compensation
13 and the consideration given or performed in exchange for the
14 compensation; (ii) the name of each governmental unit, corporation,
15 partnership, joint venture, sole proprietorship, association, union, or
16 other business or commercial entity from which the entity has received
17 compensation in any form in the amount of two thousand five hundred
18 dollars or more during the preceding twelve months and the
19 consideration given or performed in exchange for the compensation:
20 PROVIDED, That the term "compensation" for purposes of this subsection
21 (1)(g)(ii) does not include payment for water and other utility
22 services at rates approved by the ((Washington state)) utilities ((and
23 transportation)) commission or the legislative authority of the public
24 entity providing the service: PROVIDED, FURTHER, That with respect to
25 any bank or commercial lending institution in which is held any office,
26 directorship, partnership interest, or ownership interest, it shall
27 only be necessary to report either the name, address, and occupation of
28 every director and officer of the bank or commercial lending
29 institution and the average monthly balance of each account held during
30 the preceding twelve months by the bank or commercial lending
31 institution from the governmental entity for which the individual is an
32 official or candidate or professional staff member, or all interest
33 paid by a borrower on loans from and all interest paid to a depositor
34 by the bank or commercial lending institution if the interest exceeds
35 six hundred dollars; and

36 (h) A list, including legal or other sufficient descriptions as
37 prescribed by the commission, of all real property in the state of
38 Washington, the assessed valuation of which exceeds two thousand five

1 hundred dollars in which any direct financial interest was acquired
2 during the preceding calendar year, and a statement of the amount and
3 nature of the financial interest and of the consideration given in
4 exchange for that interest; and

5 (i) A list, including legal or other sufficient descriptions as
6 prescribed by the commission, of all real property in the state of
7 Washington, the assessed valuation of which exceeds two thousand five
8 hundred dollars in which any direct financial interest was divested
9 during the preceding calendar year, and a statement of the amount and
10 nature of the consideration received in exchange for that interest, and
11 the name and address of the person furnishing the consideration; and

12 (j) A list, including legal or other sufficient descriptions as
13 prescribed by the commission, of all real property in the state of
14 Washington, the assessed valuation of which exceeds two thousand five
15 hundred dollars in which a direct financial interest was held:
16 PROVIDED, That if a description of the property has been included in a
17 report previously filed, the property may be listed, for purposes of
18 this provision, by reference to the previously filed report; and

19 (k) A list, including legal or other sufficient descriptions as
20 prescribed by the commission, of all real property in the state of
21 Washington, the assessed valuation of which exceeds five thousand
22 dollars, in which a corporation, partnership, firm, enterprise, or
23 other entity had a direct financial interest, in which corporation,
24 partnership, firm, or enterprise a ten percent or greater ownership
25 interest was held; and

26 (l) A list of each occasion, specifying date, donor, and amount, at
27 which food and beverage in excess of fifty dollars was accepted under
28 RCW 42.52.150(5); (~~(+and+)~~) and

29 (m) A list of each occasion, specifying date, donor, and amount, at
30 which items specified in RCW 42.52.010(~~(+9+)~~) (10) (d) and (f) were
31 accepted; (~~(+and+)~~) and

32 (n) Such other information as the commission may deem necessary in
33 order to properly carry out the purposes and policies of this chapter,
34 as the commission shall prescribe by rule.

35 (2) Where an amount is required to be reported under subsection
36 (1)(a) through (m) of this section, it shall be sufficient to comply
37 with the requirement to report whether the amount is less than one
38 thousand dollars, at least one thousand dollars but less than five

1 thousand dollars, at least five thousand dollars but less than ten
2 thousand dollars, at least ten thousand dollars but less than twenty-
3 five thousand dollars, or twenty-five thousand dollars or more. An
4 amount of stock may be reported by number of shares instead of by
5 market value. No provision of this subsection may be interpreted to
6 prevent any person from filing more information or more detailed
7 information than required.

8 (3) Items of value given to an official's or employee's spouse or
9 family member are attributable to the official or employee, except the
10 item is not attributable if an independent business, family, or social
11 relationship exists between the donor and the spouse or family member.

12 **Sec. 63.** RCW 42.56.330 and 2006 c 209 s 8 are each amended to read
13 as follows:

14 The following information relating to public utilities and
15 transportation is exempt from disclosure under this chapter:

16 (1) Records filed with the utilities (~~and transportation~~)
17 commission or attorney general under RCW 80.04.095 that a court has
18 determined are confidential under RCW 80.04.095;

19 (2) The residential addresses and residential telephone numbers of
20 the customers of a public utility contained in the records or lists
21 held by the public utility of which they are customers, except that
22 this information may be released to the division of child support or
23 the agency or firm providing child support enforcement for another
24 state under Title IV-D of the federal social security act, for the
25 establishment, enforcement, or modification of a support order;

26 (3) The names, residential addresses, residential telephone
27 numbers, and other individually identifiable records held by an agency
28 in relation to a vanpool, carpool, or other ride-sharing program or
29 service; however, these records may be disclosed to other persons who
30 apply for ride-matching services and who need that information in order
31 to identify potential riders or drivers with whom to share rides;

32 (4) The personally identifying information of current or former
33 participants or applicants in a paratransit or other transit service
34 operated for the benefit of persons with disabilities or elderly
35 persons;

36 (5) The personally identifying information of persons who acquire
37 and use transit passes and other fare payment media including, but not

1 limited to, stored value smart cards and magnetic strip cards, except
2 that an agency may disclose this information to a person, employer,
3 educational institution, or other entity that is responsible, in whole
4 or in part, for payment of the cost of acquiring or using a transit
5 pass or other fare payment media, or to the news media when reporting
6 on public transportation or public safety. This information may also
7 be disclosed at the agency's discretion to governmental agencies or
8 groups concerned with public transportation or public safety;

9 (6) Records of any person that belong to a public utility district
10 or a municipally owned electrical utility, unless the law enforcement
11 authority provides the public utility district or municipally owned
12 electrical utility with a written statement in which the authority
13 states that it suspects that the particular person to whom the records
14 pertain has committed a crime and the authority has a reasonable belief
15 that the records could determine or help determine whether the
16 suspicion might be true. Information obtained in violation of this
17 subsection is inadmissible in any criminal proceeding;

18 (7) Any information obtained by governmental agencies that is
19 collected by the use of a motor carrier intelligent transportation
20 system or any comparable information equipment attached to a truck,
21 tractor, or trailer; however, the information may be given to other
22 governmental agencies or the owners of the truck, tractor, or trailer
23 from which the information is obtained. As used in this subsection,
24 "motor carrier" has the same definition as provided in ((RCW
25 ~~81.80.010~~) section 72 of this act; and

26 (8) The personally identifying information of persons who acquire
27 and use transponders or other technology to facilitate payment of
28 tolls. This information may be disclosed in aggregate form as long as
29 the data does not contain any personally identifying information. For
30 these purposes aggregate data may include the census tract of the
31 account holder as long as any individual personally identifying
32 information is not released. Personally identifying information may be
33 released to law enforcement agencies only for toll enforcement
34 purposes. Personally identifying information may be released to law
35 enforcement agencies for other purposes only if the request is
36 accompanied by a court order.

1 **Sec. 64.** RCW 43.20A.725 and 2004 c 254 s 1 are each amended to
2 read as follows:

3 (1) The department, through the sole authority of the office or its
4 successor organization, shall maintain a program whereby an individual
5 of school age or older who possesses a hearing or speech impairment is
6 provided with telecommunications equipment, software, and/or peripheral
7 devices, digital or otherwise, that is determined by the office to be
8 necessary for such a person to access and use telecommunications
9 transmission services effectively.

10 (2) The department, through the sole authority of the office or its
11 successor organization, shall maintain a program where
12 telecommunications relay services of a human or electronic nature will
13 be provided to connect hearing impaired, deaf-blind, or speech impaired
14 persons with persons who do not have a hearing or speech impairment.
15 Such telecommunications relay services shall provide the ability for an
16 individual who has a hearing or speech impairment to engage in voice,
17 tactile, or visual communication by wire or radio with a hearing
18 individual in a manner that is functionally equivalent to the ability
19 of an individual who does not have a hearing or speech impairment to
20 communicate using voice or visual communication services by wire or
21 radio subject to subsection (4)(b) of this section.

22 (3) The telecommunications relay service and equipment distribution
23 program may operate in such a manner as to provide communications
24 transmission opportunities that are capable of incorporating new
25 technologies that have demonstrated benefits consistent with the intent
26 of this chapter and are in the best interests of the citizens of this
27 state.

28 (4) The office shall administer and control the award of money to
29 all parties incurring costs in implementing and maintaining
30 telecommunications services, programs, equipment, and technical support
31 services according to this section. The relay service contract shall
32 be awarded to an individual company registered as a telecommunications
33 company by the utilities (~~and transportation~~) commission, to a group
34 of registered telecommunications companies, or to any other company or
35 organization determined by the office as qualified to provide relay
36 services, contingent upon that company or organization being approved
37 as a registered telecommunications company prior to final contract
38 approval. The relay system providers and telecommunications equipment

1 vendors shall be selected on the basis of cost-effectiveness and
2 utility to the greatest extent possible under the program and technical
3 specifications established by the office.

4 (a) To the extent funds are available under the then-current rate
5 and not otherwise held in reserve or required for other purposes
6 authorized by this chapter, the office may award contracts for
7 communications and related services and equipment for hearing impaired
8 or speech impaired individuals accessing or receiving services provided
9 by, or contracted for, the department to meet access obligations under
10 Title 2 of the federal Americans with disabilities act or related
11 federal regulations.

12 (b) The office shall perform its duties under this section with the
13 goal of achieving functional equivalency of access to and use of
14 telecommunications services similar to the enjoyment of access to and
15 use of such services experienced by an individual who does not have a
16 hearing or speech impairment only to the extent that funds are
17 available under the then-current rate and not otherwise held in reserve
18 or required for other purposes authorized by this chapter.

19 (5) The program shall be funded by a telecommunications relay
20 service (TRS) excise tax applied to each switched access line provided
21 by the local exchange companies. The office shall determine, in
22 consultation with the office's program advisory committee, the budget
23 needed to fund the program on an annual basis, including both
24 operational costs and a reasonable amount for capital improvements such
25 as equipment upgrade and replacement. The budget proposed by the
26 office, together with documentation and supporting materials, shall be
27 submitted to the office of financial management for review and
28 approval. The approved budget shall be given by the department in an
29 annual budget to the department of revenue no later than March 1st
30 prior to the beginning of the fiscal year. The department of revenue
31 shall then determine the amount of telecommunications relay service
32 excise tax to be placed on each switched access line and shall inform
33 local exchange companies and the utilities ((and—transportation))
34 commission of this amount no later than May 1st. The department of
35 revenue shall determine the amount of telecommunications relay service
36 excise tax to be collected in the following fiscal year by dividing the
37 total of the program budget, as submitted by the office, by the total
38 number of switched access lines in the prior calendar year, as reported

1 to the department of revenue under chapter 82.14B RCW, and shall not
2 exercise any further oversight of the program under this subsection
3 other than administering the collection of the telecommunications relay
4 service excise tax as provided in RCW 82.72.010 through 82.72.090. The
5 telecommunications relay service excise tax shall not exceed nineteen
6 cents per month per access line. The telecommunications relay service
7 excise tax shall be separately identified on each ratepayer's bill with
8 the following statement: "Funds federal ADA requirement." All
9 proceeds from the telecommunications relay service excise tax shall be
10 put into a fund to be administered by the office through the
11 department. "Switched access line" has the meaning provided in RCW
12 82.14B.020.

13 (6) The telecommunications relay service program and equipment
14 vendors shall provide services and equipment consistent with the
15 requirements of federal law for the operation of both interstate and
16 intrastate telecommunications services for the hearing impaired or
17 speech impaired. The department and the utilities (~~and~~
18 ~~transportation~~) commission shall be responsible for ensuring
19 compliance with federal requirements and shall provide timely notice to
20 the legislature of any legislation that may be required to accomplish
21 compliance.

22 (7) The department shall adopt rules establishing eligibility
23 criteria, ownership obligations, financial contributions, and a program
24 for distribution to individuals requesting and receiving such
25 telecommunications devices distributed by the office, and other rules
26 necessary to administer programs and services consistent with this
27 chapter.

28 **Sec. 65.** RCW 43.21F.055 and 1996 c 186 s 104 are each amended to
29 read as follows:

30 The department shall not intervene in any regulatory proceeding
31 before the (~~Washington~~) utilities (~~and transportation~~) commission
32 or proceedings of utilities not regulated by the commission. Nothing
33 in this chapter abrogates or diminishes the functions, powers, or
34 duties of the energy facility site evaluation council pursuant to
35 chapter 80.50 RCW, the utilities (~~and transportation~~) commission
36 pursuant to Title 80 RCW, or other state or local agencies established
37 by law.

1 The department shall avoid duplication of activity with other state
2 agencies and officers and other persons.

3 **Sec. 66.** RCW 43.21F.060 and 1996 c 186 s 105 are each amended to
4 read as follows:

5 In addition to the duties prescribed in RCW 43.21F.045, the
6 department shall have the authority to:

7 (1) Obtain all necessary and existing information from energy
8 producers, suppliers, and consumers, doing business within the state of
9 Washington, from political subdivisions in this state, or any person as
10 may be necessary to carry out the provisions of chapter 43.21G RCW:
11 PROVIDED, That if the information is available in reports made to
12 another state agency, the department shall obtain it from that agency:
13 PROVIDED FURTHER, That, to the maximum extent practicable,
14 informational requests to energy companies regulated by the utilities
15 (~~and transportation~~) commission shall be channeled through the
16 commission and shall be accepted in the format normally used by the
17 companies. Such information may include but not be limited to:

- 18 (a) Sales volume;
- 19 (b) Forecasts of energy requirements; and
- 20 (c) Energy costs.

21 Notwithstanding any other provision of law to the contrary,
22 information furnished under this subsection shall be confidential and
23 maintained as such, if so requested by the person providing the
24 information, if the information is proprietary.

25 It shall be unlawful to disclose such information except as
26 hereinafter provided. A violation shall be punishable, upon
27 conviction, by a fine of not more than one thousand dollars for each
28 offense. In addition, any person who willfully or with criminal
29 negligence, as defined in RCW 9A.08.010, discloses confidential
30 information in violation of this subsection may be subject to removal
31 from office or immediate dismissal from public employment
32 notwithstanding any other provision of law to the contrary.

33 Nothing in this subsection prohibits the use of confidential
34 information to prepare statistics or other general data for publication
35 when it is so presented as to prevent identification of particular
36 persons or sources of confidential information.

1 (2) Receive and expend funds obtained from the federal government
2 or other sources by means of contracts, grants, awards, payments for
3 services, and other devices in support of the duties enumerated in this
4 chapter.

5 **Sec. 67.** RCW 43.21G.080 and 1977 ex.s. c 328 s 8 are each amended
6 to read as follows:

7 The governor may order any distributor to take such action on his
8 or her behalf as may be required to implement orders issued pursuant to
9 this chapter as now or hereafter amended: PROVIDED, That orders to
10 regulated distributors shall be issued by the ((Washington)) utilities
11 ((and transportation)) commission in conformance with orders of the
12 governor. No distributor shall be liable for actions taken in
13 accordance with such orders issued by the governor or the
14 ((Washington)) utilities ((and transportation)) commission.

15 All allocations of energy from one distributor to another
16 distributor pursuant to orders issued or as a result of actions taken
17 under this chapter as now or hereafter amended are subject to fair and
18 just reimbursement. Such reimbursement for any allocation of energy
19 between regulated distributors shall be subject to the approval of the
20 ((Washington)) utilities ((and transportation)) commission. A
21 distributor is authorized to enter into agreements with another
22 distributor for the purpose of determining financial or commodity
23 reimbursement.

24 **Sec. 68.** RCW 43.44.130 and 2000 c 191 s 20 are each amended to
25 read as follows:

26 (1) The chief of the Washington state patrol, through the director
27 of fire protection or his or her authorized deputy, shall, in
28 consultation with the emergency management program within the state
29 military department, the department of ecology, the utilities ((and
30 transportation)) commission, and local emergency services
31 organizations:

32 (a) Evaluate the preparedness of local first responders in meeting
33 emergency management demands under subsection (2) of this section; and

34 (b) Conduct an assessment of the equipment and personnel needed by
35 local first responders to meet emergency management demands related to
36 pipelines.

1 (2) The chief of the Washington state patrol, through the director
2 of fire protection or his or her deputy, shall develop curricula for
3 training local first responders to deal with hazardous liquid and gas
4 pipeline accidents. The curricula shall be developed in conjunction
5 with pipeline companies and local first responders, and shall include
6 a timetable and costs for providing training as defined in the
7 curricula to all communities housing pipelines. Separate curricula
8 shall be developed for hazardous liquid and gas pipelines so that the
9 differences between pipelines may be recognized and appropriate
10 accident responses provided. The need for a training program for
11 regional incident management teams shall also be evaluated.

12 (3) In consultation with other relevant agencies, the chief of the
13 Washington state patrol, through the director of fire protection or his
14 or her deputy, shall identify the need and means for achieving
15 consistent application of the national interagency incident management
16 system.

17 (4) For the purposes of this section, "local first responders"
18 means police, fire, emergency medical staff, and volunteers.

19 **Sec. 69.** RCW 43.52.450 and 1977 ex.s. c 184 s 11 are each amended
20 to read as follows:

21 The provisions of this chapter shall be cumulative and shall not
22 impair or supersede the powers or rights of any person, firm, or
23 corporation or political subdivision of the state of Washington under
24 any other law. The rights of all persons, firms, corporations and
25 political subdivisions or operating units of any kind under existing
26 contracts, renewals thereof or supplements thereto, with the United
27 States, or any agency thereof, for power, are hereby preserved and such
28 rights shall not be impaired or modified by any of the provisions of
29 this chapter or any of the powers granted by this chapter.

30 The rates, services, and practices of any operating agency in
31 respect to the power generated, transmitted, or sold by it shall not be
32 governed by the regulations of the utilities ((and transportation))
33 commission.

34 **Sec. 70.** RCW 43.59.010 and 1998 c 165 s 2 are each amended to read
35 as follows:

36 (1) The purpose of this chapter is to establish a new agency of

1 state government to be known as the Washington traffic safety
2 commission. The functions and purpose of this commission shall be to
3 find solutions to the problems that have been created as a result of
4 the tremendous increase of motor vehicles on our highways and the
5 attendant traffic death and accident tolls; to plan and supervise
6 programs for the prevention of accidents on streets and highways
7 including but not limited to educational campaigns designed to reduce
8 traffic accidents in cooperation with all official and unofficial
9 organizations interested in traffic safety; to coordinate the
10 activities at the state and local level in the development of statewide
11 and local traffic safety programs; to promote a uniform enforcement of
12 traffic safety laws and establish standards for investigation and
13 reporting of traffic accidents; to coordinate Washington's
14 participation in the national operation lifesaver program; to promote
15 and improve driver education; and to authorize the governor to perform
16 all functions required to be performed by him under the federal highway
17 safety act of 1966 (Public Law 89-564; 80 Stat. 731).

18 (2) The legislature finds and declares that bicycling and walking
19 are becoming increasingly popular in Washington as clean and efficient
20 modes of transportation, as recreational activities, and as organized
21 sports. Future plans for the state's transportation system will
22 require increased access and safety for bicycles and pedestrians on our
23 common roadways, and federal transportation legislation and funding
24 programs have created strong incentives to implement these changes
25 quickly. As a result, many more people are likely to take up bicycling
26 in Washington both as a leisure activity and as a convenient,
27 inexpensive form of transportation. Bicyclists are more vulnerable to
28 injury and accident than motorists, and should be as knowledgeable as
29 possible about traffic laws, be highly visible and predictable when
30 riding in traffic, and be encouraged to wear bicycle safety helmets.
31 Hundreds of bicyclists and pedestrians are seriously injured every year
32 in accidents, and millions of dollars are spent on health care costs
33 associated with these accidents. There is clear evidence that
34 organized training in the rules and techniques of safe and effective
35 cycling can significantly reduce the incidence of serious injury and
36 accidents, increase cooperation among road users, and significantly
37 increase the incidence of bicycle helmet use, particularly among
38 minors. A reduction in accidents benefits the entire community.

1 Therefore it is appropriate for businesses and community organizations
2 to provide donations to bicycle and pedestrian safety training
3 programs.

4 **Sec. 71.** RCW 43.59.040 and 1983 1st ex.s. c 14 s 1 are each
5 amended to read as follows:

6 In addition to other responsibilities set forth in this chapter the
7 commission shall:

8 (1) Advise and confer with the governing authority of any political
9 subdivision of the state deemed eligible under the federal highway
10 safety act of 1966 (Public Law 89-564; 80 Stat. 731) for participation
11 in the aims and programs and purposes of that act;

12 (2) Advise and confer with all agencies of state government whose
13 programs and activities are within the scope of the highway safety act
14 including those agencies that are not subject to direct supervision,
15 administration, and control by the governor under existing laws;

16 (3) Coordinate Washington's participation in the national operation
17 lifesaver program;

18 (4) Succeed to and be vested with all powers, duties, and
19 jurisdictions previously vested in the Washington state safety council;

20 ((+4)) (5) Carry out such other responsibilities as may be
21 consistent with this chapter.

22 NEW SECTION. **Sec. 72.** The definitions in this section apply
23 throughout this chapter unless the context clearly requires otherwise.

24 (1) "Class 1 commercial motor vehicle" means a subcategory of
25 commercial motor vehicle that includes any commercial motor vehicle
26 that has a gross vehicle weight rating or gross combination weight
27 rating, or gross vehicle weight or gross combination weight, of 11,794
28 kilograms (26,001 pounds) or more.

29 (2) "Commercial motor vehicle" means any self-propelled or towed
30 motor vehicle used to transport property when the vehicle: (a) Has a
31 gross vehicle weight rating or gross combination weight rating, or
32 gross vehicle weight or gross combination weight, of 4,536 kilograms
33 (10,001 pounds) or more, whichever is greatest; or (b) is designed or
34 used to transport more than eight passengers, including the driver, for
35 compensation; or (c) is designed or used to transport more than fifteen
36 passengers, including the driver, and is not used to transport

1 passengers for compensation; or (d) is used in the transportation of
2 hazardous materials in quantities requiring placarding under federal
3 law.

4 (3) "Department" means the department of licensing.

5 (4) "Department of transportation number" means a number issued to
6 a motor carrier for identification purposes through the United States
7 department of transportation, including those numbers obtained using
8 the Washington state patrol as an intermediary for application
9 purposes.

10 (5) "Motor carrier" means any person who undertakes to transport
11 property for the general public by commercial motor vehicle, for
12 compensation, on a public highway, whether over regular or irregular
13 routes or regular or irregular schedules.

14 (6) "Motor vehicle" means any truck, trailer, semitrailer, tractor,
15 or dump truck which uses a hydraulic or mechanical device to dump or
16 discharge its load, or any self-propelled or motor-driven vehicle used
17 upon any public highway of this state.

18 (7) "Person" includes an individual, firm, copartnership,
19 corporation, company, or association or their lessees, trustees, or
20 receivers.

21 (8) "Public highway" means every street, road, or highway in this
22 state.

23 NEW SECTION. **Sec. 73.** The Washington state patrol, in
24 consultation with the department of licensing, shall adopt rules
25 consistent with this chapter to regulate vehicle safety requirements
26 for motor carriers who own, control, manage, or operate a commercial
27 motor vehicle within this state. The rules adopted under this section
28 may require each carrier to obtain a department of transportation
29 number. In establishing rules for the regulation of safety
30 requirements for motor carriers and commercial motor vehicles, the
31 state patrol shall consider federal safety regulations governing
32 interstate motor carriers and, subject to the discretion of the chief
33 of the state patrol and this chapter, implement rules to govern
34 intrastate motor carriers that are at least as rigorous as the federal
35 regulations governing interstate motor carriers. The state patrol
36 shall periodically review federal regulations governing interstate
37 motor carriers and amend the rules pertaining to motor carriers as the

1 chief of the state patrol deems appropriate to protect the safety of
2 Washington state motorists. The state patrol shall consult with the
3 department concerning the department's technological and data retention
4 capabilities relating to registration of commercial motor vehicles and
5 motor carriers, and shall coordinate effective communication to the
6 department of any safety violations and penalties assessed by the state
7 patrol that affect the registration or lawful operation of a commercial
8 motor vehicle within Washington state.

9 NEW SECTION. **Sec. 74.** (1) This title applies to persons and motor
10 vehicles engaged in interstate commerce to the full extent permitted by
11 the United States Constitution and laws of the United States.

12 (2) It is unlawful for any carrier to perform a transportation
13 service for compensation upon the public highways of this state without
14 first having secured appropriate authority from the federal government,
15 if such authority is required, and without having registered such
16 authority, if any, with the department of licensing.

17 NEW SECTION. **Sec. 75.** (1) The department of licensing shall
18 cooperate with the federal government and any entity federally
19 delegated or authorized to regulate interstate or foreign commerce by
20 motor carriers to the end that the transportation of property by motor
21 carriers in interstate or foreign commerce into or through the state of
22 Washington may be regulated and the laws of the United States and the
23 state of Washington enforced and administered cooperatively in the
24 public interest.

25 (2) The department, with respect to motor carriers engaged in
26 interstate commerce, may enter into reciprocal agreements with other
27 states, the District of Columbia, territories, and countries that are
28 authorized to make similar agreements, to apportion the regulatory fees
29 of the motor carriers between the state of Washington and other
30 jurisdictions into which the motor carriers operate. The department
31 shall use the percentage of miles or kilometers that the motor carrier
32 operates in the state of Washington as they relate to the total miles
33 that the motor carrier operates in other jurisdictions to determine
34 what percentage of a motor carrier's total vehicles are attributable to
35 operating in the state of Washington as the basis for any regulatory
36 fees.

1 (3) The department may enter into an agreement or arrangement with
2 a duly authorized representative of the state of Idaho, for the purpose
3 of granting operators of commercial motor vehicles that are properly
4 registered in the state of Idaho the privilege of operating their
5 vehicles in this state within a designated area near the border between
6 Washington and Idaho without the need for registration as required by
7 this chapter if the state of Idaho grants a similar privilege to
8 operators of commercial motor vehicles from this state. The designated
9 area is limited to state route number 195 from the Idaho border to
10 Lewiston, and state route number 12 from Lewiston to Clarkston.

11 NEW SECTION. **Sec. 76.** (1) The department of licensing shall
12 administer the state's participation in any federal program regarding
13 the registration of motor carriers, including the unified carrier
14 registration system. The department shall prepare and submit to the
15 appropriate federal agency a plan for Washington's participation in the
16 unified carrier registration system. The department may adopt rules to
17 implement the plan, coordinate the state's participation in the unified
18 carrier registration system, define and regulate categories of
19 carriers, and collect any fee authorized under a federal program
20 regarding motor carrier registration and regulation, including the
21 unified carrier registration system.

22 (2) Except as provided under federal law, any federal funds
23 received in connection with the state's participation in a federal
24 program regarding motor carrier registrations, such as the unified
25 carrier registration system, shall be deposited and used as follows:
26 (a) One-half of the funds shall be deposited in the state patrol
27 highway account and used by the Washington state patrol for commercial
28 motor vehicle safety purposes; and (b) the remainder of the funds shall
29 be deposited in the motor vehicle account and used by the department of
30 licensing to administer commercial motor vehicle regulation.

31 NEW SECTION. **Sec. 77.** (1) In addition to all other fees to be
32 paid, a motor carrier shall pay a regulatory fee equal to a proportion
33 of its gross income from intrastate operations for the previous
34 calendar year or other period the department of licensing designates by
35 rule. The motor carrier shall pay the fee no later than four months

1 after the end of the appropriate period and shall include with the
2 payment information the department requires by rule.

3 (2) The Washington state patrol shall report annually to the
4 department the cost of its regulatory obligations under this chapter.
5 The department shall establish the fee rates to be collected from all
6 motor carriers under subsection (1) of this section. The fees
7 collected under this section must reasonably approximate the costs
8 incurred by the state patrol and the department for supervising and
9 regulating motor carriers subject to this chapter. The department may
10 decrease fee amounts under this section if it determines that the
11 amounts collected or to be collected under this subsection (2) exceed
12 the reasonable cost of supervising and regulating motor carriers.

13 (3) Any payment of a fee imposed under this section made after its
14 due date includes a late fee of two percent of the amount due.
15 Delinquent fees shall accrue interest at the rate of one percent per
16 month.

17 (4) All fees paid under this chapter shall be transmitted to the
18 state treasurer within thirty days for deposit to the credit of the
19 motor vehicle account and the state patrol highway account in the
20 proportions established under this subsection. The department shall
21 determine the relative proportion of costs incurred by the state patrol
22 and the department for supervising and regulating motor carriers
23 subject to this section. Fees paid under this chapter shall be
24 deposited into the motor vehicle account and used to fund the
25 department's regulatory obligations under this chapter in an amount
26 that is proportionate to the costs incurred by the department for
27 supervising and regulating motor carriers subject to this chapter.
28 Fees paid under this chapter shall be deposited into the state patrol
29 highway account and used to fund the state patrol's regulatory
30 obligations under this chapter in an amount that is proportionate to
31 the costs incurred by the state patrol for supervising and regulating
32 motor carriers subject to this chapter.

33 NEW SECTION. **Sec. 78.** The Washington state patrol shall inspect
34 the vehicles, books, and documents of all motor carriers and the books,
35 documents, and records of those using the service of the motor carriers
36 for the purpose of discovering all information pertaining to the
37 enforcement of this chapter and shall prosecute violations of this

1 chapter. The state patrol shall employ auditors, inspectors, clerks,
2 and assistants necessary to enforce this chapter. The state patrol
3 shall perform all motor carrier safety inspections and compliance
4 reviews required by law. The attorney general shall assign at least
5 one assistant to the exclusive duty of assisting the state patrol in
6 the enforcement of this chapter and the prosecution of persons charged
7 with violating this chapter. The state patrol and local law
8 enforcement officers shall cite and the county attorneys shall
9 prosecute violations of the safety and liability insurance requirements
10 imposed upon motor carriers.

11 NEW SECTION. **Sec. 79.** (1) All motor carriers who own, manage,
12 control, or operate a class 1 commercial motor vehicle used in this
13 state must obtain a department of transportation number through
14 application to: (a) The Washington state patrol; or (b) the United
15 States department of transportation. An affected motor carrier with
16 operations in this state as of the effective date of this section must
17 apply for a department of transportation number before January 1, 2008.
18 All other affected motor carriers must obtain a department of
19 transportation number before operating in this state.

20 (2) The state patrol shall issue a department of transportation
21 number to any applicant under subsection (1) of this section who meets
22 the requirements of this chapter and all of the safety requirements
23 pertaining to motor carriers.

24 (3) The state patrol may place a motor carrier's department of
25 transportation number out of service and shall refuse to issue a
26 department of transportation number to any applicant under subsection
27 (1) of this section, when the motor carrier or applicant: (a) Fails to
28 meet the requirements of this chapter and all of the safety
29 requirements pertaining to motor carriers; (b) at the time of
30 application, has been placed out of service by the federal motor
31 carrier safety administration; (c) was previously placed out of service
32 for cause, and where cause has not been removed; (d) previously had a
33 department of transportation number or United States department of
34 transportation registration that was revoked for cause, where cause has
35 not been removed; (e) is a successor in interest, or a subterfuge for
36 the real party in interest, to a motor carrier identified in (b), (c),
37 or (d) of this subsection; (f) as an individual licensee, or as an

1 officer, director, owner, or managing employee of a nonindividual
2 licensee, was affiliated with a motor carrier identified in (b), (c),
3 or (d) of this subsection; or (g) has an unsatisfied debt to the state
4 assessed under this chapter.

5 NEW SECTION. **Sec. 80.** (1) The chief of the Washington state
6 patrol shall use data-driven analysis to prioritize for inspections
7 under RCW 46.32.020 and compliance reviews those motor carriers who
8 own, control, manage, or operate class 1 commercial motor vehicles, and
9 whose relative safety fitness identify them as higher risk motor
10 carriers.

11 (2) If the chief of the state patrol or the chief's designee finds
12 that a motor carrier is an imminent hazard or danger to the public
13 health, safety, or welfare, the state patrol shall notify the
14 department, and the department shall revoke the registrations for all
15 commercial vehicles that are owned by the motor carrier. In
16 determining whether a motor carrier is an imminent hazard or danger to
17 public health, safety, or welfare, the chief or the chief's designee
18 shall consider all safety factors.

19 (3) If the state patrol assesses deficiencies or violations against
20 a motor carrier during a compliance review after the motor carrier's
21 relative safety fitness identified it as a higher risk motor carrier
22 under subsection (1) of this section, then the state patrol shall
23 collect a fee of two hundred fifty dollars for each subsequent
24 compliance review of the particular deficiencies and violations
25 identified until the deficiencies and violations are adequately
26 corrected. Fees collected under this subsection shall be transmitted
27 to the state treasurer for deposit into the state patrol highway
28 account.

29 **Sec. 81.** RCW 46.04.480 and 1995 c 332 s 10 are each amended to
30 read as follows:

31 "Revoke," in all its forms, means the invalidation for a period of
32 one calendar year and thereafter until reissue(~~(;—PROVIDED, That)~~).
33 However, under the provisions of RCW 46.20.285, 46.20.311, 46.20.265,
34 or 46.61.5055, and chapters 46.32, 46.65, and 46.-- (sections 72
35 through 80 of this act) RCW, the invalidation may last for a period
36 other than one calendar year.

1 NEW SECTION. **Sec. 82.** A new section is added to chapter 46.16 RCW
2 to read as follows:

3 (1) When the department of licensing is notified by the Washington
4 state patrol or federal motor carrier safety administration that a
5 motor carrier's department of transportation number has been placed out
6 of service or revoked, the department shall revoke the vehicle
7 registrations for all commercial motor vehicles owned, controlled,
8 managed, or operated by the motor carrier. Any revocation under this
9 section remains in effect until the department receives notification
10 from the state patrol that the out-of-service order or the revocation
11 of the motor carrier's department of transportation number has been
12 rescinded.

13 (2) The department shall refuse to register, or renew the
14 registration for, a commercial motor vehicle if the department has
15 received notification from the state patrol or the federal motor
16 carrier safety administration that the motor carrier's department of
17 transportation number has been placed out of service or revoked.

18 (3) Any original or renewal application for registration of a
19 commercial motor vehicle regulated under chapter 46.-- RCW (sections 72
20 through 80 of this act), that is submitted or due after June 30, 2009,
21 must be accompanied by: (a) The department of transportation number
22 issued to the motor carrier; and (b) the federal taxpayer
23 identification number of the motor carrier.

24 **Sec. 83.** RCW 46.16.125 and 1997 c 215 s 2 are each amended to read
25 as follows:

26 In addition to the fees required by RCW 46.16.070, operators of
27 auto stages with seating capacity over six shall pay, (~~at the time~~
28 ~~they file gross earning returns with the utilities and transportation~~
29 ~~commission~~)) upon application for renewal of vehicle registration, the
30 sum of fifteen cents for each one hundred vehicle miles operated by
31 each auto stage over the public highways of this state. However, in
32 the case of each auto stage propelled by steam, electricity, natural
33 gas, diesel oil, butane, or propane, the payment required in this
34 section is twenty cents per one hundred miles of such operation. The
35 (~~commission~~)) department of licensing shall transmit all sums so
36 collected to the state treasurer, who shall deposit the same in the
37 motor vehicle fund. Any person failing to make any payment required by

1 this section is subject to a penalty of one hundred percent of the
2 payment due in this section, in addition to any penalty provided for
3 failure to submit a report. Any penalties so collected shall be
4 credited to the public service revolving fund.

5 **Sec. 84.** RCW 46.16.160 and 2002 c 352 s 8 and 2002 c 168 s 5 are
6 each reenacted and amended to read as follows:

7 (1) The owner of a vehicle which under reciprocal relations with
8 another jurisdiction would be required to obtain a license registration
9 in this state or an unlicensed vehicle which would be required to
10 obtain a license registration for operation on public highways of this
11 state may, as an alternative to such license registration, secure and
12 operate such vehicle under authority of a trip permit issued by this
13 state in lieu of a Washington certificate of license registration, and
14 licensed gross weight if applicable. The licensed gross weight may not
15 exceed eighty thousand pounds for a combination of vehicles nor forty
16 thousand pounds for a single unit vehicle with three or more axles.
17 Trip permits are required for movement of mobile homes or park model
18 trailers and may only be issued if property taxes are paid in full.
19 For the purpose of this section, a vehicle is considered unlicensed if
20 the licensed gross weight currently in effect for the vehicle or
21 combination of vehicles is not adequate for the load being carried.
22 Vehicles registered under RCW 46.16.135 shall not be operated under
23 authority of trip permits in lieu of further registration within the
24 same registration year.

25 (2) Each trip permit shall authorize the operation of a single
26 vehicle at the maximum legal weight limit for such vehicle for a period
27 of three consecutive days commencing with the day of first use. No
28 more than three such permits may be used for any one vehicle in any
29 period of thirty consecutive days, except that in the case of a
30 recreational vehicle as defined in RCW 43.22.335, no more than two trip
31 permits may be used for any one vehicle in a one-year period. Every
32 permit shall identify, as the department may require, the vehicle for
33 which it is issued and shall be completed in its entirety and signed by
34 the operator before operation of the vehicle on the public highways of
35 this state. Correction of data on the permit such as dates, license
36 number, or vehicle identification number invalidates the permit. The

1 trip permit shall be displayed on the vehicle to which it is issued as
2 prescribed by the department.

3 (3) Vehicles operating under authority of trip permits are subject
4 to all laws, rules, and regulations affecting the operation of like
5 vehicles in this state.

6 (4) Prorate operators operating commercial vehicles on trip permits
7 in Washington shall retain the customer copy of such permit for four
8 years.

9 (5) Trip permits may be obtained from field offices of the
10 department of transportation, (~~Washington state patrol,~~) department
11 of licensing, or other agents appointed by the department. The fee for
12 each trip permit is fifteen dollars. For each permit issued, the fee
13 includes a filing fee as provided by RCW 46.01.140 and an excise tax of
14 one dollar. The remaining portion of the trip permit fee must be
15 deposited to the credit of the motor vehicle fund as an administrative
16 fee. If the filing fee amount of three dollars as prescribed in RCW
17 46.01.140 is increased or decreased after July 1, 2002, the
18 administrative fee must be increased or decreased by the same amount so
19 that the total trip permit would be adjusted equally to compensate.
20 These fees and taxes are in lieu of all other vehicle license fees and
21 taxes. No exchange, credits, or refunds may be given for trip permits
22 after they have been purchased.

23 (6) The department may appoint county auditors or businesses as
24 agents for the purpose of selling trip permits to the public. County
25 auditors or businesses so appointed may retain the filing fee collected
26 for each trip permit to defray expenses incurred in handling and
27 selling the permits.

28 (7) If a motor carrier has been placed out of service by the
29 Washington state patrol or federal motor carrier safety administration,
30 or the motor carrier's department of transportation number has been
31 revoked, then a commercial motor vehicle owned, controlled, managed, or
32 operated by the motor carrier may not be operated on a trip permit. A
33 violation of or a failure to comply with this subsection is a gross
34 misdemeanor subject to a minimum monetary penalty of two thousand five
35 hundred dollars for the first violation and five thousand dollars for
36 each subsequent violation.

37 (8) Except as provided in subsection (7) of this section, a

1 violation of or a failure to comply with any provision of this section
2 is a gross misdemeanor.

3 ~~((+8))~~ (9) The department of licensing may adopt rules as it deems
4 necessary to administer this section.

5 ~~((+9))~~ (10) A surcharge of five dollars is imposed on the issuance
6 of trip permits. The portion of the surcharge paid by motor carriers
7 must be deposited in the motor vehicle fund for the purpose of
8 supporting vehicle weigh stations, weigh-in-motion programs, and the
9 commercial vehicle information systems and networks program. The
10 remaining portion of the surcharge must be deposited in the motor
11 vehicle fund for the purpose of supporting congestion relief programs.
12 All other administrative fees and excise taxes collected under the
13 provisions of this chapter shall be forwarded by the department with
14 proper identifying detailed report to the state treasurer who shall
15 deposit the administrative fees to the credit of the motor vehicle fund
16 and the excise taxes to the credit of the general fund. Filing fees
17 will be forwarded and reported to the state treasurer by the department
18 as prescribed in RCW 46.01.140.

19 **Sec. 85.** RCW 46.25.170 and 1989 c 178 s 19 are each amended to
20 read as follows:

21 (1) A person (~~((subject to RCW 81.04.405 who is determined by the~~
22 ~~utilities and transportation commission, after notice, to have~~
23 ~~committed an act that is in))~~ or entity, including any motor carrier
24 and any officer, agent, or employee of a motor carrier, who violates or
25 procures, aids, or abets in the violation of RCW 46.25.020, 46.25.030,
26 46.25.040, 46.25.050, or 46.25.110 ((is liable to Washington state for
27 the civil penalties provided for in RCW 81.04.405)) incurs a penalty of
28 one hundred dollars. Each violation is a separate and distinct offense
29 and each day of a continuing violation is a separate and distinct
30 violation. Every act or omission that procures, aids, or abets in the
31 violation of this section is subject to the penalty provided in this
32 section. The penalty provided in this section is due and payable when
33 the person incurring the penalty receives written notice, from the
34 Washington state patrol or the department of licensing, that describes
35 the violation and advises the person that the penalty is due. If the
36 amount of the penalty is not paid to the department of licensing within
37 fifteen days of notice, the attorney general shall bring an action in

1 the name of the state of Washington in the superior court of Thurston
2 county, or another county in which the violator may do business, to
3 recover the penalty. All penalties recovered under this section shall
4 be paid into the state treasury and credited to the motor vehicle
5 account.

6 (2) A person who violates or fails to comply with, or who procures,
7 aids, or abets in the violation of (~~any provision of~~) RCW 46.25.020,
8 46.25.030, 46.25.040, 46.25.050, or 46.25.110 is guilty of a gross
9 misdemeanor.

10 **Sec. 86.** RCW 46.30.020 and 2003 c 221 s 1 are each amended to read
11 as follows:

12 (1)(a) No person may operate a motor vehicle subject to
13 registration under chapter 46.16 RCW in this state unless the person is
14 insured under a motor vehicle liability policy with liability limits of
15 at least the amounts provided in RCW 46.29.090, is self-insured as
16 provided in RCW 46.29.630, is covered by a certificate of deposit in
17 conformance with RCW 46.29.550, or is covered by a liability bond of at
18 least the amounts provided in RCW 46.29.090. Written proof of
19 financial responsibility for motor vehicle operation must be provided
20 on the request of a law enforcement officer in the format specified
21 under RCW 46.30.030.

22 (b) A person who drives a motor vehicle that is required to be
23 registered in another state that requires drivers and owners of
24 vehicles in that state to maintain insurance or financial
25 responsibility shall, when requested by a law enforcement officer,
26 provide evidence of financial responsibility or insurance as is
27 required by the laws of the state in which the vehicle is registered.

28 (c) When asked to do so by a law enforcement officer, failure to
29 display an insurance identification card as specified under RCW
30 46.30.030 creates a presumption that the person does not have motor
31 vehicle insurance.

32 (d) Failure to provide proof of motor vehicle insurance is a
33 traffic infraction and is subject to penalties as set by the supreme
34 court under RCW 46.63.110 or community restitution.

35 (2) If a person cited for a violation of subsection (1) of this
36 section appears in person before the court or a violations bureau and
37 provides written evidence that at the time the person was cited, he or

1 she was in compliance with the financial responsibility requirements of
2 subsection (1) of this section, the citation shall be dismissed and the
3 court or violations bureau may assess court administrative costs of
4 twenty-five dollars at the time of dismissal. In lieu of personal
5 appearance, a person cited for a violation of subsection (1) of this
6 section may, before the date scheduled for the person's appearance
7 before the court or violations bureau, submit by mail to the court or
8 violations bureau written evidence that at the time the person was
9 cited, he or she was in compliance with the financial responsibility
10 requirements of subsection (1) of this section, in which case the
11 citation shall be dismissed without cost, except that the court or
12 violations bureau may assess court administrative costs of twenty-five
13 dollars at the time of dismissal.

14 (3) The provisions of this chapter shall not govern:

15 (a) The operation of a motor vehicle registered under RCW
16 46.16.305(1)((~~r~~)) or governed by RCW 46.16.020(~~(, or registered with~~
17 ~~the Washington utilities and transportation commission as common or~~
18 ~~contract carriers))~~); or

19 (b) The operation of a motorcycle as defined in RCW 46.04.330, a
20 motor-driven cycle as defined in RCW 46.04.332, or a moped as defined
21 in RCW 46.04.304.

22 (4) RCW 46.29.490 shall not be deemed to govern all motor vehicle
23 liability policies required by this chapter but only those certified
24 for the purposes stated in chapter 46.29 RCW.

25 (5)(a) The department of licensing shall require a motor carrier,
26 auto transportation company, charter party carrier, excursion service
27 carrier, private nonprofit transportation provider, solid waste
28 collection company, and household goods carrier who operates in this
29 state to (i) procure, file, and maintain liability and property damage
30 insurance from a company licensed to write such insurance in the state
31 of Washington, or (ii) deposit a security, for the limits of liability
32 and upon terms and conditions that the department shall determine as
33 necessary for the reasonable protection of the public against damage
34 and injury that a carrier may be liable for in the operation of any
35 motor vehicle. In fixing the limits of liability and property damage
36 insurance, or deposit of security, the department shall consider the
37 character and amount of traffic, the number of individuals affected,
38 and the degree of danger involved in the proposed operation.

1 (b) If an entity subject to this section fails to comply with this
2 subsection, or the department receives notification of the cancellation
3 of, revocation of, or noncompliant modification to the liability or
4 property damage insurance policy or policies, or withdrawal of any part
5 of a required security deposit, then the department shall notify the
6 entity in writing that failure to conform to the requirements of this
7 subsection within ten calendar days of the notice will result in the
8 revocation of vehicle registrations for all commercial motor vehicles
9 owned, controlled, managed, or operated by the entity. If, within ten
10 days of the written notice, the entity neither complies with this
11 subsection nor documents compliance to the satisfaction of the
12 department, then the department shall revoke the vehicle registrations
13 for all commercial motor vehicles owned, controlled, managed, or
14 operated by the entity. In addition to all other penalties provided by
15 law, an entity who violates this subsection is subject to a minimum
16 penalty of five thousand dollars. Each violation is a separate and
17 distinct offense, and each day of a continuing violation is a separate
18 and distinct violation.

19 (c) If the department is notified of the cancellation of,
20 revocation of, or other changes in the required insurance or security
21 of a motor carrier authorized to transport radioactive or hazardous
22 materials, the department shall immediately notify the state radiation
23 control agency of the cancellation, revocation, or change.

24 (d) The department shall notify the utilities commission when a
25 household goods carrier initially files liability insurance with the
26 department. If the department is notified of the cancellation of,
27 revocation of, or other changes in the required insurance or security
28 of a household goods carrier, the department shall immediately notify
29 the utilities commission of the cancellation, revocation, or change.

30 (e) The department shall notify the utilities commission when a
31 transportation provider who offers airport shuttle service initially
32 files liability insurance with the department. If the department is
33 notified of the cancellation of, revocation of, or other changes in the
34 required insurance or security of a transportation provider who offers
35 airport shuttle service, the department shall immediately notify the
36 utilities commission of the cancellation, revocation, or change.

37 (f) Cities, counties, and other local government entities may not

1 prescribe insurance, liability, or surety requirements for an entity
2 subject to this section.

3 **Sec. 87.** RCW 46.32.010 and 1993 c 403 s 2 are each amended to read
4 as follows:

5 (1) The chief of the Washington state patrol may operate, maintain,
6 or designate, throughout the state of Washington, stations for the
7 inspection of commercial motor vehicles, school buses, and private
8 carrier buses, with respect to vehicle equipment, drivers'
9 qualifications, and hours of service, and to set reasonable times when
10 inspection of vehicles shall be performed.

11 (2) The state patrol may inspect a commercial motor vehicle while
12 the vehicle is operating on the public highways of this state with
13 respect to vehicle equipment, hours of service, and driver
14 qualifications.

15 (3) It is unlawful for any vehicle required to be inspected to be
16 operated over the public highways of this state unless and until it has
17 been approved periodically as to equipment.

18 (4) Inspections shall be performed by a responsible employee of the
19 chief of the Washington state patrol, who shall be duly authorized and
20 who shall have authority to secure and withhold, with written notice to
21 the director of licensing, the certificate of license registration and
22 license plates of any vehicle found to be defective in equipment so as
23 to be unsafe or unfit to be operated upon the highways of this state,
24 and it shall be unlawful for any person to operate (~~such~~) a vehicle
25 placed out of service by an officer of the state patrol unless and
26 until it has been placed in a condition satisfactory to pass a
27 subsequent equipment inspection. The (~~police~~) officer in charge of
28 such vehicle equipment inspection shall grant to the operator of such
29 defective vehicle the privilege to move such vehicle to a place for
30 repair under such restrictions as may be reasonably necessary.

31 (5) In the event any insignia, sticker, or other marker is adopted
32 to be displayed upon vehicles in connection with the inspection of
33 vehicle equipment, it shall be displayed as required by the rules of
34 the chief of the Washington state patrol, and it is a traffic
35 infraction for any person to mutilate, destroy, remove, or otherwise
36 interfere with the display thereof.

1 (6) It is a traffic infraction for any person to refuse to have his
2 or her motor vehicle examined as required by the chief of the
3 Washington state patrol, or, after having had it examined, to refuse to
4 place an insignia, sticker, or other marker, if issued, upon the
5 vehicle, or fraudulently to obtain any such insignia, sticker, or other
6 marker, or to refuse to place his or her motor vehicle in proper
7 condition after having had it examined, or in any manner, to fail to
8 conform to the provisions of this chapter.

9 (7) It is a traffic infraction for any person to perform false or
10 improvised repairs, or repairs in any manner not in accordance with
11 acceptable and customary repair practices, upon a motor vehicle.

12 **Sec. 88.** RCW 46.32.080 and 1995 c 272 s 1 are each amended to read
13 as follows:

14 (1) The Washington state patrol is responsible for enforcement of
15 safety requirements for commercial motor vehicles(~~(7)~~) including, but
16 not limited to (~~(terminal)~~), safety audits and compliance reviews as
17 defined by 49 C.F.R. Sec. 385.3. (~~(Those)~~) Motor carriers that have
18 (~~(terminal)~~) operations in this state are subject to the state patrol's
19 (~~(terminal)~~) safety audits and compliance review program. Compliance
20 reviews may result in an enforcement action, including monetary
21 penalties.

22 (2) All records required by 49 C.F.R. Parts 40 and 380 through 397,
23 documents, and commercial motor vehicles of motor carriers with
24 operations in this state must be available for review and inspection
25 during normal business hours. Duly authorized agents of the state
26 patrol conducting safety audits and compliance reviews may enter the
27 motor carrier's place of business, or any location where records or
28 equipment are located, at reasonable times and without advanced notice.
29 Motor carriers who do not permit duly authorized agents to enter their
30 place of business, or any location where records or equipment are
31 located, for safety audits and compliance reviews are subject to an
32 enforcement action, including monetary penalties.

33 (3) This section does not apply to:

34 (a) Motor vehicles owned and operated by (~~(farmers)~~) a farmer in
35 the transportation of (~~(their own)~~) the farmer's farm, orchard, or
36 dairy products, including livestock and plant or animal wastes, (~~(from~~

1 ~~point of production to market or disposal~~) within one hundred fifty
2 miles of the farmer's property; or supplies or commodities to be used
3 on the farm, orchard, or dairy; and

4 (b) (~~Commercial motor carriers subject to economic regulation~~
5 ~~under chapters 81.68 (auto transportation companies), 81.70 (passenger~~
6 ~~charter carriers), 81.77 (solid waste collection companies), 81.80~~
7 ~~(motor freight carriers), and 81.90 (limousine charter carriers) RCW;~~
8 and

9 ~~(c)~~) Vehicles exempted from registration by RCW 46.16.020.

10 **Sec. 89.** RCW 46.32.090 and 1996 c 86 s 1 are each amended to read
11 as follows:

12 The department shall collect a fee of (~~ten~~) fourteen dollars, in
13 addition to all other fees and taxes, for each motor vehicle base
14 plated in the state of Washington that is subject to highway
15 inspections and (~~terminal audits~~) compliance reviews under RCW
16 46.32.080 (as recodified by this act), at the time of registration and
17 renewal of registration under chapter 46.16 or 46.87 RCW, or the
18 international registration plan if (~~based [base]~~) base plated in a
19 foreign jurisdiction. The (~~ten-dollar~~) fee must be apportioned for
20 those vehicles operating interstate and registered under the
21 international registration plan. This fee does not apply to nonmotor-
22 powered vehicles, including trailers. Refunds will not be provided for
23 fees paid under this section when the vehicle is no longer subject to
24 RCW 46.32.080 (as recodified by this act). The department may deduct
25 an amount equal to the cost of administering the program. All
26 remaining fees shall be deposited with the state treasurer and credited
27 to the state patrol highway account of the motor vehicle fund.

28 **Sec. 90.** RCW 46.32.100 and 2005 c 444 s 1 are each amended to read
29 as follows:

30 (1)(a) In addition to all other penalties provided by law, a
31 commercial motor vehicle that is subject to (~~terminal safety audits~~)
32 compliance reviews under this chapter and an officer, agent, or
33 employee of a company operating a commercial motor vehicle who violates
34 or who procures, aids, or abets in the violation of this title or any
35 order or rule of the state patrol is liable for a penalty of one
36 hundred dollars for each violation, except for each violation of 49

1 C.F.R. Pt. 382, controlled substances and alcohol use and testing, 49
2 C.F.R. Sec. 391.15, disqualification of drivers, and 49 C.F.R. Sec.
3 396.9(c)(2), moving a vehicle placed out of service before the
4 out_of_service defects have been satisfactorily repaired, for which the
5 person is (~~liable for~~) subject to a penalty of five hundred dollars.
6 The driver of a commercial motor vehicle who is subject to compliance
7 reviews under this chapter and who has violated an out-of-service order
8 is subject to a penalty of at least one thousand one hundred dollars
9 but not more than two thousand seven hundred fifty dollars, in addition
10 to disqualification under 49 C.F.R. Sec. 383.51(e). An employer who
11 violates 49 C.F.R. Sec. 383.37(c) is subject to a penalty of at least
12 two thousand seven hundred fifty dollars but not more than eleven
13 thousand dollars. An employer who violates 49 C.F.R. Sec. 383.37(d) is
14 subject to a penalty of not more than ten thousand dollars. Any person
15 who knowingly violates 49 C.F.R. Sec. 387 Subpart A is subject to a
16 penalty of not more than eleven thousand dollars. Each violation is a
17 separate and distinct offense, and (~~in case~~) each day of a continuing
18 violation (~~every day's continuance~~) is a separate and distinct
19 violation.

20 (b) In addition to all other penalties provided by law, any motor
21 carrier, company, or any officer or agent of a motor carrier or company
22 operating a commercial motor vehicle subject to compliance reviews
23 under this chapter who refuses entry or to make the required records,
24 documents, and vehicles available to a duly authorized agent of the
25 state patrol: (i) Is subject to a penalty of at least five thousand
26 dollars; (ii) may be placed out of service; and (iii) may have its
27 commercial vehicle registrations revoked by the department of
28 licensing. Each violation is a separate and distinct offense, and each
29 day of a continuing violation is a separate and distinct violation.

30 (c) A motor carrier who operates a commercial motor vehicle in
31 violation of an out-of-service order is subject to a monetary penalty
32 of not more than eleven thousand dollars. Each day that a motor
33 carrier operates a commercial motor vehicle in violation of an out-of-
34 service order is a separate and distinct violation under this
35 subsection.

36 (2) The Washington state patrol may place a motor carrier or
37 commercial motor vehicle out of service for violations of this chapter
38 or for nonpayment of any monetary penalty assessed as a result of

1 compliance reviews. The state patrol shall notify the department of
2 licensing when the state patrol places a motor carrier or commercial
3 motor vehicle out of service. An out-of-service order remains in
4 effect until the reasons that caused the order have been corrected.

5 ((The)) (3) Any penalty provided in this section is due and payable
6 when the person incurring it receives a notice in writing from the
7 state patrol describing the violation and advising the person that the
8 penalty is due. ~~((The patrol may, upon written application for review,~~
9 ~~received within fifteen days, remit or mitigate a penalty provided for~~
10 ~~in this section or discontinue a prosecution to recover the penalty~~
11 ~~upon such terms it deems proper and may ascertain the facts upon all~~
12 ~~such applications in such manner and under such rules as it deems~~
13 ~~proper.))~~ If the amount of the penalty is not paid to the state patrol
14 within ~~((fifteen))~~ twenty days after the later of (a) receipt of the
15 notice imposing the penalty, or ~~((application for remission or~~
16 ~~mitigation has not been made within fifteen days after the violator has~~
17 ~~received notice of the))~~ (b) disposition of ~~((the application,))~~ an
18 adjudicative proceeding regarding the penalty, the state patrol may
19 commence an adjudicative proceeding under chapter 34.05 RCW in the name
20 of the state of Washington to confirm the violation and recover the
21 penalty. In all such proceedings the procedure and rules of evidence
22 are as specified in chapter 34.05 RCW except as otherwise provided in
23 this chapter. All penalties recovered under this section shall be paid
24 into the state treasury and credited to the state patrol highway
25 account of the motor vehicle fund.

26 **Sec. 91.** RCW 46.44.105 and 2006 c 297 s 1 and 2006 c 50 s 4 are
27 each reenacted and amended to read as follows:

28 (1) Violation of any of the provisions of this chapter is a traffic
29 infraction, and upon the first finding thereof shall be assessed a
30 basic penalty of not less than fifty dollars; and upon a second finding
31 thereof shall be assessed a basic penalty of not less than seventy-five
32 dollars; and upon a third or subsequent finding shall be assessed a
33 basic penalty of not less than one hundred dollars.

34 (2) In addition to the penalties imposed in subsection (1) of this
35 section, any person violating RCW 46.44.041, 46.44.042, 46.44.047,
36 46.44.090, 46.44.091, or 46.44.095 shall be assessed a penalty for each
37 pound overweight, as follows:

1 (a) One pound through four thousand pounds overweight is three
2 cents for each pound;

3 (b) Four thousand one pounds through ten thousand pounds overweight
4 is one hundred twenty dollars plus twelve cents per pound for each
5 additional pound over four thousand pounds overweight;

6 (c) Ten thousand one pounds through fifteen thousand pounds
7 overweight is eight hundred forty dollars plus sixteen cents per pound
8 for each additional pound over ten thousand pounds overweight;

9 (d) Fifteen thousand one pounds through twenty thousand pounds
10 overweight is one thousand six hundred forty dollars plus twenty cents
11 per pound for each additional pound over fifteen thousand pounds
12 overweight;

13 (e) Twenty thousand one pounds and more is two thousand six hundred
14 forty dollars plus thirty cents per pound for each additional pound
15 over twenty thousand pounds overweight.

16 Upon a first violation in any calendar year, the court may suspend
17 the penalty for five hundred pounds of excess weight for each axle on
18 any vehicle or combination of vehicles, not to exceed a two thousand
19 pound suspension. In no case may the basic penalty assessed in
20 subsection (1) of this section or the additional penalty assessed in
21 subsection (2) of this section, except as provided for the first
22 violation, be suspended.

23 ~~(3) ((Whenever any vehicle or combination of vehicles is involved
24 in two violations of RCW 46.44.041, 46.44.042, 46.44.047, 46.44.090,
25 46.44.091, or 46.44.095 during any twelve month period, the court may
26 suspend the certificate of license registration of the vehicle or
27 combination of vehicles for not less than thirty days. Upon a third or
28 succeeding violation of RCW 46.44.041, 46.44.042, 46.44.047, 46.44.090,
29 46.44.091, or 46.44.095, during any twelve month period or a third or
30 succeeding out of service violation, as defined in the code of federal
31 regulations as of June 7, 2006, during any twelve month period, the
32 court shall suspend the certificate of license registration for not
33 less than thirty days. Whenever the certificate of license
34 registration is suspended, the court shall secure such certificate and
35 immediately forward the same to the director with information
36 concerning the suspension.~~

37 (4)) Any person found to have violated any posted limitations of
38 a highway or section of highway shall be assessed a monetary penalty of

1 not less than one hundred and fifty dollars, and the court shall in
2 addition thereto upon second violation within a twelve-month period
3 involving the same power unit, suspend the certificate of license
4 registration for not less than thirty days.

5 ~~((+5))~~ (4) It is unlawful for the driver of a vehicle to fail or
6 refuse to stop and submit the vehicle and load to a weighing, or to
7 fail or refuse, when directed by an officer upon a weighing of the
8 vehicle to stop the vehicle and otherwise comply with the provisions of
9 this section. It is unlawful for a driver of a commercial motor
10 vehicle as defined in RCW 46.32.005, other than the driver of a bus as
11 defined in RCW 46.32.005(3) or a vehicle with a gross vehicle weight
12 rating or gross combination weight rating of 7,257 kilograms or less
13 (16,000 pounds or less) and not transporting hazardous materials in
14 accordance with RCW 46.32.005(4), to fail or refuse to stop at a
15 weighing station when proper traffic control signs indicate scales are
16 open. However, unladen tow trucks regardless of weight and farm
17 vehicles carrying farm produce with a gross vehicle weight rating or
18 gross combination weight rating of 11,794 kilograms or less (26,000
19 pounds or less) may fail or refuse to stop at a weighing station when
20 proper traffic control signs indicate scales are open.

21 Any police officer is authorized to require the driver of any
22 vehicle or combination of vehicles to stop and submit to a weighing
23 either by means of a portable or stationary scale and may require that
24 the vehicle be driven to the nearest public scale. Whenever a police
25 officer, upon weighing a vehicle and load, determines that the weight
26 is unlawful, the officer may require the driver to stop the vehicle in
27 a suitable location and remain standing until such portion of the load
28 is removed as may be necessary to reduce the gross weight of the
29 vehicle to the limit permitted by law. If the vehicle is loaded with
30 grain or other perishable commodities, the driver shall be permitted to
31 proceed without removing any of the load, unless the gross weight of
32 the vehicle and load exceeds by more than ten percent the limit
33 permitted by this chapter. The owner or operator of the vehicle shall
34 care for all materials unloaded at the risk of the owner or operator.

35 Any vehicle whose driver or owner represents that the vehicle is
36 disabled or otherwise unable to proceed to a weighing location shall
37 have its load sealed or otherwise marked by any police officer. The
38 owner or driver shall be directed that upon completion of repairs, the

1 vehicle shall submit to weighing with the load and markings and/or seal
2 intact and undisturbed. Failure to report for weighing, appearing for
3 weighing with the seal broken or the markings disturbed, or removal of
4 any cargo prior to weighing is unlawful. Any person so convicted shall
5 be fined one thousand dollars, and in addition the certificate of
6 license registration shall be suspended for not less than thirty days.

7 ~~((+6+))~~ (5) Any other provision of law to the contrary
8 notwithstanding, district courts having venue have concurrent
9 jurisdiction with the superior courts for the imposition of any
10 penalties authorized under this section.

11 ~~((+7+))~~ (6) For the purpose of determining additional penalties as
12 provided by subsection (2) of this section, "overweight" means the
13 poundage in excess of the maximum allowable gross weight or axle/axle
14 grouping weight prescribed by RCW 46.44.041, 46.44.042, 46.44.047,
15 46.44.091, and 46.44.095.

16 ~~((+8+))~~ (7) The penalties provided in subsections (1) and (2) of
17 this section shall be remitted as provided in chapter 3.62 RCW or RCW
18 10.82.070. For the purpose of computing the basic penalties and
19 additional penalties to be imposed under subsections (1) and (2) of
20 this section, the convictions shall be on the same vehicle or
21 combination of vehicles within a twelve-month period under the same
22 ownership.

23 ~~((+9+))~~ (8) Any state patrol officer or any weight control officer
24 who finds any person operating a vehicle or a combination of vehicles
25 in violation of the conditions of a permit issued under RCW 46.44.047,
26 46.44.090, and 46.44.095 may confiscate the permit and forward it to
27 the state department of transportation which may return it to the
28 permittee or revoke, cancel, or suspend it without refund. The
29 department of transportation shall keep a record of all action taken
30 upon permits so confiscated, and if a permit is returned to the
31 permittee the action taken by the department of transportation shall be
32 endorsed thereon. Any permittee whose permit is suspended or revoked
33 may upon request receive a hearing before the department of
34 transportation or person designated by that department. After the
35 hearing the department of transportation may reinstate any permit or
36 revise its previous action.

37 Every permit issued as provided for in this chapter shall be

1 carried in the vehicle or combination of vehicles to which it refers
2 and shall be open to inspection by any law enforcement officer or
3 authorized agent of any authority granting such a permit.

4 Upon the third finding within a calendar year of a violation of the
5 requirements and conditions of a permit issued under RCW 46.44.095, the
6 permit shall be canceled, and the canceled permit shall be immediately
7 transmitted by the court or the arresting officer to the department of
8 transportation. The vehicle covered by the canceled permit is not
9 eligible for a new permit for a period of thirty days.

10 ~~((+10+))~~ (9) For the purposes of determining gross weights the
11 actual scale weight taken by the arresting officer is prima facie
12 evidence of the total gross weight.

13 ~~((+11+))~~ (10) It is a traffic infraction to direct the loading of
14 a vehicle with knowledge that it violates the requirements in RCW
15 46.44.041, 46.44.042, 46.44.047, 46.44.090, 46.44.091, or 46.44.095 and
16 that it is to be operated on the public highways of this state.

17 ~~((+12+))~~ (11) The chief of the state patrol, with the advice of the
18 department, may adopt reasonable rules to aid in the enforcement of
19 this section.

20 **Sec. 92.** RCW 46.48.175 and 1980 c 104 s 1 are each amended to read
21 as follows:

22 Each violation of any rules and/or regulations made pursuant to RCW
23 46.48.170 or ~~((81.80.290))~~ section 73 of this act pertaining to vehicle
24 equipment on motor carriers transporting hazardous material shall be a
25 misdemeanor.

26 Bail for such a violation shall be set at a minimum of one hundred
27 dollars. The fine for such a violation shall be not less than two
28 hundred dollars nor more than five hundred dollars. Compliance with
29 the provisions of this chapter is the primary responsibility of the
30 owner or lessee of the vehicle or any vehicle used in combination that
31 is cited in the violation.

32 **Sec. 93.** RCW 46.52.060 and 2005 c 171 s 2 are each amended to read
33 as follows:

34 It shall be the duty of the chief of the Washington state patrol to
35 file, tabulate, and analyze all accident reports and to publish
36 annually, immediately following the close of each fiscal year, and

1 monthly during the course of the year, statistical information based
2 thereon showing the number of accidents, the location, the frequency,
3 whether any driver involved in the accident was distracted at the time
4 of the accident and the circumstances thereof, and other statistical
5 information which may prove of assistance in determining the cause of
6 vehicular accidents. Distractions contributing to an accident to be
7 reported must include at least the following: Not distracted;
8 operating a handheld electronic telecommunication device; operating a
9 hands-free wireless telecommunication device; other electronic devices
10 (including, but not limited to, PDA's, laptop computers, navigational
11 devices, etc.); adjusting an audio or entertainment system; smoking;
12 eating or drinking; reading or writing; grooming; interacting with
13 children, passengers, animals, or objects in the vehicle; other inside
14 distractions; outside distractions; and distraction unknown.

15 Such accident reports and analysis or reports thereof shall be
16 available to the director of licensing, the department of
17 transportation, the ~~((utilities and))~~ transportation commission, the
18 traffic safety commission, and other public entities authorized by the
19 chief of the Washington state patrol, or their duly authorized
20 representatives, for further tabulation and analysis for pertinent data
21 relating to the regulation of highway traffic, highway construction,
22 vehicle operators and all other purposes, and to publish information so
23 derived as may be deemed of publication value.

24 **Sec. 94.** RCW 46.61.350 and 1977 c 78 s 1 are each amended to read
25 as follows:

26 (1) The driver of any motor vehicle carrying passengers for hire,
27 other than a passenger car, or of any school bus or private carrier bus
28 carrying any school child or other passenger, or of any vehicle
29 carrying explosive substances or flammable liquids as a cargo or part
30 of a cargo, before crossing at grade any track or tracks of a railroad,
31 shall stop such vehicle within fifty feet but not less than fifteen
32 feet from the nearest rail of such railroad and while so stopped shall
33 listen and look in both directions along such track for any approaching
34 train, and for signals indicating the approach of a train, except as
35 hereinafter provided, and shall not proceed until he or she can do so
36 safely. After stopping as required herein and upon proceeding when it
37 is safe to do so the driver of any said vehicle shall cross only in

1 such gear of the vehicle that there will be no necessity for changing
2 gears while traversing such crossing, and the driver shall not shift
3 gears while crossing the track or tracks.

4 (2) This section shall not apply at:

5 (a) Any railroad grade crossing at which traffic is controlled by
6 a police officer or a duly authorized flagman;

7 (b) Any railroad grade crossing at which traffic is regulated by a
8 traffic control signal;

9 (c) Any railroad grade crossing protected by crossing gates or an
10 alternately flashing light signal intended to give warning of the
11 approach of a railroad train(+

12 ~~(d) Any railroad grade crossing at which an official traffic~~
13 ~~control device as designated by the utilities and transportation~~
14 ~~commission pursuant to RCW 81.53.060 gives notice that the stopping~~
15 ~~requirement imposed by this section does not apply)).~~

16 **Sec. 95.** RCW 46.61.410 and 1996 c 52 s 1 are each amended to read
17 as follows:

18 (1)(a) Subject to subsection (2) of this section, the secretary may
19 increase the maximum speed limit on any highway or portion thereof to
20 not more than seventy miles per hour in accordance with the design
21 speed thereof (taking into account all safety elements included
22 therein), or whenever the secretary determines upon the basis of an
23 engineering and traffic investigation that such greater speed is
24 reasonable and safe under the circumstances existing on such part of
25 the highway.

26 (b) The greater maximum limit established under (a) of this
27 subsection shall be effective when appropriate signs giving notice
28 thereof are erected, or if a maximum limit is established for auto
29 stages which is lower than the limit for automobiles, the auto stage
30 speed limit shall become effective thirty days after written notice
31 thereof is mailed in the manner provided in subsection (4) of this
32 section.

33 (c) Such maximum speed limit may be declared to be effective at all
34 times or at such times as are indicated upon said signs or in the case
35 of auto stages, as indicated in said written notice; and differing
36 limits may be established for different times of day, different types
37 of vehicles, varying weather conditions, and other factors bearing on

1 safe speeds, which shall be effective when posted upon appropriate
2 fixed or variable signs or if a maximum limit is established for auto
3 stages which is lower than the limit for automobiles, the auto stage
4 speed limit shall become effective thirty days after written notice
5 thereof is mailed in the manner provided in subsection (4) of this
6 section.

7 (2) The maximum speed limit for vehicles over ten thousand pounds
8 gross weight and vehicles in combination except auto stages shall not
9 exceed sixty miles per hour and may be established at a lower limit by
10 the secretary as provided in RCW 46.61.405.

11 (3) The word "trucks" used by the department on signs giving notice
12 of maximum speed limits means vehicles over ten thousand pounds gross
13 weight and all vehicles in combination except auto stages.

14 (4) Whenever the secretary establishes maximum speed limits for
15 auto stages lower than the maximum limits for automobiles, the
16 secretary shall (~~cause to be mailed~~) mail notice (~~thereof~~) to each
17 auto transportation company (~~holding a certificate of public~~
18 ~~convenience and necessity issued by the Washington utilities and~~
19 ~~transportation commission~~) licensed by the department of licensing.
20 The notice shall be mailed to the chief place of business within the
21 state of Washington of each auto transportation company or if none
22 exists then its chief place of business (~~without~~) outside the state
23 of Washington.

24 **Sec. 96.** RCW 46.61.687 and 2005 c 415 s 1 and 2005 c 132 s 1 are
25 each reenacted and amended to read as follows:

26 (1) Whenever a child who is less than sixteen years of age is being
27 transported in a motor vehicle that is in operation and that is
28 required by RCW 46.37.510 to be equipped with a safety belt system in
29 a passenger seating position, or is being transported in a neighborhood
30 electric vehicle that is in operation, the driver of the vehicle shall
31 keep the child properly restrained as follows:

32 (a) A child must be restrained in a child restraint system, if the
33 passenger seating position equipped with a safety belt system allows
34 sufficient space for installation, until the child is eight years old,
35 unless the child is four feet nine inches or taller. The child
36 restraint system must comply with standards of the United States

1 department of transportation and must be secured in the vehicle in
2 accordance with instructions of the vehicle manufacturer and the child
3 restraint system manufacturer.

4 (b) A child who is eight years of age or older or four feet nine
5 inches or taller shall be properly restrained with the motor vehicle's
6 safety belt properly adjusted and fastened around the child's body or
7 an appropriately fitting child restraint system.

8 (c) The driver of a vehicle transporting a child who is under
9 thirteen years old shall transport the child in the back seat positions
10 in the vehicle where it is practical to do so.

11 (2) Enforcement of subsection (1) of this section is subject to a
12 visual inspection by law enforcement to determine if the child
13 restraint system in use is appropriate for the child's individual
14 height, weight, and age. The visual inspection for usage of a child
15 restraint system must ensure that the child restraint system is being
16 used in accordance with the instruction of the vehicle and the child
17 restraint system manufacturers. The driver of a vehicle transporting
18 a child who is under thirteen years old shall transport the child in
19 the back seat positions in the vehicle where it is practical to do so.

20 (3) A person violating subsection (1) of this section may be issued
21 a notice of traffic infraction under chapter 46.63 RCW. If the person
22 to whom the notice was issued presents proof of acquisition of an
23 approved child passenger restraint system or a child booster seat, as
24 appropriate, within seven days to the jurisdiction issuing the notice
25 and the person has not previously had a violation of this section
26 dismissed, the jurisdiction shall dismiss the notice of traffic
27 infraction.

28 (4) Failure to comply with the requirements of this section shall
29 not constitute negligence by a parent or legal guardian. Failure to
30 use a child restraint system shall not be admissible as evidence of
31 negligence in any civil action.

32 (5) This section does not apply to: (a) For hire vehicles(~~(7)~~);
33 (b) vehicles designed to transport sixteen or less passengers,
34 including the driver, operated by auto transportation companies(~~(7)~~
35 ~~as defined in RCW 81.68.010~~); (c) vehicles providing customer shuttle
36 service between parking, convention, and hotel facilities, and airport
37 terminals(~~(7)~~); and (d) school buses.

1 (6) As used in this section, "child restraint system" means a child
2 passenger restraint system that meets the federal motor vehicle safety
3 standards set forth in 49 C.F.R. Sec. 571.213.

4 (7) The requirements of subsection (1) of this section do not apply
5 in any seating position where there is only a lap belt available and
6 the child weighs more than forty pounds.

7 (8)(a) Except as provided in (b) of this subsection, a person who
8 has a current national certification as a child passenger safety
9 technician and who in good faith provides inspection, adjustment, or
10 educational services regarding child passenger restraint systems is not
11 liable for civil damages resulting from any act or omission in
12 providing the services, other than acts or omissions constituting gross
13 negligence or willful or wanton misconduct.

14 (b) The immunity provided in this subsection does not apply to a
15 certified child passenger safety technician who is employed by a
16 retailer of child passenger restraint systems and who, during his or
17 her hours of employment and while being compensated, provides
18 inspection, adjustment, or educational services regarding child
19 passenger restraint systems.

20 **Sec. 97.** RCW 46.72.010 and 1996 c 87 s 18 are each amended to read
21 as follows:

22 When used in this chapter:

23 (1) (~~The term~~) "For hire vehicle" includes all vehicles and
24 vessels used for the transportation of passengers for compensation, or
25 as a private, nonprofit transportation provider, except (~~auto~~
26 ~~stages,~~) school buses operating exclusively under a contract to a
27 school district, ride-sharing vehicles under chapter 46.74 RCW,
28 limousine carriers licensed under chapter 46.72A RCW, (~~vehicles used~~
29 ~~by nonprofit transportation providers for elderly or handicapped~~
30 ~~persons and their attendants under chapter 81.66 RCW, vehicles used by~~
31 ~~auto transportation companies licensed under chapter 81.68 RCW,~~) and
32 vehicles used to provide courtesy transportation at no charge to and
33 from parking lots, hotels, and rental offices(~~, and vehicles used by~~
34 ~~charter party carriers of passengers and excursion service carriers~~
35 ~~licensed under chapter 81.70 RCW));~~

36 (2) (~~The term~~) "For hire operator" means (~~and includes~~) any

1 person, concern, or entity engaged in the transportation of passengers
2 for compensation, or as a private, nonprofit transportation provider,
3 in for hire vehicles.

4 **Sec. 98.** RCW 46.72.040 and 1973 c 15 s 1 are each amended to read
5 as follows:

6 (1) Before a ((permit is issued)) for hire operator may conduct
7 business in this state, the department of licensing shall first require
8 every for hire operator ((shall be required to deposit and thereafter
9 keep on file with the director a surety bond running to the state of
10 Washington covering each and every for hire vehicle as may be owned or
11 leased by him and used in the conduct of his business as a for hire
12 operator. Such bond shall be in the sum of one hundred thousand
13 dollars for any recovery for death or personal injury by one person,
14 and three hundred thousand dollars for all persons killed or receiving
15 personal injury by reason of one act of negligence, and twenty five
16 thousand dollars for damage to property of any person other than the
17 assured, with a good and sufficient surety company licensed to do
18 business in this state as surety and to be approved by the director,
19 conditioned for the faithful compliance by the principal of said bond
20 with the provisions of this chapter, and to pay all damages which may
21 be sustained by any person injured by reason of any careless negligence
22 or unlawful act on the part of said principal, his agents or employees
23 in the conduct of said business or in the operation of any motor
24 propelled vehicle used in transporting passengers for compensation on
25 any public highway of this state.)) to procure liability and property
26 damage insurance from a company licensed to make liability insurance in
27 the state of Washington or write a surety bond of a company licensed to
28 write surety bonds in the state of Washington on each motor propelled
29 vehicle used or to be used. The amount of liability insurance or
30 surety must be no less than the greater of: (a) The amount specified
31 by applicable federal law, if any; or (b) one hundred thousand dollars,
32 for any recovery for personal injury by one person, and not less than
33 three hundred thousand dollars, for any vehicle having a capacity of
34 sixteen passengers or less, and not less than five hundred thousand
35 dollars for any vehicle having a capacity of seventeen passengers or
36 more for all persons receiving personal injury by reason of at least
37 one act of negligence, and not less than fifty thousand dollars for

1 damage to property of any person other than the insured. The
2 department shall fix the amount of the insurance policy or policies or
3 security deposit while considering the character and amount of traffic,
4 the number of individuals affected, and the degree of danger that the
5 proposed operation involves. The liability and property damage
6 insurance or surety bond must be maintained in force on the motor
7 propelled vehicle while in use, and each policy for liability or
8 property damage insurance or surety bond required by this section must
9 be filed with the department and kept in full force and effect. In
10 addition to other penalties provided by law, failure to file the policy
11 or surety bond with the department, or to maintain the policy or surety
12 bone as required, is subject to a fine of not less than one thousand
13 dollars.

14 (2) Any company authorized to transport persons for compensation on
15 the highways and engaging in interstate, or interstate and intrastate,
16 operations within the state of Washington, which is or becomes
17 qualified as a self-insurer under applicable federal law, is exempt, so
18 long as the company remains qualified, from carrying or filing
19 insurance policies or surety bonds in connection with the company's
20 operations. The department may require the company to prove the
21 existence and continuation of federal qualification as a self-insurer
22 by affidavit, in a form the department prescribes.

23 (3) Every officer, agent, or employee of any corporation, and every
24 other person who violates or fails to comply with, or who procures,
25 aids, or abets in the violation of this section, or who fails to obey,
26 observe, or comply with any order, decision, rule, direction, demand,
27 or requirement of the department under this section is guilty of a
28 gross misdemeanor.

29 (4) The department may collect a fee from companies subject to this
30 chapter that covers the department's insurance monitoring obligations
31 under this chapter.

32 **Sec. 99.** RCW 46.72.050 and 1973 c 15 s 2 are each amended to read
33 as follows:

34 ~~((In lieu of the surety bond as provided in this chapter, there may~~
35 ~~be deposited and kept on file and in force with the director a public~~
36 ~~liability insurance policy covering each and every motor vehicle~~
37 ~~operated or intended to be so operated, executed by an insurance~~

1 ~~company licensed and authorized to write such insurance policies in the~~
2 ~~state of Washington, assuring the applicant for a permit against~~
3 ~~property damage and personal liability to the public, with the premiums~~
4 ~~paid and payment noted thereon. Said policy of insurance shall provide~~
5 ~~a minimum coverage equal and identical to the coverage required by the~~
6 ~~aforesaid surety bond, specified under the provisions of RCW 46.72.040.~~
7 ~~No provisions of)) This chapter ((shall be construed to)) does not
8 limit the right of any injured person to any private right of action
9 against a for hire operator ((as herein defined)).~~

10 **Sec. 100.** RCW 46.72.060 and 1961 c 12 s 46.72.060 are each amended
11 to read as follows:

12 Every person having a cause of action for damages against any
13 person, firm, or corporation receiving a permit under the provisions of
14 this chapter, for injury, damages, or wrongful death caused by any
15 careless, negligent, or unlawful act of any such person, firm, or
16 corporation or ((his,)) their((, or its)) agents or employees in
17 conducting or carrying on said business or in operating any ((~~motor~~
18 ~~propelled vehicle for the carrying and transporting of passengers~~)) for
19 hire vehicle over and along any public street, road, or highway shall
20 have a cause of action against the principal and surety upon the bond
21 or the insurance company and the insured for all damages sustained, and
22 in any such action the full amount of damages sustained may be
23 recovered against the principal, but the recovery against the surety
24 shall be limited to the amount of the bond.

25 **Sec. 101.** RCW 46.73.010 and 2005 c 319 s 120 are each amended to
26 read as follows:

27 The Washington state patrol may adopt rules establishing standards
28 for qualifications and hours of service of drivers for private carriers
29 ((as defined by RCW 81.80.010(6))). Such standards shall correlate
30 with and, as far as reasonable, conform to the regulations contained in
31 Title 49 C.F.R., Chapter 3, Subchapter B, Parts 391 and 395, on July
32 28, 1985.

33 **Sec. 102.** RCW 46.73.020 and 1985 c 333 s 2 are each amended to
34 read as follows:

35 The delegation of rule-making authority contained in RCW 46.73.010

1 is conditioned upon the continued receipt of federal funds or grants
2 for the support of state enforcement of such rules. Within ninety days
3 of finding that federal funds or grants are withdrawn or not renewed,
4 the Washington state patrol and the (~~Washington utilities and~~
5 ~~transportation commission~~) department of licensing shall repeal any
6 and all rules adopted under RCW 46.73.010.

7 **Sec. 103.** RCW 46.74.010 and 1997 c 250 s 8 and 1997 c 95 s 1 are
8 each reenacted and amended to read as follows:

9 The definitions set forth in this section shall apply throughout
10 this chapter, unless the context clearly indicates otherwise.

11 (1) "Commuter ride sharing" means a car pool or van pool
12 arrangement whereby one or more fixed groups not exceeding fifteen
13 persons each including the drivers, and (a) not fewer than five persons
14 including the drivers, or (b) not fewer than four persons including the
15 drivers where at least two of those persons are confined to wheelchairs
16 when riding, are transported in a passenger motor vehicle with a gross
17 vehicle weight not exceeding ten thousand pounds, excluding special
18 rider equipment, between their places of abode or termini near such
19 places, and their places of employment or educational or other
20 institutions, each group in a single daily round trip where the drivers
21 are also on the way to or from their places of employment or
22 educational or other institution.

23 (2) "Flexible commuter ride sharing" means a car pool or van pool
24 arrangement whereby a group of at least two but not exceeding fifteen
25 persons including the driver is transported in a passenger motor
26 vehicle with a gross vehicle weight not exceeding ten thousand pounds,
27 excluding special rider equipment, between their places of abode or
28 termini near such places, and their places of employment or educational
29 or other institutions, where the driver is also on the way to or from
30 his or her place of employment or educational or other institution.

31 (3) "Ride sharing for persons with special transportation needs"
32 means an arrangement whereby a group of persons with special
33 transportation needs, and their attendants, is transported by a public
34 social service agency or a private, nonprofit transportation provider
35 (~~as defined in RCW 81.66.010(3)~~) in a passenger motor vehicle as
36 defined by the department to include small buses, cutaways, and

1 modified vans not more than twenty-eight feet long: PROVIDED, That the
2 driver need not be a person with special transportation needs.

3 (4) "Ride-sharing operator" means the person, entity, or concern,
4 not necessarily the driver, responsible for the existence and
5 continuance of commuter ride sharing, flexible commuter ride sharing,
6 or ride sharing for persons with special transportation needs. (~~The~~
7 ~~term~~) "Ride-sharing operator" includes but is not limited to an
8 employer, an employer's agent, an employer-organized association, a
9 state agency, a county, a city, a public transportation benefit area,
10 or any other political subdivision that owns or leases a ride-sharing
11 vehicle.

12 (5) "Ride-sharing promotional activities" means those activities
13 involved in forming a commuter ride-sharing arrangement or a flexible
14 commuter ride-sharing arrangement, including but not limited to
15 receiving information from existing and prospective ride-sharing
16 participants, sharing that information with other existing and
17 prospective ride-sharing participants, matching those persons with
18 other existing or prospective ride-sharing participants, and making
19 assignments of persons to ride-sharing arrangements.

20 (~~(6) "Persons with special transportation needs" means those~~
21 ~~persons defined in RCW 81.66.010(4).)~~)

22 **Sec. 104.** RCW 46.76.010 and 1961 c 12 s 46.76.010 are each amended
23 to read as follows:

24 (~~It shall be unlawful for~~) Any person, firm, partnership,
25 association, or corporation (~~to engage~~) engaging in the business of
26 delivering by the driveaway or towaway methods vehicles (~~not his own~~
27 ~~and of a type~~) required to be registered under the laws of this
28 state(~~, without procuring~~) shall procure a transporter's license in
29 accordance with (~~the provisions of~~) this chapter.

30 This shall not apply to motor (~~freight~~) carriers or operations
31 regularly (~~licensed under the provisions of chapter 81.80 RCW~~)
32 contracted to haul such vehicles, as commercial goods, on trailers or
33 semitrailers.

34 "Driveaway or towaway methods" means the delivery service rendered
35 by a motor vehicle transporter wherein motor vehicles are driven singly
36 or in combinations by the towbar, saddlemount, or fullmount methods, or

1 any lawful combinations thereof, or where a truck or truck-tractor
2 draws or tows a semitrailer or trailer.

3 **Sec. 105.** RCW 46.76.067 and 1988 c 239 s 4 are each amended to
4 read as follows:

5 (1) (~~Any person or organization that transports any mobile home or~~
6 ~~other vehicle for hire shall comply with this chapter and chapter 81.80~~
7 ~~RCW. Persons or organizations that do not have a valid permit or meet~~
8 ~~other requirements under chapter 81.80 RCW shall not be issued~~) The
9 department may not issue a transporter license or transporter plates to
10 transport mobile homes or other vehicles to any person or organization
11 that does not meet the requirements of this title. RCW 46.76.065(5)
12 applies to persons or organizations that have transporter licenses or
13 plates and do not meet the requirements of (~~chapter 81.80 RCW~~) this
14 title.

15 (2) This section does not apply to mobile home manufacturers or
16 dealers that are licensed and delivering the mobile home under chapter
17 46.70 RCW.

18 **Sec. 106.** RCW 47.06.050 and 2002 c 5 s 413 are each amended to
19 read as follows:

20 The state-owned facilities component of the statewide
21 transportation plan shall consist of:

22 (1) The state highway system plan, which identifies program and
23 financing needs and recommends specific and financially realistic
24 improvements to preserve the structural integrity of the state highway
25 system, ensure acceptable operating conditions, and provide for
26 enhanced access to scenic, recreational, and cultural resources. The
27 state highway system plan shall contain the following elements:

28 (a) A system preservation element, which shall establish structural
29 preservation objectives for the state highway system including bridges,
30 identify current and future structural deficiencies based upon analysis
31 of current conditions and projected future deterioration, and recommend
32 program funding levels and specific actions necessary to preserve the
33 structural integrity of the state highway system consistent with
34 adopted objectives. Lowest life cycle cost methodologies must be used
35 in developing a pavement management system. This element shall serve

1 as the basis for the preservation component of the six-year highway
2 program and the two-year biennial budget request to the legislature;

3 (b) A highway maintenance element, establishing service levels for
4 highway maintenance on state-owned highways that meet benchmarks
5 established by the transportation commission. The highway maintenance
6 element must include an estimate of costs for achieving those service
7 levels over twenty years. This element will serve as the basis for the
8 maintenance component of the six-year highway program and the two-year
9 biennial budget request to the legislature;

10 (c) A capacity and operational improvement element, which shall
11 establish operational objectives, including safety considerations, for
12 moving people and goods on the state highway system, identify current
13 and future capacity, operational, and safety deficiencies, and
14 recommend program funding levels and specific improvements and
15 strategies necessary to achieve the operational objectives. In
16 developing capacity and operational improvement plans the department
17 shall first assess strategies to enhance the operational efficiency of
18 the existing system before recommending system expansion. Strategies
19 to enhance the operational efficiencies include but are not limited to
20 access management, transportation system management, demand management,
21 and high-occupancy vehicle facilities. The capacity and operational
22 improvement element must conform to the state implementation plan for
23 air quality and be consistent with regional transportation plans
24 adopted under chapter 47.80 RCW, and shall serve as the basis for the
25 capacity and operational improvement portions of the six-year highway
26 program and the two-year biennial budget request to the legislature;

27 (d) A scenic and recreational highways element, which shall
28 identify and recommend designation of scenic and recreational highways,
29 provide for enhanced access to scenic, recreational, and cultural
30 resources associated with designated routes, and recommend a variety of
31 management strategies to protect, preserve, and enhance these
32 resources. The department, affected counties, cities, and towns,
33 regional transportation planning organizations, and other state or
34 federal agencies shall jointly develop this element;

35 (e) A paths and trails element, which shall identify the needs of
36 nonmotorized transportation modes on the state transportation systems
37 and provide the basis for the investment of state transportation funds

1 in paths and trails, including funding provided under chapter 47.30
2 RCW.

3 (2) The state ferry system plan, which shall guide capital and
4 operating investments in the state ferry system. The plan shall
5 establish service objectives for state ferry routes, forecast travel
6 demand for the various markets served in the system, develop strategies
7 for ferry system investment that consider regional and statewide
8 vehicle and passenger needs, support local land use plans, and assure
9 that ferry services are fully integrated with other transportation
10 services. The plan must provide for maintenance of capital assets.
11 The plan must also provide for preservation of capital assets based on
12 lowest life cycle cost methodologies. The plan shall ~~((assess))~~
13 consider the role of private ferries ~~((operating under the authority of~~
14 ~~the utilities and transportation commission and shall coordinate))~~ when
15 developing ferry system capital and operational plans ~~((with these~~
16 ~~private operations))~~. The ferry system plan must be consistent with
17 the regional transportation plans for areas served by the state ferry
18 system, and shall be developed in conjunction with the ferry advisory
19 committees.

20 **Sec. 107.** RCW 47.06A.020 and 2005 c 319 s 125 are each amended to
21 read as follows:

22 (1) The board shall:

23 (a) Adopt rules and procedures necessary to implement the freight
24 mobility strategic investment program;

25 (b) Solicit from public entities proposed projects that meet
26 eligibility criteria established in accordance with subsection (4) of
27 this section; and

28 (c) Review and evaluate project applications based on criteria
29 established under this section, and prioritize and select projects
30 comprising a portfolio to be funded in part with grants from state
31 funds appropriated for the freight mobility strategic investment
32 program. In determining the appropriate level of state funding for a
33 project, the board shall ensure that state funds are allocated to
34 leverage the greatest amount of partnership funding possible. After
35 selecting projects comprising the portfolio, the board shall submit
36 them ~~((as part of its budget request to the office of financial~~
37 ~~management and the legislature))~~ to the secretary of the department of

1 transportation and the transportation commission. The board shall
2 ensure that projects submitted as part of the portfolio are not more
3 appropriately funded with other federal, state, or local government
4 funding mechanisms or programs. The board shall reject those projects
5 that appear to improve overall general mobility with limited
6 enhancement for freight mobility.

7 ~~((The board shall provide periodic progress reports on its
8 activities to the office of financial management and the senate and
9 house transportation committees.))~~

10 (2) The board may:

11 (a) Accept from any state or federal agency, loans or grants for
12 the financing of any transportation project and enter into agreements
13 with any such agency concerning the loans or grants;

14 (b) Provide technical assistance to project applicants;

15 (c) Accept any gifts, grants, or loans of funds, property, or
16 financial, or other aid in any form from any other source on any terms
17 and conditions which are not in conflict with this chapter;

18 (d) Adopt rules under chapter 34.05 RCW as necessary to carry out
19 the purposes of this chapter; and

20 (e) Do all things necessary or convenient to carry out the powers
21 expressly granted or implied under this chapter.

22 (3) The board shall designate strategic freight corridors within
23 the state. The board shall update the list of designated strategic
24 corridors not less than every two years, and shall establish a method
25 of collecting and verifying data, including information on city and
26 county-owned roadways.

27 (4) The board shall utilize threshold project eligibility criteria
28 that, at a minimum, includes the following:

29 (a) The project must be on a strategic freight corridor;

30 (b) The project must meet one of the following conditions:

31 (i) It is primarily aimed at reducing identified barriers to
32 freight movement with only incidental benefits to general or personal
33 mobility; or

34 (ii) It is primarily aimed at increasing capacity for the movement
35 of freight with only incidental benefits to general or personal
36 mobility; or

37 (iii) It is primarily aimed at mitigating the impact on communities

1 of increasing freight movement, including roadway/railway conflicts;
2 and

3 (c) The project must have a total public benefit/total public cost
4 ratio of equal to or greater than one.

5 (5) From June 11, 1998, through the biennium ending June 30, 2001,
6 the board shall use the multicriteria analysis and scoring framework
7 for evaluating and ranking eligible freight mobility and freight
8 mitigation projects developed by the freight mobility project
9 prioritization committee and contained in the January 16, 1998, report
10 entitled "Project Eligibility, Priority and Selection Process for a
11 Strategic Freight Investment Program." The prioritization process
12 shall measure the degree to which projects address important program
13 objectives and shall generate a project score that reflects a project's
14 priority compared to other projects. The board shall assign scoring
15 points to each criterion that indicate the relative importance of the
16 criterion in the overall determination of project priority. After June
17 30, 2001, the board may supplement and refine the initial project
18 priority criteria and scoring framework developed by the freight
19 mobility project prioritization committee as expertise and experience
20 is gained in administering the freight mobility program.

21 (6) It is the intent of the legislature that each freight mobility
22 project contained in the project portfolio submitted by the board
23 utilize the greatest amount of nonstate funding possible. The board
24 shall adopt rules that give preference to projects that contain the
25 greatest levels of financial participation from nonprogram fund
26 sources. The board shall consider twenty percent as the minimum
27 partnership contribution, but shall also ensure that there are
28 provisions allowing exceptions for projects that are located in areas
29 where minimal local funding capacity exists or where the magnitude of
30 the project makes the adopted partnership contribution financially
31 unfeasible.

32 (7) The board shall develop and recommend policies that address
33 operational improvements that primarily benefit and enhance freight
34 movement, including, but not limited to, policies that reduce
35 congestion in truck lanes at border crossings and weigh stations and
36 provide for access to ports during nonpeak hours.

1 **Sec. 108.** RCW 47.06A.040 and 1999 c 216 s 3 are each amended to
2 read as follows:

3 (~~The board, at its option, may either appoint an executive~~
4 ~~director, who shall serve at its pleasure and whose salary shall be set~~
5 ~~by the board or make provisions ensuring the responsibilities of the~~
6 ~~executive director are carried out by an existing transportation-~~
7 ~~related state agency or by private contract.)) Staff support to the
8 board shall be provided by the department of transportation, the
9 transportation improvement board, and the county road administration
10 board, or their successor agencies.~~

11 **Sec. 109.** RCW 47.12.066 and 1984 c 7 s 120 are each amended to
12 read as follows:

13 (1) The department may sell at fair market value, or lease at
14 rental value (economic rent), materials or other personal property to
15 any United States agency or to any municipal corporation, political
16 subdivision, or another agency of the state and may provide services to
17 any United States agency or to any municipal corporation, political
18 subdivision, or another agency of the state at actual cost, including
19 a reasonable amount for indirect costs.

20 (2) The department may sell at fair market value materials or other
21 personal property to any private utility company regulated by the
22 utilities (~~and transportation~~) commission for the purpose of making
23 emergency repairs to utility facilities or to protect such facilities
24 from imminent damage upon a finding in writing by the secretary that an
25 emergency exists.

26 (3) The proceeds of all sales and leases under this section shall
27 be placed in the motor vehicle fund.

28 **Sec. 110.** RCW 47.32.140 and 1983 c 19 s 2 are each amended to read
29 as follows:

30 Each railroad company shall keep its right of way clear of all
31 brush and timber in the vicinity of a railroad grade crossing with a
32 state highway for a distance of one hundred feet from the crossing in
33 such manner as to permit a person upon the highway to obtain an
34 unobstructed view in both directions of an approaching train. The
35 department shall cause brush and timber to be cleared from the right of
36 way of a state highway in the proximity of a railroad grade crossing

1 for a distance of one hundred feet from the crossing in such manner as
2 to permit a person upon the highway to obtain an unobstructed view in
3 both directions of an approaching train. It is unlawful to erect or
4 maintain a sign, signboard, or billboard, except official highway signs
5 and traffic devices and railroad warning or operating signs, outside
6 the corporate limits of any city or town within a distance of one
7 hundred feet from the point of intersection of the highway and railroad
8 grade crossing unless, after thirty days notice to the (~~Washington~~
9 ~~utilities and~~) department of transportation (~~commission~~) and the
10 railroad operating the crossing, the department determines that it does
11 not obscure the sight distance of a person operating a vehicle or train
12 approaching the grade crossing.

13 When a person who has erected or who maintains such a sign,
14 signboard, or billboard, or when a railroad company permits such brush
15 or timber in the vicinity of a railroad grade crossing with a state
16 highway or permits the surface of a grade crossing to become
17 inconvenient or dangerous for passage and who has the duty to maintain
18 it, fails, neglects, or refuses to remove or cause to be removed such
19 brush, timber, sign, signboard, or billboard, or maintain the surface
20 of the crossing, the (~~utilities and~~) department of transportation
21 (~~commission upon complaint of the department or~~) upon complaint of
22 any party interested, or upon its own motion, shall enter upon a
23 hearing in the manner now provided for hearings with respect to
24 railroad-highway grade crossings, and make and enforce proper orders
25 for the removal of the brush, timber, sign, signboard or billboard, or
26 maintenance of the crossing. However, nothing in this section prevents
27 the posting or maintaining of any legal notice or sign, signal, or
28 traffic device required or permitted to be posted or maintained, or the
29 placing and maintaining thereon of highway or road signs or traffic
30 devices giving directions or distances for the information of the
31 public when the signs are approved by the department. The department
32 shall inspect highway grade crossings and make complaint of the
33 violation of any provisions of this section.

34 **Sec. 111.** RCW 47.36.050 and 1984 c 7 s 190 are each amended to
35 read as follows:

36 The department shall erect and maintain upon every state highway in
37 the state of Washington suitable and proper signs, signals, signboards,

1 guideposts, and other traffic devices according to the adopted and
2 designated state standard of design, erection, and location, and in the
3 manner required by law. The department shall erect and maintain upon
4 all state highways appropriate stop signs, warning signs, and school
5 signs. Any person, firm, corporation, or municipal corporation,
6 building, owning, controlling, or operating a railroad that crosses any
7 state highway at grade shall construct, erect, and maintain at or near
8 each point of crossing, or at such point or points as will meet the
9 approval of the department, a sign of the type known as the saw buck
10 crossing sign with the lettering "railroad crossing" inscribed thereon
11 and also a suitable inscription indicating the number of tracks. The
12 sign must be of standard design that will comply with the plans and
13 specifications furnished by the department. Additional safety devices
14 and signs may be installed at any time when required by the ((utilities
15 and)) department of transportation ((commission)) as provided by laws
16 regulating railroad-highway grade crossings.

17 **Sec. 112.** RCW 47.36.070 and 1984 c 7 s 193 are each amended to
18 read as follows:

19 Whenever any person, firm, corporation, municipal corporation, or
20 local authorities responsible for the erection and maintenance, or
21 either, of signs at any railroad crossing or point of danger upon any
22 state highway fails, neglects, or refuses to erect and maintain, or
23 either, the sign or signs as required by law at highway-railroad grade
24 crossings, the ((utilities—and)) department of transportation
25 ((commission)) shall ((upon complaint of the department or)) upon
26 complaint of any party interested, or upon its own motion, enter upon
27 a hearing in the manner provided by law for hearings with respect to
28 railroad-highway grade crossings and make and enforce proper orders for
29 the erection or maintenance of the signs, or both.

30 **Sec. 113.** RCW 47.60.120 and 2003 c 373 s 2 and 2003 c 83 s 204 are
31 each reenacted and amended to read as follows:

32 (1) If the department acquires or constructs, maintains, and
33 operates any ferry crossings upon ((or toll bridges over)) Puget Sound
34 or any of its tributary or connecting waters, there shall not be
35 constructed, operated, or maintained any other ferry crossing upon ((or
36 bridge over)) any such waters ((within ten miles of any such crossing

1 ~~or bridge operated or maintained))~~ in a manner that would interfere
2 with the safe operation of ferries by the department ((~~excepting~~
3 ~~such~~)), except for bridges or ferry crossings in existence((~~7~~)) and
4 being operated and maintained ((~~under a~~)) lawfully ((~~issued franchise~~))
5 at the time of the location of the ferry crossing ((~~or construction of~~
6 ~~the toll bridge~~)) by the department.

7 (2) ((~~The ten-mile distance in subsection (1) of this section means~~
8 ~~ten statute miles measured by airline distance. The ten-mile~~
9 ~~restriction shall be applied by comparing the two end points (termini)~~
10 ~~of a state ferry crossing to those of a private ferry crossing.~~

11 (3) ~~The Washington utilities and transportation commission may,~~
12 ~~upon written petition of a commercial ferry operator certificated or~~
13 ~~applying for certification under chapter 81.84 RCW, and upon notice and~~
14 ~~hearing, grant a waiver from the ten-mile restriction. The waiver must~~
15 ~~not be detrimental to the public interest. In making a decision to~~
16 ~~waive the ten-mile restriction, the commission shall consider, but is~~
17 ~~not limited to, the impact of the waiver on transportation congestion~~
18 ~~mitigation, air quality improvement, and the overall impact on the~~
19 ~~Washington state ferry system. The commission shall act upon a request~~
20 ~~for a waiver within ninety days after the conclusion of the hearing.~~
21 ~~A waiver is effective for a period of five years from the date of~~
22 ~~issuance. At the end of five years the waiver becomes permanent unless~~
23 ~~appealed within thirty days by the commission on its own motion, the~~
24 ~~department, or an interested party.~~

25 (4) ~~The department shall not maintain and operate any ferry~~
26 ~~crossing or toll bridge over Puget Sound or any of its tributary or~~
27 ~~connecting waters that would infringe upon any franchise lawfully~~
28 ~~issued by the state and in existence and being exercised at the time of~~
29 ~~the location of the ferry crossing or toll bridge by the department,~~
30 ~~without first acquiring the rights granted to such franchise holder~~
31 ~~under the franchise.~~

32 (5)) This section does not apply to the operation of passenger-
33 only ferry service by public transportation benefit areas meeting the
34 requirements of RCW 36.57A.200 or to the operation of passenger-only
35 ferry service by ferry districts.

36 **Sec. 114.** RCW 47.76.230 and 1995 c 380 s 4 are each amended to
37 read as follows:

1 (1) The department of transportation shall ~~((continue—its~~
2 ~~responsibility for the development and implementation of))~~ develop and
3 implement the state rail plan and programs, and the ~~((utilities and))~~
4 transportation commission ~~((shall continue its responsibility))~~ is
5 responsible, to the extent not federally preempted, for intrastate
6 rates, service, and safety issues.

7 (2) The department of transportation shall maintain an enhanced
8 data file on the rail system. Proprietary annual station traffic data
9 from each railroad and the modal use of major shippers shall be
10 obtained to the extent that such information is available.

11 (3) The department of transportation shall provide technical
12 assistance, upon request, to state agencies and local interests.
13 Technical assistance includes, but is not limited to, the following:

14 (a) Rail project cost-benefit analyses conducted in accordance with
15 methodologies recommended by the federal railroad administration;

16 (b) Assistance in the formation of county rail districts and port
17 districts; and

18 (c) Feasibility studies for rail service continuation and/or rail
19 service assistance.

20 (4) With funding authorized by the legislature, the department of
21 transportation, in collaboration with the department of community,
22 trade, and economic development, and local economic development
23 agencies, and other interested public and private organizations, shall
24 develop a cooperative process to conduct community and business
25 information programs and to regularly disseminate information on rail
26 matters.

27 **Sec. 115.** RCW 47.76.240 and 1995 c 380 s 5 are each amended to
28 read as follows:

29 The state, counties, local communities, ports, railroads, labor,
30 and shippers all benefit from continuation of rail service and should
31 participate in its preservation. Lines that provide benefits to the
32 state and local jurisdictions, such as avoided roadway costs, reduced
33 traffic congestion, economic development potential, environmental
34 protection, and safety, should be assisted through the joint efforts of
35 the state, local jurisdictions, and the private sector.

36 State funding for rail service, rail preservation, and corridor
37 preservation projects must benefit the state's interests. The state's

1 interest is served by reducing public roadway maintenance and repair
2 costs, increasing economic development opportunities, increasing
3 domestic and international trade, preserving jobs, and enhancing
4 safety. State funding for projects is contingent upon appropriate
5 local jurisdiction and private sector participation and cooperation.
6 Before spending state moneys on projects the department shall seek
7 federal, local, and private funding and participation to the greatest
8 extent possible.

9 (1) The department of transportation shall continue to monitor the
10 status of the state's mainline and branchline common carrier railroads
11 and preserved rail corridors through the state rail plan and various
12 analyses, and shall seek alternatives to abandonment prior to
13 interstate commerce commission proceedings, where feasible.

14 (2) The (~~utilities and~~) transportation commission shall intervene
15 in interstate commerce commission proceedings on abandonments, when
16 necessary, to protect the state's interest.

17 (3) The department of transportation, in consultation with the
18 Washington state freight rail policy advisory committee, shall
19 establish criteria for evaluating rail projects and corridors of
20 significance to the state.

21 (4) Local jurisdictions may implement rail service preservation
22 projects in the absence of state participation.

23 (5) The department of transportation shall continue to monitor
24 projects for which it provides assistance.

25 **Sec. 116.** RCW 47.79.020 and 1993 c 381 s 2 are each amended to
26 read as follows:

27 The legislature finds that there is substantial public benefit to
28 establishing a high-speed ground transportation program in this state.
29 The program shall implement the recommendations of the high-speed
30 ground transportation steering committee report dated October 15, 1992.
31 The program shall be administered by the department of transportation
32 in close cooperation with (~~the utilities and transportation~~
33 ~~commission and~~) affected cities and counties.

34 The high-speed ground transportation program shall have the
35 following goals:

36 (1) Implement high-speed ground transportation service offering top
37 speeds over 150 m.p.h. between Everett and Portland, Oregon by 2020.

1 This would be accomplished by meeting the intermediate objectives of a
2 maximum travel time between downtown Portland and downtown Seattle of
3 two hours and thirty minutes by the year 2000 and maximum travel time
4 of two hours by the year 2010;

5 (2) Implement high-speed ground transportation service offering top
6 speeds over 150 m.p.h. between Everett and Vancouver, B.C. by 2025;

7 (3) Implement high-speed ground transportation service offering top
8 speeds over 150 m.p.h. between Seattle and Spokane by 2030.

9 The department of transportation shall, subject to legislative
10 appropriation, implement such projects as necessary to achieve these
11 goals in accordance with the implementation plans identified in RCW
12 47.79.030 and 47.79.040.

13 **Sec. 117.** RCW 48.22.110 and 2003 c 248 s 10 are each amended to
14 read as follows:

15 Unless the context clearly requires otherwise, the definitions in
16 this section apply throughout this section and RCW 48.22.115 through
17 48.22.135.

18 (1) "Borrower" means a person who receives a loan or enters into a
19 retail installment contract under chapter 63.14 RCW to purchase a motor
20 vehicle or vessel in which the secured party holds an interest.

21 (2) "Motor vehicle" means a motor vehicle in this state subject to
22 registration under chapter 46.16 RCW, except motor vehicles governed by
23 RCW 46.16.020 (~~(or registered with the Washington utilities and~~
24 ~~transportation commission as common or contract carriers)).~~

25 (3) "Secured party" means a person, corporation, association,
26 partnership, or venture that possesses a bona fide security interest in
27 a motor vehicle or vessel.

28 (4) "Vendor single-interest" or "collateral protection coverage"
29 means insurance coverage insuring primarily or solely the interest of
30 a secured party but which may include the interest of the borrower in
31 a motor vehicle or vessel serving as collateral and obtained by the
32 secured party or its agent after the borrower has failed to obtain or
33 maintain insurance coverage required by the financing agreement for the
34 motor vehicle or vessel. Vendor single-interest or collateral
35 protection coverage does not include insurance coverage purchased by a
36 secured party for which the borrower is not charged.

1 (5) "Vessel" means a vessel as defined in RCW 88.02.010 and
2 includes personal watercraft as defined in RCW 79A.60.010.

3 **Sec. 118.** RCW 53.08.005 and 2000 c 81 s 6 are each amended to read
4 as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Commission" means the (~~Washington~~) utilities (~~and~~
8 ~~transportation~~) commission.

9 (2) "Rural port district" means a port district formed under
10 chapter 53.04 RCW and located in a county with an average population
11 density of fewer than one hundred persons per square mile.

12 (3) "Telecommunications" has the same meaning as contained in RCW
13 80.04.010.

14 (4) "Telecommunications facilities" means lines, conduits, ducts,
15 poles, wires, cables, crossarms, receivers, transmitters, instruments,
16 machines, appliances, instrumentalities and all devices, real estate,
17 easements, apparatus, property, and routes used, operated, owned, or
18 controlled by any entity to facilitate the provision of
19 telecommunications services.

20 (5) "Wholesale telecommunications services" means the provision of
21 telecommunications services or facilities for resale by an entity
22 authorized to provide telecommunications services to the general public
23 and internet service providers.

24 **Sec. 119.** RCW 54.04.045 and 1996 c 32 s 5 are each amended to read
25 as follows:

26 (1) As used in this section:

27 (a) "Attachment" means the affixation or installation of any wire,
28 cable, or other physical material capable of carrying electronic
29 impulses or light waves for the carrying of intelligence for
30 telecommunications or television, including(~~(7)~~) but not limited to
31 cable, and any related device, apparatus, or auxiliary equipment upon
32 any pole owned or controlled in whole or in part by one or more locally
33 regulated utilities where the installation has been made with the
34 necessary consent.

35 (b) "Locally regulated utility" means a public utility district not

1 subject to rate or service regulation by the utilities ((~~and~~
2 ~~transportation~~)) commission.

3 (c) "Nondiscriminatory" means that pole owners may not arbitrarily
4 differentiate among or between similar classes of persons approved for
5 attachments.

6 (2) All rates, terms, and conditions made, demanded or received by
7 a locally regulated utility for attachments to its poles must be just,
8 reasonable, nondiscriminatory and sufficient. A locally regulated
9 utility shall levy attachment space rental rates that are uniform for
10 the same class of service within the locally regulated utility service
11 area.

12 (3) Nothing in this section shall be construed or is intended to
13 confer upon the utilities ((~~and—transportation~~)) commission any
14 authority to exercise jurisdiction over locally regulated utilities.

15 **Sec. 120.** RCW 54.04.100 and 1983 c 4 s 5 are each amended to read
16 as follows:

17 Whenever a decree of public use and necessity heretofore has been
18 or hereafter shall be entered in condemnation proceedings conducted by
19 a public utility district for the acquisition of electrical
20 distribution properties, or whenever it has executed a contract for the
21 purchase of such properties, the district may cause to be filed with
22 the utilities ((~~and—transportation~~)) commission a copy of such contract
23 or a certified copy of the decree, together with a petition requesting
24 that the commission cause a rate to be filed with it for the sale of
25 wholesale power to the district. Thereupon the utilities ((~~and~~
26 ~~transportation~~)) commission shall order that a rate be filed with the
27 commission forthwith for the sale of wholesale power to such district.
28 The term "wholesale power" means electric energy sold for purposes of
29 resale. The commission shall have authority to enter such order as to
30 any public service corporation which owns or operates the electrical
31 distribution properties being condemned or purchased or as to any such
32 corporation which owns or operates transmission facilities within a
33 reasonable distance of such distribution properties and which engages
34 in the business of selling wholesale power, pursuant to contract or
35 otherwise. The rate filed shall be for the period of service specified
36 by the district, or if the district does not specify a particular

1 period, such rate shall apply from the commencement of service until
2 the district terminates same by thirty days' written notice.

3 Upon reasonable notice, any such public service corporation shall
4 furnish wholesale power to any public utility district owning or
5 operating electrical distribution properties. Whenever a public
6 service corporation shall furnish wholesale power to a district and the
7 charge or rate therefor is reviewed by the commission, such reasonable
8 rate as the commission finally may fix shall apply as to power
9 thereafter furnished and as to that previously furnished under such
10 charge or rate from the time that the complaint concerning the same
11 shall have been filed by the commission or the district, as the case
12 may be.

13 **Sec. 121.** RCW 54.16.005 and 2000 c 81 s 2 are each amended to read
14 as follows:

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

17 (1) "Commission" means the (~~Washington~~) utilities (~~and~~
18 ~~transportation~~) commission.

19 (2) "Telecommunications" has the same meaning as that contained in
20 RCW 80.04.010.

21 (3) "Telecommunications facilities" means lines, conduits, ducts,
22 poles, wires, cables, crossarms, receivers, transmitters, instruments,
23 machines, appliances, instrumentalities and all devices, real estate,
24 easements, apparatus, property, and routes used, operated, owned, or
25 controlled by any entity to facilitate the provision of
26 telecommunications services.

27 (4) "Wholesale telecommunications services" means the provision of
28 telecommunications services or facilities for resale by an entity
29 authorized to provide telecommunications services to the general public
30 and internet service providers.

31 **Sec. 122.** RCW 54.16.040 and 1955 c 390 s 5 are each amended to
32 read as follows:

33 A district may purchase, within or without its limits, electric
34 current for sale and distribution within or without its limits, and
35 construct, condemn and purchase, purchase, acquire, add to, maintain,
36 conduct, and operate works, plants, transmission and distribution lines

1 and facilities for generating electric current, operated either by
2 water power, steam, or other methods, within or without its limits, for
3 the purpose of furnishing the district, and the inhabitants thereof and
4 any other persons, including public and private corporations, within or
5 without its limits, with electric current for all uses, with full and
6 exclusive authority to sell and regulate and control the use,
7 distribution, rates, service, charges, and price thereof, free from the
8 jurisdiction and control of the ((utilities and transportation))
9 commission, in all things, together with the right to purchase, handle,
10 sell, or lease motors, lamps, transformers, and all other kinds of
11 equipment and accessories necessary and convenient for the use,
12 distribution, and sale thereof: PROVIDED, That the commission shall
13 not supply water to a privately owned utility for the production of
14 electric energy, but may supply, directly or indirectly, to an
15 instrumentality of the United States government or any publicly or
16 privately owned public utilities which sell electric energy or water to
17 the public, any amount of electric energy or water under its control,
18 and contracts therefor shall extend over such period of years and
19 contain such terms and conditions for the sale thereof as the
20 commission of the district shall elect; such contract shall only be
21 made pursuant to a resolution of the commission authorizing such
22 contract, which resolution shall be introduced at a meeting of the
23 commission at least ten days prior to the date of the adoption of the
24 resolution: PROVIDED FURTHER, That it shall first make adequate
25 provision for the needs of the district, both actual and prospective.

26 **Sec. 123.** RCW 54.44.020 and 1997 c 230 s 2 are each amended to
27 read as follows:

28 (1) Except as provided in subsection (2) of this section, cities of
29 the first class, public utility districts organized under chapter 54.08
30 RCW, and joint operating agencies organized under chapter 43.52 RCW,
31 any such cities and public utility districts which operate electric
32 generating facilities or distribution systems and any joint operating
33 agency shall have power and authority to participate and enter into
34 agreements with each other and with electrical companies which are
35 subject to the jurisdiction of the ((Washington)) utilities ((and
36 transportation)) commission or the public utility commissioner of
37 Oregon, hereinafter called "regulated utilities", and with rural

1 electric cooperatives, including generation and transmission
2 cooperatives for the undivided ownership of any type of electric
3 generating plants and facilities, including, but not limited to nuclear
4 and other thermal power generating plants and facilities and
5 transmission facilities including, but not limited to, related
6 transmission facilities, hereinafter called "common facilities", and
7 for the planning, financing, acquisition, construction, operation, and
8 maintenance thereof. It shall be provided in such agreements that each
9 city, public utility district, or joint operating agency shall own a
10 percentage of any common facility equal to the percentage of the money
11 furnished or the value of property supplied by it for the acquisition
12 and construction thereof and shall own and control a like percentage of
13 the electrical output thereof.

14 (2) Cities of the first class, public utility districts organized
15 under chapter 54.08 RCW, and joint operating agencies organized under
16 chapter 43.52 RCW, shall have the power and authority to participate
17 and enter into agreements for the undivided ownership of a coal-fired
18 thermal electric generating plant and facility placed in operation
19 before July 1, 1975, including related common facilities, and for the
20 planning, financing, acquisition, construction, operation, and
21 maintenance of the plant and facility. It shall be provided in such
22 agreements that each city, public utility district, or joint operating
23 agency shall own a percentage of any common facility equal to the
24 percentage of the money furnished or the value of property supplied by
25 the city, district, or agency, for the acquisition and construction of
26 the facility and shall own and control a like percentage of the
27 electrical output thereof. Cities of the first class, public utility
28 districts, and joint operating agencies may enter into agreements under
29 this subsection with each other, with regulated utilities, with rural
30 electric cooperatives, with electric companies subject to the
31 jurisdiction of the regulatory commission of any other state, and with
32 any power marketer subject to the jurisdiction of the federal energy
33 regulatory commission.

34 (3) Each participant shall defray its own interest and other
35 payments required to be made or deposited in connection with any
36 financing undertaken by it to pay its percentage of the money furnished
37 or value of property supplied by it for the planning, acquisition, and
38 construction of any common facility, or any additions or betterments

1 thereto. The agreement shall provide a uniform method of determining
2 and allocating operation and maintenance expenses of the common
3 facility.

4 (4) Each city, public utility district, joint operating agency,
5 regulated utility, and cooperatives participating in the ownership or
6 operation of a common facility shall pay all taxes chargeable to its
7 share of the common facility and the electric energy generated thereby
8 under applicable statutes as now or hereafter in effect, and may make
9 payments during preliminary work and construction for any increased
10 financial burden suffered by any county or other existing taxing
11 district in the county in which the common facility is located,
12 pursuant to agreement with such county or taxing district.

13 **Sec. 124.** RCW 54.48.030 and 1969 c 102 s 3 are each amended to
14 read as follows:

15 In aid of the foregoing declaration of policy, any public utility
16 and any cooperative is hereby authorized to enter into agreements with
17 any one or more other public utility or one or more other cooperative
18 for the designation of the boundaries of adjoining service areas which
19 each such public utility or each such cooperative shall observe, for
20 the establishment of procedures for orderly extension of service in
21 adjoining areas not currently served by any such public utility or any
22 such cooperative and for the acquisition or disposal by purchase or
23 sale by any such public utility or any such cooperative of duplicating
24 utility facilities, which agreements shall be for a reasonable period
25 of time not in excess of twenty-five years: PROVIDED, That the
26 participation in such agreement of any public utility which is an
27 electrical company under RCW 80.04.010, excepting cities and towns,
28 shall be approved by the ((Washington)) utilities ((and
29 transportation)) commission.

30 **Sec. 125.** RCW 54.48.040 and 1969 c 102 s 4 are each amended to
31 read as follows:

32 Nothing herein shall be construed to classify a cooperative having
33 authority to engage in the electric business as a public utility or to
34 include cooperatives under the authority of the ((Washington))
35 utilities ((and transportation)) commission.

1 **Sec. 126.** RCW 64.04.200 and 1993 c 245 s 3 are each amended to
2 read as follows:

3 Prior to closing, the seller of real property subject to a rate or
4 charge for energy conservation measures, services, or payments provided
5 under a tariff approved by the utilities (~~and transportation~~)
6 commission pursuant to RCW 80.28.065 shall disclose to the purchaser of
7 the real property the existence of the obligation and the possibility
8 that the purchaser may be responsible for the payment obligation.

9 **Sec. 127.** RCW 69.04.960 and 1990 c 202 s 3 are each amended to
10 read as follows:

11 (1) The director of agriculture and the secretary of health shall
12 jointly adopt by rule:

13 (a) A list of food compatible substances other than food that may
14 be transported in bulk form as cargo in a vehicle or vessel that is
15 also used, on separate occasions, to transport food in bulk form as
16 cargo. The list shall contain those substances that the director and
17 the secretary determine will not pose a health hazard if food in bulk
18 form were transported in the vehicle or vessel after it transported the
19 substance. In making this determination, the director and the
20 secretary shall assume that some residual portion of the substance will
21 remain in the cargo carrying portion of the vehicle or vessel when the
22 food is transported;

23 (b) The procedures to be used to clean the vehicle or vessel after
24 transporting the substance and prior to transporting the food;

25 (c) The form of the certificates to be used under RCW 69.04.965;
26 and

27 (d) Requirements for the "Food or Food Compatible Only" marking
28 which must be borne by a vehicle or vessel under RCW 69.04.955 or
29 69.04.965.

30 (2) In developing and adopting rules under this section and RCW
31 69.04.970, the director and the secretary shall consult with the
32 secretary of transportation, the chief of the state patrol, (~~the chair~~
33 ~~of the utilities and transportation commission,~~) and representatives
34 of the vehicle and vessel transportation industries, food processors,
35 and agricultural commodity organizations.

1 **Sec. 128.** RCW 69.04.980 and 1990 c 202 s 7 are each amended to
2 read as follows:

3 A person who knowingly transports a cargo in violation of RCW
4 69.04.955 or who knowingly causes a cargo to be transported in
5 violation of RCW 69.04.955 is subject to a civil penalty, as determined
6 by the director of agriculture, for each such violation as follows:

7 (1) For a person's first violation or first violation in a period
8 of five years, not more than five thousand dollars;

9 (2) For a person's second or subsequent violation within five years
10 of a previous violation, not more than ten thousand dollars.

11 The director shall impose the penalty by an order which is subject
12 to the provisions of chapter 34.05 RCW.

13 The director shall, wherever practical, secure the assistance of
14 other public agencies, including but not limited to the department of
15 health, the (~~utilities and transportation commission~~) department of
16 licensing, and the state patrol, in identifying and investigating
17 potential violations of RCW 69.04.955.

18 **Sec. 129.** RCW 70.74.010 and 2002 c 370 s 1 are each amended to
19 read as follows:

20 As used in this chapter, unless a different meaning is plainly
21 required by the context:

22 (1) The terms "authorized", "approved" or "approval" shall be held
23 to mean authorized, approved, or approval by the department of labor
24 and industries.

25 (2) The term "blasting agent" shall be held to mean and include any
26 material or mixture consisting of a fuel and oxidizer, that is intended
27 for blasting and not otherwise defined as an explosive; if the finished
28 product, as mixed for use or shipment, cannot be detonated by means of
29 a number 8 test blasting cap when unconfined. A number 8 test blasting
30 cap is one containing two grams of a mixture of eighty percent mercury
31 fulminate and twenty percent potassium chlorate, or a blasting cap of
32 equivalent strength. An equivalent strength cap comprises 0.40-0.45
33 grams of PETN base charge pressed in an aluminum shell with bottom
34 thickness not to exceed 0.03 of an inch, to a specific gravity of not
35 less than 1.4 g/cc., and primed with standard weights of primer
36 depending on the manufacturer.

1 (3) The term "explosive" or "explosives" whenever used in this
2 chapter, shall be held to mean and include any chemical compound or
3 mechanical mixture that is commonly used or intended for the purpose of
4 producing an explosion, that contains any oxidizing and combustible
5 units, or other ingredients, in such proportions, quantities, or
6 packing, that an ignition by fire, by friction, by concussion, by
7 percussion, or by detonation of any part of the compound or mixture may
8 cause such a sudden generation of highly heated gases that the
9 resultant gaseous pressures are capable of producing destructive
10 effects on contiguous objects or of destroying life or limb. In
11 addition, the term "explosives" shall include all material which is
12 classified as division 1.1, 1.2, 1.3, 1.4, 1.5, or 1.6 explosives by
13 the United States department of transportation. For the purposes of
14 this chapter small arms ammunition, small arms ammunition primers,
15 smokeless powder not exceeding fifty pounds, and black powder not
16 exceeding five pounds shall not be defined as explosives, unless
17 possessed or used for a purpose inconsistent with small arms use or
18 other lawful purpose.

19 (4) Classification of explosives shall include but not be limited
20 to the following:

21 (a) DIVISION 1.1 and 1.2 EXPLOSIVES: Possess mass explosion or
22 detonating hazard and include dynamite, nitroglycerin, picric acid,
23 lead azide, fulminate of mercury, black powder exceeding five pounds,
24 blasting caps in quantities of 1001 or more, and detonating primers.

25 (b) DIVISION 1.3 EXPLOSIVES: Possess a minor blast hazard, a minor
26 projection hazard, or a flammable hazard and include propellant
27 explosives, including smokeless powder exceeding fifty pounds.

28 (c) DIVISION 1.4, 1.5, and 1.6 EXPLOSIVES: Include certain types
29 of manufactured articles which contain division 1.1, 1.2, or 1.3
30 explosives, or all, as components, but in restricted quantities, and
31 also include blasting caps in quantities of 1000 or less.

32 (5) The term "explosive-actuated power devices" shall be held to
33 mean any tool or special mechanized device which is actuated by
34 explosives, but not to include propellant-actuated power devices.

35 (6) The term "magazine", shall be held to mean and include any
36 building or other structure, other than an explosives manufacturing
37 building, used for the storage of explosives.

1 (7) The term "improvised device" means a device which is fabricated
2 with explosives or destructive, lethal, noxious, pyrotechnic, or
3 incendiary chemicals and which is designed, or has the capacity, to
4 disfigure, destroy, distract, or harass.

5 (8) The term "inhabited building", shall be held to mean and
6 include only a building regularly occupied in whole or in part as a
7 habitation for human beings, or any church, schoolhouse, railroad
8 station, store, or other building where people are accustomed to
9 assemble, other than any building or structure occupied in connection
10 with the manufacture, transportation, storage, or use of explosives.

11 (9) The term "explosives manufacturing plant" shall be held to mean
12 and include all lands, with the buildings situated thereon, used in
13 connection with the manufacturing or processing of explosives or in
14 which any process involving explosives is carried on, or the storage of
15 explosives thereat, as well as any premises where explosives are used
16 as a component part or ingredient in the manufacture of any article or
17 device.

18 (10) The term "explosives manufacturing building", shall be held to
19 mean and include any building or other structure (excepting magazines)
20 containing explosives, in which the manufacture of explosives, or any
21 processing involving explosives, is carried on, and any building where
22 explosives are used as a component part or ingredient in the
23 manufacture of any article or device.

24 (11) The term "railroad" shall be held to mean and include any
25 steam, electric, or other railroad which carries passengers for hire.

26 (12) The term "highway" shall be held to mean and include any
27 public street, public alley, or public road, including a privately
28 financed, constructed, or maintained road that is regularly and openly
29 traveled by the general public.

30 (13) The term "efficient artificial barricade" shall be held to
31 mean an artificial mound or properly revetted wall of earth of a
32 minimum thickness of not less than three feet or such other artificial
33 barricade as approved by the department of labor and industries.

34 (14) The term "person" shall be held to mean and include any
35 individual, firm, partnership, corporation, company, association,
36 society, joint stock company, joint stock association, and including
37 any trustee, receiver, assignee, or personal representative thereof.

1 (15) The term "dealer" shall be held to mean and include any person
2 who purchases explosives or blasting agents for the sole purpose of
3 resale, and not for use or consumption.

4 (16) The term "forbidden or not acceptable explosives" shall be
5 held to mean and include explosives which are forbidden or not
6 acceptable for transportation by common carriers by rail freight, rail
7 express, highway, or water in accordance with the regulations of the
8 federal department of transportation.

9 (17) The term "handloader" shall be held to mean and include any
10 person who engages in the noncommercial assembling of small arms
11 ammunition for his or her own use, specifically the operation of
12 installing new primers, powder, and projectiles into cartridge cases.

13 (18) The term "handloader components" means small arms ammunition,
14 small arms ammunition primers, smokeless powder not exceeding fifty
15 pounds, and black powder as used in muzzle loading firearms not
16 exceeding five pounds.

17 (19) The term "fuel" shall be held to mean and include a substance
18 which may react with the oxygen in the air or with the oxygen yielded
19 by an oxidizer to produce combustion.

20 (20) The term "motor vehicle" shall be held to mean and include any
21 self-propelled automobile, truck, tractor, semi-trailer or full
22 trailer, or other conveyance used for the transportation of freight.

23 (21) The term "natural barricade" shall be held to mean and include
24 any natural hill, mound, wall, or barrier composed of earth or rock or
25 other solid material of a minimum thickness of not less than three
26 feet.

27 (22) The term "oxidizer" shall be held to mean a substance that
28 yields oxygen readily to stimulate the combustion of organic matter or
29 other fuel.

30 (23) The term "propellant-actuated power device" shall be held to
31 mean and include any tool or special mechanized device or gas generator
32 system which is actuated by a propellant or which releases and directs
33 work through a propellant charge.

34 (24) The term "public conveyance" shall be held to mean and include
35 any railroad car, streetcar, ferry, cab, bus, airplane, or other
36 vehicle which is carrying passengers for hire.

37 (25) The term "public utility transmission system" shall mean power
38 transmission lines over 10 KV, telephone cables, or microwave

1 transmission systems, or buried or exposed pipelines carrying water,
2 natural gas, petroleum, or crude oil, or refined products and
3 chemicals, whose services are regulated by the utilities ((~~and~~
4 ~~transportation~~)) commission, municipal, or other publicly owned
5 systems.

6 (26) The term "purchaser" shall be held to mean any person who
7 buys, accepts, or receives any explosives or blasting agents.

8 (27) The term "pyrotechnic" shall be held to mean and include any
9 combustible or explosive compositions or manufactured articles designed
10 and prepared for the purpose of producing audible or visible effects
11 which are commonly referred to as fireworks as defined in chapter 70.77
12 RCW.

13 (28) The term "small arms ammunition" shall be held to mean and
14 include any shotgun, rifle, pistol, or revolver cartridge, and
15 cartridges for propellant-actuated power devices and industrial guns.
16 Military-type ammunition containing explosive bursting charges,
17 incendiary, tracer, spotting, or pyrotechnic projectiles is excluded
18 from this definition.

19 (29) The term "small arms ammunition primers" shall be held to mean
20 small percussion-sensitive explosive charges encased in a cup, used to
21 ignite propellant powder and shall include percussion caps as used in
22 muzzle loaders.

23 (30) The term "smokeless powder" shall be held to mean and include
24 solid chemicals or solid chemical mixtures in excess of fifty pounds
25 which function by rapid combustion.

26 (31) The term "user" shall be held to mean and include any natural
27 person, manufacturer, or blaster who acquires, purchases, or uses
28 explosives as an ultimate consumer or who supervises such use.

29 ((~~Words used in the singular number shall include the plural, and~~
30 ~~the plural the singular.~~))

31 **Sec. 130.** RCW 70.74.191 and 2002 c 370 s 2 are each amended to
32 read as follows:

33 The laws contained in this chapter and regulations prescribed by
34 the department of labor and industries pursuant to this chapter shall
35 not apply to:

36 (1) Explosives or blasting agents in the course of transportation
37 by way of railroad, water, highway, or air under the jurisdiction of,

1 and in conformity with, regulations adopted by the federal department
2 of transportation, the (~~Washington—state~~) utilities (~~and~~
3 ~~transportation~~) commission, and the Washington state patrol;

4 (2) The laboratories of schools, colleges, and similar institutions
5 if confined to the purpose of instruction or research and if not
6 exceeding the quantity of one pound;

7 (3) Explosives in the forms prescribed by the official United
8 States Pharmacopoeia;

9 (4) The transportation, storage, and use of explosives or blasting
10 agents in the normal and emergency operations of United States agencies
11 and departments including the regular United States military
12 departments on military reservations; arsenals, navy yards, depots, or
13 other establishments owned by, operated by, or on behalf of, the United
14 States; or the duly authorized militia of any state; or to emergency
15 operations of any state department or agency, any police, or any
16 municipality or county;

17 (5) A hazardous devices technician when carrying out normal and
18 emergency operations, handling evidence, and operating and maintaining
19 a specially designed emergency response vehicle that carries no more
20 than ten pounds of explosive material or when conducting training and
21 whose employer possesses the minimum safety equipment prescribed by the
22 federal bureau of investigation for hazardous devices work. For
23 purposes of this section, a hazardous devices technician is a person
24 who is a graduate of the federal bureau of investigation hazardous
25 devices school and who is employed by a state, county, or municipality;

26 (6) The importation, sale, possession, and use of fireworks as
27 defined in chapter 70.77 RCW, signaling devices, flares, fuses, and
28 torpedoes;

29 (7) The transportation, storage, and use of explosives or blasting
30 agents in the normal and emergency avalanche control procedures as
31 conducted by trained and licensed ski area operator personnel.
32 However, the storage, transportation, and use of explosives and
33 blasting agents for such use shall meet the requirements of regulations
34 adopted by the director of labor and industries;

35 (8) The storage of consumer fireworks as defined in chapter 70.77
36 RCW pursuant to a forfeiture or seizure under chapter 70.77 RCW by the
37 chief of the Washington state patrol, through the director of fire

1 protection, or his or her deputy, or by state agencies or local
2 governments having general law enforcement authority; and

3 (9) Any violation under this chapter if any existing ordinance of
4 any city, municipality, or county is more stringent than this chapter.

5 **Sec. 131.** RCW 70.94.610 and 1991 c 319 s 311 are each amended to
6 read as follows:

7 (1) Except as provided in subsection (2) of this section, a person
8 may not burn used oil as fuel in a land-based facility or in state
9 waters unless the used oil meets the following standards:

- 10 (a) Cadmium: 2 ppm maximum
- 11 (b) Chromium: 10 ppm maximum
- 12 (c) Lead: 100 ppm maximum
- 13 (d) Arsenic: 5 ppm maximum
- 14 (e) Total halogens: 1000 ppm maximum
- 15 (f) Polychlorinated biphenyls: 2 ppm maximum
- 16 (g) Ash: .1 percent maximum
- 17 (h) Sulfur: 1.0 percent maximum
- 18 (i) Flash point: 100 degrees Fahrenheit minimum.

19 (2) This section shall not apply to: (a) Used oil burned in space
20 heaters if the space heater has a maximum heat output of not greater
21 than 0.5 million btu's per hour or used oil burned in facilities
22 permitted by the department or a local air pollution control authority;
23 or (b) ocean-going vessels.

24 (3) This section shall not apply to persons in the business of
25 collecting used oil from residences when under authorization by a city,
26 county, or the utilities (~~(and transportation)~~) commission.

27 **Sec. 132.** RCW 70.95.030 and 2004 c 101 s 1 are each amended to
28 read as follows:

29 As used in this chapter, unless the context indicates otherwise:

- 30 (1) "City" means every incorporated city and town.
- 31 (2) "Commission" means the utilities (~~(and transportation)~~)
32 commission.
- 33 (3) "Committee" means the state solid waste advisory committee.
- 34 (4) "Composted material" means organic solid waste that has been
35 subjected to controlled aerobic degradation at a solid waste facility

1 in compliance with the requirements of this chapter. Natural decay of
2 organic solid waste under uncontrolled conditions does not result in
3 composted material.

4 (5) "Department" means the department of ecology.

5 (6) "Director" means the director of the department of ecology.

6 (7) "Disposal site" means the location where any final treatment,
7 utilization, processing, or deposit of solid waste occurs.

8 (8) "Energy recovery" means a process operating under federal and
9 state environmental laws and regulations for converting solid waste
10 into usable energy and for reducing the volume of solid waste.

11 (9) "Functional standards" means criteria for solid waste handling
12 expressed in terms of expected performance or solid waste handling
13 functions.

14 (10) "Incineration" means a process of reducing the volume of solid
15 waste operating under federal and state environmental laws and
16 regulations by use of an enclosed device using controlled flame
17 combustion.

18 (11) "Inert waste landfill" means a landfill that receives only
19 inert waste, as determined under RCW 70.95.065, and includes facilities
20 that use inert wastes as a component of fill.

21 (12) "Jurisdictional health department" means city, county, city-
22 county, or district public health department.

23 (13) "Landfill" means a disposal facility or part of a facility at
24 which solid waste is placed in or on land and which is not a land
25 treatment facility.

26 (14) "Local government" means a city, town, or county.

27 (15) "Modify" means to substantially change the design or
28 operational plans including, but not limited to, removal of a design
29 element previously set forth in a permit application or the addition of
30 a disposal or processing activity that is not approved in the permit.

31 (16) "Multiple family residence" means any structure housing two or
32 more dwelling units.

33 (17) "Person" means individual, firm, association, copartnership,
34 political subdivision, government agency, municipality, industry,
35 public or private corporation, or any other entity whatsoever.

36 (18) "Recyclable materials" means those solid wastes that are
37 separated for recycling or reuse, such as papers, metals, and glass,
38 that are identified as recyclable material pursuant to a local

1 comprehensive solid waste plan. Prior to the adoption of the local
2 comprehensive solid waste plan, adopted pursuant to RCW 70.95.110(2),
3 local governments may identify recyclable materials by ordinance from
4 July 23, 1989.

5 (19) "Recycling" means transforming or remanufacturing waste
6 materials into usable or marketable materials for use other than
7 landfill disposal or incineration.

8 (20) "Residence" means the regular dwelling place of an individual
9 or individuals.

10 (21) "Sewage sludge" means a semisolid substance consisting of
11 settled sewage solids combined with varying amounts of water and
12 dissolved materials, generated from a wastewater treatment system, that
13 does not meet the requirements of chapter 70.95J RCW.

14 (22) "Soil amendment" means any substance that is intended to
15 improve the physical characteristics of the soil, except composted
16 material, commercial fertilizers, agricultural liming agents,
17 unmanipulated animal manures, unmanipulated vegetable manures, food
18 wastes, food processing wastes, and materials exempted by rule of the
19 department, such as biosolids as defined in chapter 70.95J RCW and
20 wastewater as regulated in chapter 90.48 RCW.

21 (23) "Solid waste" or "wastes" means all putrescible and
22 nonputrescible solid and semisolid wastes including, but not limited
23 to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge,
24 demolition and construction wastes, abandoned vehicles or parts
25 thereof, and recyclable materials.

26 (24) "Solid waste handling" means the management, storage,
27 collection, transportation, treatment, utilization, processing, and
28 final disposal of solid wastes, including the recovery and recycling of
29 materials from solid wastes, the recovery of energy resources from
30 solid wastes or the conversion of the energy in solid wastes to more
31 useful forms or combinations thereof.

32 (25) "Source separation" means the separation of different kinds of
33 solid waste at the place where the waste originates.

34 (26) "Vehicle" includes every device physically capable of being
35 moved upon a public or private highway, road, street, or watercourse
36 and in, upon, or by which any person or property is or may be
37 transported or drawn upon a public or private highway, road, street, or

1 watercourse, except devices moved by human or animal power or used
2 exclusively upon stationary rails or tracks.

3 (27) "Waste-derived soil amendment" means any soil amendment as
4 defined in this chapter that is derived from solid waste as defined in
5 RCW 70.95.030, but does not include biosolids or biosolids products
6 regulated under chapter 70.95J RCW or wastewaters regulated under
7 chapter 90.48 RCW.

8 (28) "Waste reduction" means reducing the amount or toxicity of
9 waste generated or reusing materials.

10 (29) "Yard debris" means plant material commonly created in the
11 course of maintaining yards and gardens, and through horticulture,
12 gardening, landscaping, or similar activities. Yard debris includes
13 but is not limited to grass clippings, leaves, branches, brush, weeds,
14 flowers, roots, windfall fruit, vegetable garden debris, holiday trees,
15 and tree prunings four inches or less in diameter.

16 **Sec. 133.** RCW 70.95.090 and 1991 c 298 s 3 are each amended to
17 read as follows:

18 Each county and city comprehensive solid waste management plan
19 shall include the following:

20 (1) A detailed inventory and description of all existing solid
21 waste handling facilities, including an inventory of any deficiencies
22 in meeting current solid waste handling needs.

23 (2) The estimated long-range needs for solid waste handling
24 facilities projected twenty years into the future.

25 (3) A program for the orderly development of solid waste handling
26 facilities in a manner consistent with the plans for the entire county
27 which shall:

28 (a) Meet the minimum functional standards for solid waste handling
29 adopted by the department and all laws and regulations relating to air
30 and water pollution, fire prevention, flood control, and protection of
31 public health;

32 (b) Take into account the comprehensive land use plan of each
33 jurisdiction;

34 (c) Contain a six-year construction and capital acquisition program
35 for solid waste handling facilities; and

36 (d) Contain a plan for financing both capital costs and operational
37 expenditures of the proposed solid waste management system.

- 1 (4) A program for surveillance and control.
- 2 (5) A current inventory and description of solid waste collection
3 needs and operations within each respective jurisdiction which shall
4 include:
- 5 (a) Any franchise for solid waste collection granted by the
6 (~~utilities and transportation~~) commission in the respective
7 jurisdictions including the name of the holder of the franchise and the
8 address of his or her place of business and the area covered by the
9 franchise;
- 10 (b) Any city solid waste operation within the county and the
11 boundaries of such operation;
- 12 (c) The population density of each area serviced by a city
13 operation or by a franchised operation within the respective
14 jurisdictions;
- 15 (d) The projected solid waste collection needs for the respective
16 jurisdictions for the next six years.
- 17 (6) A comprehensive waste reduction and recycling element that, in
18 accordance with the priorities established in RCW 70.95.010, provides
19 programs that (a) reduce the amount of waste generated, (b) provide
20 incentives and mechanisms for source separation, and (c) establish
21 recycling opportunities for the source separated waste.
- 22 (7) The waste reduction and recycling element shall include the
23 following:
- 24 (a) Waste reduction strategies;
- 25 (b) Source separation strategies, including:
- 26 (i) Programs for the collection of source separated materials from
27 residences in urban and rural areas. In urban areas, these programs
28 shall include collection of source separated recyclable materials from
29 single and multiple family residences, unless the department approves
30 an alternative program, according to the criteria in the planning
31 guidelines. Such criteria shall include: Anticipated recovery rates
32 and levels of public participation, availability of environmentally
33 sound disposal capacity, access to markets for recyclable materials,
34 unreasonable cost impacts on the ratepayer over the six-year planning
35 period, utilization of environmentally sound waste reduction and
36 recycling technologies, and other factors as appropriate. In rural
37 areas, these programs shall include but not be limited to drop-off
38 boxes, buy-back centers, or a combination of both, at each solid waste

1 transfer, processing, or disposal site, or at locations convenient to
2 the residents of the county. The drop-off boxes and buy-back centers
3 may be owned or operated by public, nonprofit, or private persons;

4 (ii) Programs to monitor the collection of source separated waste
5 at nonresidential sites where there is sufficient density to sustain a
6 program;

7 (iii) Programs to collect yard waste, if the county or city
8 submitting the plan finds that there are adequate markets or capacity
9 for composted yard waste within or near the service area to consume the
10 majority of the material collected; and

11 (iv) Programs to educate and promote the concepts of waste
12 reduction and recycling;

13 (c) Recycling strategies, including a description of markets for
14 recyclables, a review of waste generation trends, a description of
15 waste composition, a discussion and description of existing programs
16 and any additional programs needed to assist public and private sector
17 recycling, and an implementation schedule for the designation of
18 specific materials to be collected for recycling, and for the provision
19 of recycling collection services;

20 (d) Other information the county or city submitting the plan
21 determines is necessary.

22 (8) An assessment of the plan's impact on the costs of solid waste
23 collection. The assessment shall be prepared in conformance with
24 guidelines established by the ((utilities and transportation))
25 commission. The commission shall cooperate with the Washington state
26 association of counties and the association of Washington cities in
27 establishing such guidelines.

28 (9) A review of potential areas that meet the criteria as outlined
29 in RCW 70.95.165.

30 **Sec. 134.** RCW 70.95.235 and 1991 c 319 s 407 are each amended to
31 read as follows:

32 (1) No person may divert to personal use any recyclable material
33 placed in a container as part of a recycling program, without the
34 consent of the generator of such recyclable material or the solid waste
35 collection company operating under the authority of a town, city,
36 county, or the ((utilities and transportation)) commission, and no

1 person may divert to commercial use any recyclable material placed in
2 a container as part of a recycling program, without the consent of the
3 person owning or operating such container.

4 (2) A violation of subsection (1) of this section is a class 1
5 civil infraction under chapter 7.80 RCW. Each violation of this
6 section shall be a separate infraction.

7 **Sec. 135.** RCW 70.95.320 and 1998 c 156 s 9 are each amended to
8 read as follows:

9 Nothing in chapter 156, Laws of 1998 may be construed to affect
10 chapter 81.77 RCW (as recodified by this act) and the authority of the
11 (~~(utilities and transportation)~~) commission.

12 **Sec. 136.** RCW 70.95.400 and 2005 c 394 s 4 are each amended to
13 read as follows:

14 (1) For the purposes of this section and RCW 70.95.410,
15 "transporter" means any person or entity that transports recyclable
16 materials from commercial or industrial generators over the public
17 highways of the state of Washington for compensation, and who are
18 required to possess a permit to operate from the (~~Washington utilities~~
19 ~~and transportation~~) commission under chapter (~~(81.80)~~) 80.-- RCW
20 (created under section 267 of this act). "Transporter" includes
21 commercial recycling operations of certificated solid waste collection
22 companies as provided in chapter 81.77 RCW (as recodified by this act).
23 "Transporter" does not include:

24 (a) Carriers of commercial recyclable materials, when such
25 materials are owned or being bought or sold by the entity or person,
26 and being carried in their own vehicle, when such activity is
27 incidental to the conduct of an entity or person's primary business;

28 (b) Entities or persons hauling their own recyclables or hauling
29 recyclables they generated or purchased and transported in their own
30 vehicles;

31 (c) Nonprofit or charitable organizations collecting and
32 transporting recyclable materials from a buyback center, drop box, or
33 from a commercial or industrial generator of recyclable materials;

34 (d) City municipal solid waste departments or city solid waste
35 contractors; or

1 (e) (~~Common~~) Motor carriers (~~(under chapter 81.80 RCW)~~) whose
2 primary business is not the transportation of recyclable materials.

3 (2) All transporters shall register with the department prior to
4 the transportation of recyclable materials. The department shall
5 supply forms for registration.

6 (3) A transporter who transports recyclable materials within the
7 state without a transporter registration required by this section is
8 subject to a civil penalty in an amount up to one thousand dollars per
9 violation.

10 **Sec. 137.** RCW 70.95J.020 and 1992 c 174 s 4 are each amended to
11 read as follows:

12 (1) The department shall adopt rules to implement a biosolid
13 management program within twelve months of the adoption of federal
14 rules, 40 C.F.R. Sec. 503, relating to technical standards for the use
15 and disposal of sewage sludge. The biosolid management program shall,
16 at a minimum, conform with all applicable federal rules adopted
17 pursuant to the federal clean water act as it existed on February 4,
18 1987.

19 (2) In addition to any federal requirements, the state biosolid
20 management program may include, but not be limited to, an education
21 program to provide relevant legal and scientific information to local
22 governments and citizen groups.

23 (3) Rules adopted by the department under this section shall
24 provide for public input and involvement for all state and local
25 permits.

26 (4) Materials that have received a permit as a biosolid shall be
27 regulated pursuant to this chapter.

28 (5) The transportation of biosolids and municipal sewage sludge
29 shall be governed by Title (~~(81)~~) 80 RCW. Certificates issued by the
30 utilities (~~(and transportation)~~) commission before June 11, 1992, that
31 include or authorize transportation of municipal sewage sludge shall
32 continue in force and effect and be interpreted to include biosolids.

33 **Sec. 138.** RCW 70.95K.010 and 1994 c 165 s 2 are each amended to
34 read as follows:

35 Unless the context clearly requires otherwise, the definitions in
36 this section apply throughout this chapter.

1 (1) "Biomedical waste" means, and is limited to, the following
2 types of waste:

3 (a) "Animal waste" is waste animal carcasses, body parts, and
4 bedding of animals that are known to be infected with, or that have
5 been inoculated with, human pathogenic microorganisms infectious to
6 humans.

7 (b) "Biosafety level 4 disease waste" is waste contaminated with
8 blood, excretions, exudates, or secretions from humans or animals who
9 are isolated to protect others from highly communicable infectious
10 diseases that are identified as pathogenic organisms assigned to
11 biosafety level 4 by the centers for disease control, national
12 institute of health, biosafety in microbiological and biomedical
13 laboratories, current edition.

14 (c) "Cultures and stocks" are wastes infectious to humans and
15 includes specimen cultures, cultures and stocks of etiologic agents,
16 wastes from production of biologicals and serums, discarded live and
17 attenuated vaccines, and laboratory waste that has come into contact
18 with cultures and stocks of etiologic agents or blood specimens. Such
19 waste includes but is not limited to culture dishes, blood specimen
20 tubes, and devices used to transfer, inoculate, and mix cultures.

21 (d) "Human blood and blood products" is discarded waste human blood
22 and blood components, and materials containing free-flowing blood and
23 blood products.

24 (e) "Pathological waste" is waste human source biopsy materials,
25 tissues, and anatomical parts that emanate from surgery, obstetrical
26 procedures, and autopsy. "Pathological waste" does not include teeth,
27 human corpses, remains, and anatomical parts that are intended for
28 interment or cremation.

29 (f) "Sharps waste" is all hypodermic needles, syringes with needles
30 attached, IV tubing with needles attached, scalpel blades, and lancets
31 that have been removed from the original sterile package.

32 (2) "Local government" means city, town, or county.

33 (3) "Local health department" means the city, county, city-county,
34 or district public health department.

35 (4) "Person" means an individual, firm, corporation, association,
36 partnership, consortium, joint venture, commercial entity, state
37 government agency, or local government.

1 (5) "Treatment" means incineration, sterilization, or other method,
2 technique, or process that changes the character or composition of a
3 biomedical waste so as to minimize the risk of transmitting an
4 infectious disease.

5 (6) "Residential sharps waste" has the same meaning as "sharps
6 waste" in subsection (1) of this section except that the sharps waste
7 is generated and prepared for disposal at a residence, apartment,
8 dwelling, or other noncommercial habitat.

9 (7) "Sharps waste container" means a leak-proof, rigid, puncture-
10 resistant red container that is taped closed or tightly lidded to
11 prevent the loss of the residential sharps waste.

12 (8) "Mail programs" means those programs that provide sharps users
13 with a multiple barrier protection kit for the placement of a sharps
14 container and subsequent mailing of the wastes to an approved disposal
15 facility.

16 (9) "Pharmacy return programs" means those programs where sharps
17 containers are returned by the user to designated return sites located
18 at a pharmacy to be transported by a biomedical or solid waste
19 collection company approved by the utilities ((and transportation))
20 commission.

21 (10) "Drop-off programs" means those program sites designated by
22 the solid waste planning jurisdiction where sharps users may dispose of
23 their sharps containers.

24 (11) "Source separation" has the same meaning as in RCW 70.95.030.

25 (12) "Unprotected sharps" means residential sharps waste that are
26 not disposed of in a sharps waste container.

27 **Sec. 139.** RCW 70.95K.030 and 1994 c 165 s 3 are each amended to
28 read as follows:

29 (1) A person shall not intentionally place unprotected sharps or a
30 sharps waste container into: (a) Recycling containers provided by a
31 city, county, or solid waste collection company, or any other recycling
32 collection site unless that site is specifically designated by a local
33 health department as a drop-off site for sharps waste containers; or
34 (b) cans, carts, drop boxes, or other containers in which refuse,
35 trash, or solid waste has been placed for collection if a source
36 separated collection service is provided for residential sharps waste.

1 (2) Local health departments shall enforce this section, primarily
2 through an educational approach regarding proper disposal of
3 residential sharps. On the first and second violation, the health
4 department shall provide a warning to the person that includes
5 information on proper disposal of residential sharps. A subsequent
6 violation shall be a class 3 infraction under chapter 7.80 RCW.

7 (3) It is not a violation of this section to place a sharps waste
8 container into a household refuse receptacle if the utilities (~~and~~
9 ~~transportation~~) commission determines that such placement is necessary
10 to reduce the potential for theft of the sharps waste container.

11 **Sec. 140.** RCW 70.95K.040 and 1994 c 165 s 4 are each amended to
12 read as follows:

13 (1) A public or private provider of solid waste collection service
14 may provide a program to collect source separated residential sharps
15 waste containers in conjunction with regular collection services.

16 (2) A company collecting source separated residential sharps waste
17 containers shall notify the public, in writing, on the availability of
18 this service. Notice shall occur at least forty-five days prior to the
19 provision of this service and shall include the following information:

20 (a) How to properly dispose of residential sharps waste; (b) how to
21 obtain sharps waste containers; (c) the cost of the program; (d)
22 options to home collection of sharps waste; and (e) the legal
23 requirements of residential sharps waste disposal.

24 (3) A company under the jurisdiction of the utilities (~~and~~
25 ~~transportation~~) commission may provide the service authorized under
26 subsection (1) of this section only under tariff.

27 The commission may require companies collecting sharps waste
28 containers to implement practices that will protect the containers from
29 theft.

30 **Sec. 141.** RCW 70.95N.030 and 2006 c 183 s 3 are each amended to
31 read as follows:

32 (1) A manufacturer must participate in an independent plan or the
33 standard plan to implement and finance the collection, transportation,
34 and recycling of covered electronic products.

35 (2) An independent plan or the standard plan must be implemented
36 and fully operational no later than January 1, 2009.

1 (3) The manufacturers participating in an approved plan are
2 responsible for covering all administrative and operational costs
3 associated with the collection, transportation, and recycling of their
4 plan's equivalent share of covered electronic products. If costs are
5 passed on to consumers, it must be done without any fees at the time
6 the unwanted electronic product is delivered or collected for
7 recycling. However, this does not prohibit collectors providing
8 premium or curbside services from charging customers a fee for the
9 additional collection cost of providing this service, when funding for
10 collection provided by an independent plan or the standard plan does
11 not fully cover the cost of that service.

12 (4) Nothing in this chapter changes or limits the authority of the
13 ((Washington)) utilities ((and transportation)) commission to regulate
14 collection of solid waste in the state of Washington, including
15 curbside collection of residential recyclable materials, nor does this
16 chapter change or limit the authority of a city or town to provide such
17 service itself or by contract pursuant to RCW 81.77.020 (as recodified
18 by this act).

19 (5) Manufacturers are encouraged to collaborate with electronic
20 product retailers, certificated waste haulers, processors, recyclers,
21 charities, and local governments within the state in the development
22 and implementation of their plans.

23 **Sec. 142.** RCW 70.116.134 and 1991 c 18 s 1 are each amended to
24 read as follows:

25 (1) The secretary shall adopt rules pursuant to chapter 34.05 RCW
26 establishing criteria for designating individuals or water purveyors as
27 qualified satellite system management agencies. The criteria shall set
28 forth minimum standards for designation as a satellite system
29 management agency qualified to assume ownership, operation, or both, of
30 an existing or proposed public water system. The criteria shall
31 include demonstration of financial integrity and operational
32 capability, and may require demonstration of previous experience in
33 successful operation and management of a public water system.

34 (2) Each county shall identify potential satellite system
35 management agencies to the secretary for areas where: (a) No purveyor
36 has been designated a future service area pursuant to this chapter, or
37 (b) an existing purveyor is unable or unwilling to provide service.

1 Preference shall be given to public utilities or utility districts or
2 to investor-owned utilities under the jurisdiction of the utilities
3 ((and transportation)) commission.

4 (3) The secretary shall approve satellite system management
5 agencies meeting the established criteria and shall maintain and make
6 available to counties a list of approved agencies. Prior to the
7 construction of a new public water system, the individual(s) proposing
8 the new system or requesting service shall first be directed by the
9 local agency responsible for issuing the construction or building
10 permit to one or more qualified satellite system management agencies
11 designated for the service area where the new system is proposed for
12 the purpose of exploring the possibility of a satellite agency either
13 owning or operating the proposed new water system.

14 (4) Approved satellite system management agencies shall be reviewed
15 periodically by the secretary for continued compliance with established
16 criteria. The secretary may require status reports and other
17 information necessary for such review. Satellite system management
18 agencies shall be subject to reapproval at the discretion of the
19 secretary but not less than once every five years.

20 (5) The secretary may assess reasonable fees to process
21 applications for initial approval and for periodic review of satellite
22 system management agencies. A satellite system management account is
23 hereby created in the custody of the state treasurer. All receipts
24 from satellite system management agencies or applicants under
25 subsection (4) of this section shall be deposited into the account.
26 Funds in this account may be used only for administration of the
27 satellite system management program. Expenditures from the account
28 shall be authorized by the secretary or the secretary's designee. The
29 account is subject to allotment procedures under chapter 43.88 RCW, but
30 no appropriation is required for expenditures.

31 (6) For purposes of this section, "satellite system management
32 agency" and "satellite agency" shall mean a person or entity that is
33 certified by the secretary to own or operate more than one public water
34 system on a regional or county-wide basis, without the necessity for a
35 physical connection between such systems.

36 **Sec. 143.** RCW 79.36.380 and 2004 c 199 s 219 are each amended to
37 read as follows:

1 Every grant, deed, conveyance, contract to purchase, or lease made
2 since June 15, 1911, or hereafter made to any person, firm, or
3 corporation, for a right of way for a private railroad, skid road,
4 canal, flume, watercourse, or other easement, over or across any public
5 lands for the purpose of, and to be used in, transporting and moving
6 timber, minerals, stone, sand, gravel, or other valuable materials of
7 the land, shall be subject to the right of the state, or any grantee or
8 lessee thereof, or other person who has acquired since June 15, 1911,
9 or shall hereafter acquire, any lands containing valuable materials
10 contiguous to, or in proximity to, such right of way, or who has so
11 acquired or shall hereafter acquire such valuable materials situated
12 upon public lands or contiguous to, or in proximity to, such right of
13 way, of having such valuable materials transported or moved over such
14 private railroad, skid road, flume, canal, watercourse, or other
15 easement, after the same is or has been put in operation, upon paying
16 therefor just and reasonable rates for transportation, or for the use
17 of such private railroad, skid road, flume, canal, watercourse, or
18 other easement, and upon complying with just, reasonable, and proper
19 rules and regulations relating to such transportation or use, which
20 rates, rules, and regulations, shall be under the supervision and
21 control of the (~~utilities and transportation commission~~) department
22 of natural resources.

23 **Sec. 144.** RCW 79.36.400 and 1983 c 4 s 6 are each amended to read
24 as follows:

25 Should the owner or operator of any private railroad, skid road,
26 flume, canal, watercourse, or other easement operating over lands
27 acquired since the fifteenth day of June, 1911, or hereafter acquired,
28 from the state, as in the previous sections provided, fail to agree
29 with the state, or any grantee thereof, as to the reasonable and proper
30 rules, regulations, and charges, concerning the transportation of
31 timber, mineral, stone, sand, gravel, or other valuable materials, from
32 lands contiguous to, or in proximity to, the lands over which such
33 private railroad, skid road, flume, canal, watercourse, or other
34 easement, is operated, for transporting or moving such valuable
35 materials, the state, or such person, firm, or corporation, owning and
36 desiring to have such valuable materials transported or moved, may
37 apply to the (~~state utilities and transportation commission~~)

1 department of natural resources and have the reasonableness of the
2 rules and regulations and charges inquired into, and it shall be the
3 duty of the (~~(utilities and transportation commission)~~) department of
4 natural resources to inquire into the same and it is hereby given the
5 same power and authority to investigate the same as it is now
6 authorized to investigate or inquire into the reasonableness of rules,
7 regulations, and charges made by railroad companies, and it is
8 authorized and empowered to make any such order as it would make in an
9 inquiry against a railroad company, and in case such private railroad,
10 skid road, flume, canal, watercourse, or easement(~~(τ)~~) is not then in
11 use, may make such reasonable, proper, and just rules and regulations
12 concerning the use thereof for the purposes aforesaid as may be just
13 and proper, and such order shall have the same force and effect, and be
14 binding upon the parties to such hearing, as though such hearing and
15 order was made affecting a common carrier railroad.

16 **Sec. 145.** RCW 79.36.410 and 1982 1st ex.s. c 21 s 170 are each
17 amended to read as follows:

18 In case any person, firm, or corporation, owning or operating any
19 private railroad, skid road, flume, canal, watercourse, or other
20 easement, over and across any state lands, or any lands acquired since
21 the fifteenth day of June, 1911, or hereafter acquired, from the state,
22 subject to the provisions of the preceding sections, shall violate or
23 fail to comply with any rule, regulation, or order made by the
24 (~~(utilities and transportation commission)~~) department of natural
25 resources, after an inquiry and hearing as provided in the preceding
26 section, such person, firm, or corporation, shall be subject to a
27 penalty of not to exceed one thousand dollars for each and every
28 violation thereof, and in addition thereto such right of way, private
29 road, skid road, flume, canal, watercourse, or other easement and all
30 improvements and structures on such right of way, and connected
31 therewith, shall revert to the state or to the owner of the land over
32 which such right of way is located, and may be recovered in an action
33 instituted in any court of competent jurisdiction.

34 **Sec. 146.** RCW 79.36.600 and 1983 c 4 s 7 are each amended to read
35 as follows:

36 Every grant, deed, conveyance, lease, or contract hereafter made to

1 any person, firm, or corporation over and across any state lands for
2 the purpose of right of way for any logging and/or lumbering railroad,
3 private railroad, skid road, flume, canal, watercourse, or other
4 easement to be used in the hauling of timber, stone, mineral, or other
5 natural products of the land and the manufactured products thereof and
6 all necessary machinery, supplies, or materials to be used in
7 transporting, cutting, manufacturing, mining, or quarrying any or all
8 of such products, shall be subject to the right of the state, or any
9 grantee or successor in interest thereof, owning or hereafter acquiring
10 from the state any timber, stone, mineral, or other natural products,
11 or any state lands containing valuable timber, stone, mineral, or other
12 natural products of the land, of having such timber, stone, mineral, or
13 other natural products, and the manufactured products thereof and all
14 necessary machinery, supplies, or materials to be used in transporting,
15 cutting, manufacturing, mining, or quarrying any or all of such
16 products transported or moved over such railroad, skid road, flume,
17 canal, watercourse, or other easement, after the same is or has been
18 put in operation, upon paying therefor just and reasonable rates for
19 transportation or for the use of such railroad, skid road, flume,
20 canal, watercourse, or other easement, and upon complying with just,
21 reasonable, and proper rules affecting such transportation, which
22 rates, rules, and regulations shall be under the supervision and
23 control of the (~~utilities and transportation commission~~) department
24 of natural resources of the state of Washington.

25 **Sec. 147.** RCW 79.36.630 and 2003 c 334 s 496 are each amended to
26 read as follows:

27 Should the owner or operator of any logging and/or lumbering
28 railroad, private railroad, skid road, flume, canal, watercourse, or
29 other easement operating over lands hereafter acquired from the state,
30 as in RCW 79.36.590 through 79.36.650 set out, fail to agree with the
31 state or with any subsequent grantee or successor in interest thereof
32 as to the reasonable and proper rules and charges concerning the
33 transportation of timber, stone, mineral, or other natural products of
34 the land, or the manufactured products thereof and all necessary
35 machinery, supplies, or materials to be used in transporting, cutting,
36 manufacturing, mining, or quarrying any or all of such products for
37 carrying and transporting such products or for the use of the railroad,

1 skid road, flume, canal, watercourse, or other easement in transporting
2 such products, the state or such person, firm, or corporation owning
3 and desiring to ship such products may apply to the (~~utilities and~~
4 ~~transportation commission~~) department of natural resources and have
5 the reasonableness of the rules and charges inquired into and it shall
6 be the duty of the (~~utilities and transportation commission~~)
7 department of natural resources to inquire into the same in the same
8 manner, and it is hereby given the same power and authority to
9 investigate the same as it is now authorized to investigate and inquire
10 into the rules and charges made by railroads and is authorized and
11 empowered to make such order as it would make in an inquiry against a
12 railroad, and in case such logging and/or lumbering railroad, private
13 railroad, skid road, flume, canal, watercourse, or other easement is
14 not then in use, may adopt such reasonable, proper, and just rules
15 concerning the use thereof for the purposes aforesaid as may be just
16 and proper and such order shall have the same force and effect and
17 shall be binding upon the parties to such hearing as though such
18 hearing and order was made affecting a railroad.

19 **Sec. 148.** RCW 79.36.640 and 2003 c 334 s 497 are each amended to
20 read as follows:

21 In case any person, firm, or corporation owning and/or operating
22 any logging and/or lumbering railroad, private railroad, skid road,
23 flume, canal, watercourse, or other easement subject to the provisions
24 of RCW 79.36.590 through 79.36.650 shall fail to comply with any rule
25 or order made by the (~~utilities and transportation commission~~)
26 department of natural resources, after an inquiry as provided for in
27 RCW 79.36.630, each person, firm, or corporation shall be subject to a
28 penalty not exceeding one thousand dollars, and in addition thereto,
29 the right of way over state lands theretofore granted to such person,
30 firm, or corporation, and all improvements and structures on such right
31 of way and connected therewith, shall revert to the state of
32 Washington, and may be recovered by it in an action instituted in any
33 court of competent jurisdiction, unless such state lands have been
34 sold.

35 **Sec. 149.** RCW 79.110.040 and 2005 c 155 s 204 are each amended to
36 read as follows:

1 Should the owner or operator of any private railroad, skid road,
2 flume, canal, watercourse, or other right of way or easement provided
3 for in RCW 79.110.020 and 79.110.030 fail to agree with the state or
4 any grantee or lessee, as to the reasonable and proper rules and
5 charges, concerning the transportation and movement of valuable
6 materials from those lands contiguous to or in proximity to the lands
7 over which the private right of way or easement is operated, the state
8 or any grantee or lessee, owning and desiring to have the valuable
9 materials transported or moved, may apply to the (~~Washington state~~
10 ~~utilities and transportation commission~~) department of natural
11 resources for an inquiry into the reasonableness of the rules,
12 investigate the rules, and make binding reasonable, proper, and just
13 rates and regulations in accordance with the provisions of RCW
14 79.36.400.

15 **Sec. 150.** RCW 79.110.050 and 2005 c 155 s 205 are each amended to
16 read as follows:

17 Any person owning or operating any right of way or easement subject
18 to the provisions of RCW 79.110.020 through 79.110.040, over and across
19 any state-owned tidelands or shorelands or across any beds of navigable
20 waters, and violating or failing to comply with any rule or order made
21 by the (~~utilities and transportation commission~~) department of
22 natural resources, after inquiry, investigation, and a hearing as
23 provided in RCW 79.110.040, shall be subject to the same penalties
24 provided in RCW 79.36.410.

25 NEW SECTION. **Sec. 151.** A person may not engage in the business of
26 transporting household goods as determined by the utilities commission
27 in intrastate commerce, advertise within the state as a transporter of
28 household goods, or provide brokering or forwarding services for the
29 transportation of household goods in intrastate commerce, except in
30 accordance with this chapter, and after registering with the utilities
31 commission and obtaining any permits the utilities commission may
32 require. The utilities commission shall require proof of liability and
33 property damage insurance in amounts as prescribed by the department of
34 licensing before issuing a household goods carrier permit. The
35 utilities commission shall accept notification received from the
36 department of licensing under RCW 46.30.020(5)(d) as proof of insurance

1 for permitting purposes. The utilities commission shall revoke a
2 household goods carrier's permits upon notification from the department
3 of licensing of the cancellation of, revocation of, or change in the
4 required insurance or security.

5 NEW SECTION. **Sec. 152.** Any advertisement by a household goods
6 carrier must be truthful and must include: (1) The name or trade name
7 of the household goods carrier or the name or trade name of the motor
8 carrier under whose operating authority the advertised service will
9 originate; and (2) other information that the utilities commission may
10 require.

11 NEW SECTION. **Sec. 153.** (1) To the extent allowed under federal
12 law, the utilities commission shall: Supervise and regulate every
13 household goods carrier in this state; make, fix, alter, and amend,
14 just, fair, reasonable, minimum, maximum, or minimum and maximum,
15 rates, charges, classifications, and rules for all household goods
16 carriers; regulate the accounts, services, and safety of operations of
17 household goods carriers; require the filing of reports and other data
18 by household goods carriers; and supervise and regulate all household
19 goods carriers in all other matters affecting their relationship with
20 competing carriers of every kind and the shipping or general public.
21 The utilities commission may approve rates filed by household goods
22 carriers.

23 (2) The utilities commission shall make, fix, construct, compile,
24 promulgate, publish, and distribute tariffs containing compilations of
25 rates, charges, classifications, and rules to be used by all household
26 goods carriers. In compiling these tariffs, the utilities commission
27 shall include within any given tariff compilation the carriers, groups
28 of carriers, commodities, or geographical areas it determines are in
29 the public interest. The compilations and publications may be made by
30 the utilities commission by compiling the rates, charges,
31 classifications, and rules now in effect, and as amended after notice
32 and hearing, by issuing and distributing revised pages or supplements
33 to the tariffs or reissues of tariffs in accordance with the orders of
34 the utilities commission. The utilities commission, upon good cause
35 shown, may establish temporary rates, charges, or classification
36 changes which may be made permanent only after publication in an

1 applicable tariff for at least sixty days and a determination by the
2 utilities commission that the rates, charges, or classifications are
3 just, fair, and reasonable. If a shipper or household goods carrier,
4 or representative of either, files a protest with the utilities
5 commission within sixty days from the date of publication, stating that
6 the temporary rates are unjust, unfair, or unreasonable, the utilities
7 commission must hold a hearing to consider the protest. Publication of
8 these temporary rates in the tariff is adequate public notice. The
9 utilities commission may, upon notice and hearing, fix and determine
10 just, fair, and reasonable rates, charges, and classifications. Each
11 household goods carrier shall purchase from the utilities commission
12 and post tariffs applicable to its authority. The utilities commission
13 shall set fees for the sale, supplements, and corrections of tariffs at
14 rates to cover all costs of the utilities commission's regulatory
15 obligations under this subsection. The proper tariff, or tariffs,
16 applicable to a household goods carrier's operations must be available
17 to the public at each agency and office of all household goods
18 carrier's in the state. The compilations and publications must be sold
19 by the utilities commission for the established fee. However, copies
20 may be furnished for free to other regulatory bodies and departments of
21 government, and to universities, colleges, schools, and libraries. All
22 copies of the compilations, whether sold or provided for free, must be
23 issued and distributed under rules fixed by the utilities commission.
24 The utilities commission may by order authorize household goods
25 carriers to publish and file tariffs with the utilities commission and
26 be governed by the tariffs with respect to certain designated
27 commodities and services when, in the opinion of the utilities
28 commission, it is impractical for the utilities commission to make,
29 fix, construct, compile, publish, and distribute tariffs covering these
30 commodities and services.

31 NEW SECTION. **Sec. 154.** The utilities commission shall adopt and
32 enforce rules to implement this chapter, ensure honest business
33 practices among household goods carriers, and provide adequate consumer
34 protections for Washington state residents with respect to household
35 goods carriers. If, upon investigation, the utilities commission
36 determines that an individual or entity has violated this chapter or a

1 rule adopted under this section, the utilities commission shall issue
2 a cease and desist order and assess a penalty not to exceed one
3 thousand dollars for each violation.

4 NEW SECTION. **Sec. 155.** A person or entity may not engage in the
5 business of providing airport shuttle service except in accordance with
6 this chapter, and after registering with the utilities commission and
7 obtaining any permits that the utilities commission may require. The
8 utilities commission shall require proof of liability and property
9 damage insurance in amounts as prescribed by the department of
10 licensing before issuing an airport shuttle service permit. The
11 utilities commission shall accept notification received from the
12 department of licensing under RCW 46.30.020(5)(e) as proof of insurance
13 for permitting purposes. The utilities commission shall revoke an
14 airport shuttle service's permits upon notification from the department
15 of licensing of the cancellation of, revocation of, or change in the
16 required insurance or security.

17 NEW SECTION. **Sec. 156.** Any advertisement by an airport shuttle
18 service provider must be truthful and must include: (1) The name or
19 trade name of the airport shuttle service provider or the name or trade
20 name of the company under whose operating authority the advertised
21 service will originate; and (2) other information that the utilities
22 commission may require. The utilities commission may require proof of
23 liability and property damage insurance in amounts as prescribed by the
24 department of licensing before issuing a household goods carrier
25 permit.

26 NEW SECTION. **Sec. 157.** The utilities commission shall adopt and
27 enforce rules to implement this chapter, ensure honest business
28 practices among airport shuttle service providers, and provide adequate
29 consumer protections for Washington state residents with respect to
30 airport shuttle service providers. If, upon investigation, the
31 utilities commission determines that an individual or entity has
32 violated this chapter or a rule adopted under this section, the
33 utilities commission may issue a cease and desist order and assess a
34 penalty not to exceed five hundred dollars for each violation.

1 **Sec. 158.** RCW 80.01.010 and 2006 c 346 s 1 are each amended to
2 read as follows:

3 There is hereby created and established a state commission to be
4 known and designated as the (~~Washington~~) utilities (~~and~~
5 ~~transportation~~) commission, and in this chapter referred to as the
6 commission.

7 The commission shall be composed of three members appointed by the
8 governor, with the consent of the senate. Not more than two members of
9 said commission shall belong to the same political party.

10 Each commissioner shall be appointed and hold office for the term
11 of six years. The governor shall designate one of the commissioners to
12 be chair of the commission during the term of the governor.

13 Each commissioner shall receive a salary as may be fixed by the
14 governor in accordance with the provisions of RCW 43.03.040.

15 Any member of the commission may be removed for inefficiency,
16 malfeasance, or misfeasance in office, upon specific written charges
17 filed by the governor, who shall transmit such written charges to the
18 member accused and to the chief justice of the supreme court. The
19 chief justice shall thereupon designate a special tribunal composed of
20 three judges of the superior court to hear and adjudicate the charges.
21 Such tribunal shall fix the time, place, and procedure for the hearing,
22 and the hearing shall be public. The decision of such tribunal shall
23 be final and not subject to review.

24 If the tribunal specified herein finds the charges of the governor
25 to be true, the governor shall have the right to immediately remove the
26 commissioner from office, to declare the position of the commissioner
27 vacant, and appoint another commissioner to the position in accordance
28 with the provisions of the law.

29 Any vacancy arising in the office of commissioner shall be filled
30 by appointment by the governor, and, except for persons appointed as
31 pro tempore commissioners, an appointee selected to fill a vacancy
32 shall hold office for the balance of the full term for which his or her
33 predecessor on the commission was appointed.

34 If a vacancy occurs while the senate is not in session, the
35 governor shall make a temporary appointment until the next meeting of
36 the senate, when he or she shall present to the senate his or her
37 nomination or nominations for the office to be filled.

1 **Sec. 159.** RCW 80.01.040 and 1985 c 450 s 10 are each amended to
2 read as follows:

3 The ~~((utilities and transportation))~~ commission shall:

4 (1) Exercise all the powers and perform all the duties prescribed
5 therefor by this title ~~((and by Title 81 RCW,))~~ or by any other
6 law~~(())~~;

7 ~~((Regulate in the public interest, as provided by the public
8 service laws, the rates, services, facilities, and practices of all
9 persons engaging in the transportation by whatever means of persons or
10 property within this state for compensation, and related activities;
11 including, but not limited to, air transportation companies, auto
12 transportation companies, express companies, freight and freight line
13 companies, motor freight companies, motor transportation agents,
14 private car companies, railway companies, sleeping car companies,
15 steamboat companies, street railway companies, toll bridge companies,
16 storage warehousemen, and wharfingers and warehousemen.~~

17 ~~((3))~~ Regulate in the public interest, as provided by the public
18 service laws, the rates, services, facilities, and practices of: All
19 persons engaging within this state in the business of supplying any
20 utility service or commodity to the public for compensation, and
21 related activities; ~~((including, but not limited to,))~~ electrical
22 companies~~(())~~; gas companies~~(())~~; irrigation companies~~(())~~;
23 telecommunications companies~~(())~~ ~~and~~; water companies~~(())~~; solid
24 waste collection companies; household goods carriers; pipeline
25 companies; gas pipeline companies; and low-level radioactive waste
26 sites;

27 ~~((4))~~ (3) Make ~~((such))~~ rules ~~((and regulations as may be))~~
28 necessary to carry out its other powers and duties.

29 **Sec. 160.** RCW 80.01.080 and 2006 c 3 s 2 are each amended to read
30 as follows:

31 There is created in the state treasury a public service revolving
32 fund. Regulatory fees payable by ~~((all types of))~~ public service
33 companies regulated by the commission shall be deposited to the credit
34 of the public service revolving fund. Except for expenses payable out
35 of the pipeline safety account, all expense of operation of the
36 ~~((Washington utilities and transportation))~~ commission shall be payable
37 out of the public service revolving fund.

1 During the 2003-2005 fiscal biennium, the legislature may transfer
2 from the public service revolving fund to the state general fund such
3 amounts as reflect the excess fund balance of the fund.

4 Due to the extraordinarily high winter energy costs, during the
5 2005-2007 fiscal biennium, no more than seven million six hundred
6 thousand dollars, as appropriated in section 1, chapter 3, Laws of
7 2006, shall be payable out of the public service revolving fund to
8 provide energy assistance to customers in accordance with the
9 low-income energy assistance program.

10 **Sec. 161.** RCW 80.01.300 and 1971 ex.s. c 293 s 7 are each amended
11 to read as follows:

12 Nothing contained in the provisions of RCW 36.58A.010 through
13 36.58A.040 and 70.95.090 and this section shall detract from the
14 powers, duties, and functions given to the (~~utilities and~~
15 ~~transportation~~) commission in chapter 81.77 RCW (as recodified by this
16 act).

17 **Sec. 162.** RCW 80.04.010 and 1995 c 243 s 2 are each amended to
18 read as follows:

19 As used in this title, unless specifically defined otherwise or
20 unless the context indicates otherwise:

21 (1) "Automatic location identification" means a system by which
22 information about a caller's location, including the seven-digit number
23 or ten-digit number used to place a 911 call or a different seven-digit
24 number or ten-digit number to which a return call can be made from the
25 public switched network, is forwarded to a public safety answering
26 point for display.

27 (2) "Automatic number identification" means a system that allows
28 for the automatic display of the seven-digit or ten-digit number used
29 to place a 911 call.

30 (3) "Commission" means the utilities (~~and transportation~~)
31 commission.

32 (4) "Commissioner" means one of the members of (~~such~~) the
33 commission.

34 (5) "Competitive telecommunications company" means a
35 telecommunications company which has been classified as such by the
36 commission pursuant to RCW 80.36.320.

1 (6) "Competitive telecommunications service" means a service which
2 has been classified as such by the commission pursuant to RCW
3 80.36.330.

4 (7) "Corporation" includes a corporation, company, association, or
5 joint stock association.

6 (8) "Person" includes an individual, a firm, or partnership.

7 (9) "Gas plant" includes all real estate, fixtures, and personal
8 property((7)) owned, leased, controlled, used, or to be used for or in
9 connection with the transmission, distribution, sale, or furnishing of
10 natural gas, or the manufacture, transmission, distribution, sale, or
11 furnishing of other type gas, for light, heat, or power.

12 (10) "Gas company" includes every corporation, company,
13 association, joint stock association, partnership, and person, their
14 lessees, trustees, or receiver appointed by any court whatsoever, and
15 every city or town, owning, controlling, operating, or managing any gas
16 plant within this state.

17 (11) "Electric plant" includes all real estate, fixtures, and
18 personal property operated, owned, used, or to be used for or in
19 connection with or to facilitate the generation, transmission,
20 distribution, sale, or furnishing of electricity for light, heat, or
21 power for hire; and any conduits, ducts or other devices, materials,
22 apparatus, or property for containing, holding, or carrying conductors
23 used or to be used for the transmission of electricity for light, heat,
24 or power.

25 (12) "Electrical company" includes any corporation, company,
26 association, joint stock association, partnership, and person, their
27 lessees, trustees, or receivers appointed by any court whatsoever
28 (other than a railroad or street railroad company generating
29 electricity solely for railroad or street railroad purposes or for the
30 use of its tenants and not for sale to others), and every city or town
31 owning, operating, or managing any electric plant for hire within this
32 state. "Electrical company" does not include a company or person
33 employing a cogeneration facility solely for the generation of
34 electricity for its own use or the use of its tenants or for sale to an
35 electrical company, state or local public agency, municipal
36 corporation, or quasi municipal corporation engaged in the sale or
37 distribution of electrical energy, but not for sale to others, unless
38 such company or person is otherwise an electrical company.

1 (13) "LATA" means a local access transport area as defined by the
2 commission in conformance with applicable federal law.

3 (14) "Low-level radioactive waste site operating company" includes
4 every corporation, company, association, joint stock association,
5 partnership, and person, their lessees, trustees, or receivers
6 appointed by any court, owning, operating, controlling, or managing a
7 low-level radioactive waste disposal site or sites located within the
8 state of Washington.

9 (15) "Low-level radioactive waste" means low-level waste as defined
10 in RCW 43.145.010.

11 (16) "Private telecommunications system" means a telecommunications
12 system controlled by a person or entity for the sole and exclusive use
13 of such person, entity, or affiliate thereof, including the provision
14 of private shared telecommunications services by such person or entity.
15 "Private telecommunications system" does not include a system offered
16 for hire, sale, or resale to the general public.

17 (17) "Private shared telecommunications services" includes the
18 provision of telecommunications and information management services and
19 equipment within a user group located in discrete private premises in
20 building complexes, campuses, or high-rise buildings, by a commercial
21 shared services provider or by a user association, through privately
22 owned customer premises equipment and associated data processing and
23 information management services and includes the provision of
24 connections to the facilities of a local exchange and to interexchange
25 telecommunications companies.

26 (18) "Private switch automatic location identification service"
27 means a service that enables automatic location identification to be
28 provided to a public safety answering point for 911 calls originating
29 from station lines served by a private switch system.

30 (19) "Radio communications service company" includes every
31 corporation, company, association, joint stock association,
32 partnership, and person, their lessees, trustees, or receivers
33 appointed by any court, and every city or town making available
34 facilities to provide radio communications service, radio paging, or
35 cellular communications service for hire, sale, or resale.

36 (20) "Telecommunications company" includes every corporation,
37 company, association, joint stock association, partnership, and person,
38 their lessees, trustees, or receivers appointed by any court

1 whatsoever, and every city or town owning, operating, or managing any
2 facilities used to provide telecommunications for hire, sale, or resale
3 to the general public within this state.

4 (21) "Noncompetitive telecommunications service" means any service
5 which has not been classified as competitive by the commission.

6 (22) "Facilities" means lines, conduits, ducts, poles, wires,
7 cables, cross-arms, receivers, transmitters, instruments, machines,
8 appliances, instrumentalities and all devices, real estate, easements,
9 apparatus, property, and routes used, operated, owned, or controlled by
10 any telecommunications company to facilitate the provision of
11 telecommunications service.

12 (23) "Telecommunications" is the transmission of information by
13 wire, radio, optical cable, electromagnetic, or other similar means.
14 As used in this definition, "information" means knowledge or
15 intelligence represented by any form of writing, signs, signals,
16 pictures, sounds, or any other symbols.

17 (24) "Water system" includes all real estate, easements, fixtures,
18 personal property, dams, dikes, head gates, weirs, canals, reservoirs,
19 flumes, or other structures or appliances operated, owned, used, or to
20 be used for or in connection with or to facilitate the supply, storage,
21 distribution, sale, furnishing, diversion, carriage, apportionment, or
22 measurement of water for power, irrigation, reclamation, manufacturing,
23 municipal, domestic, or other beneficial uses for hire.

24 (25) "Water company" includes every corporation, company,
25 association, joint stock association, partnership, and person, their
26 lessees, trustees, or receivers appointed by any court whatsoever, and
27 every city or town owning, controlling, operating, or managing any
28 water system for hire within this state: PROVIDED, That for purposes
29 of commission jurisdiction it shall not include any water system
30 serving less than one hundred customers where the average annual gross
31 revenue per customer does not exceed three hundred dollars per year,
32 which revenue figure may be increased annually by the commission by
33 rule adopted pursuant to chapter 34.05 RCW to reflect the rate of
34 inflation as determined by the implicit price deflator of the United
35 States department of commerce: AND PROVIDED FURTHER, That such
36 measurement of customers or revenues shall include all portions of
37 water companies having common ownership or control, regardless of
38 location or corporate designation. "Control" as used herein shall be

1 defined by the commission by rule and shall not include management by
2 a satellite agency as defined in chapter 70.116 RCW if the satellite
3 agency is not an owner of the water company. "Water company" also
4 includes, for auditing purposes only, nonmunicipal water systems which
5 are referred to the commission pursuant to an administrative order from
6 the department, or the city or county as provided in RCW 80.04.110.
7 However, water companies exempt from commission regulation shall be
8 subject to the provisions of chapter 19.86 RCW. A water company cannot
9 be removed from regulation except with the approval of the commission.
10 Water companies subject to regulation may petition the commission for
11 removal from regulation if the number of customers falls below one
12 hundred or the average annual revenue per customer falls below three
13 hundred dollars. The commission is authorized to maintain continued
14 regulation if it finds that the public interest so requires.

15 (26) "Cogeneration facility" means any machinery, equipment,
16 structure, process, or property, or any part thereof, installed or
17 acquired for the primary purpose of the sequential generation of
18 electrical or mechanical power and useful heat from the same primary
19 energy source or fuel.

20 (27) "Public service company" includes every gas company,
21 electrical company, telecommunications company, and water company.
22 Ownership or operation of a cogeneration facility does not, by itself,
23 make a company or person a public service company.

24 (28) "Local exchange company" means a telecommunications company
25 providing local exchange telecommunications service.

26 (29) "Department" means the department of health.

27 (30) The term "service" is used in this title in its broadest and
28 most inclusive sense.

29 **Sec. 163.** RCW 80.08.010 and 1961 c 14 s 80.08.010 are each amended
30 to read as follows:

31 ~~((The term))~~ "Public service company"~~((τ))~~ as used in this
32 chapter, ~~((shall))~~ means every company ~~((now or hereafter))~~ engaged in
33 business in this state as a public utility and subject to regulation as
34 to rates and service by the utilities ~~((and transportation))~~ commission
35 under ~~((the provisions of))~~ this title.

1 **Sec. 164.** RCW 80.12.010 and 1961 c 14 s 80.12.010 are each amended
2 to read as follows:

3 (~~The term~~) "Public service company," as used in this chapter,
4 (~~shall~~) means every company (~~now or hereafter~~) engaged in business
5 in this state as a public utility and subject to regulation as to rates
6 and service by the utilities (~~and transportation~~) commission under
7 (~~the provisions of~~) this title.

8 **Sec. 165.** RCW 80.16.010 and 1961 c 14 s 80.16.010 are each amended
9 to read as follows:

10 As used in this chapter (~~the term~~):

11 (1) "Public service company" (~~shall~~) includes every corporation
12 engaged in business as a public utility and subject to regulation as to
13 rates and service by the utilities (~~and transportation~~) commission
14 under (~~the provisions of~~) this title.

15 (~~As used in this chapter, the term~~) (2) "Affiliated interest"
16 means:

17 (a) Every corporation and person owning or holding directly or
18 indirectly five percent or more of the voting securities of any public
19 service company engaged in any intrastate business in this state;

20 (b) Every corporation and person, other than those above specified,
21 in any chain of successive ownership of five percent or more of voting
22 securities, the chain beginning with the holder of the voting
23 securities of such public service company;

24 (c) Every corporation five percent or more of whose voting
25 securities are owned by any person or corporation owning five percent
26 or more of the voting securities of such public service company or by
27 any person or corporation in any such chain of successive ownership of
28 five percent or more of voting securities;

29 (d) Every corporation or person with which the public service
30 company has a management or service contract; and

31 (e) Every person who is an officer or director of such public
32 service company or of any corporation in any chain of successive
33 ownership of five percent or more of voting securities.

34 **Sec. 166.** RCW 80.24.060 and 2001 c 238 s 2 are each amended to
35 read as follows:

36 (1)(a) Every gas company and every interstate gas pipeline company

1 subject to inspection or enforcement by the commission shall pay an
2 annual pipeline safety fee to the commission. The pipeline safety fees
3 received by the commission shall be deposited in the pipeline safety
4 account created in RCW 81.88.050 (as recodified by this act).

5 (b) The aggregate amount of fees set shall be sufficient to recover
6 the reasonable costs of administering the pipeline safety program,
7 taking into account federal funds used to offset the costs. The fees
8 established under this section shall be designed to generate revenue
9 not exceeding appropriated levels of funding for the current fiscal
10 year. At a minimum, the fees established under this section shall be
11 sufficient to adequately fund pipeline inspection personnel, the timely
12 review of pipeline safety and integrity plans, the timely development
13 of spill response plans, the timely development of accurate maps of
14 pipeline locations, participation in federal pipeline safety efforts to
15 the extent allowed by law, and the staffing of the citizens committee
16 on pipeline safety.

17 (c) Increases in the aggregate amount of fees over the immediately
18 preceding fiscal year are subject to the requirements of RCW
19 43.135.055.

20 (2) The commission shall by rule establish the methodology it will
21 use to set the appropriate fee for each entity subject to this section.
22 The methodology shall provide for an equitable distribution of program
23 costs among all entities subject to the fee. The fee methodology shall
24 provide for:

25 (a) Direct assignment of average costs associated with annual
26 standard inspections, including the average number of inspection days
27 per year. In establishing these directly assignable costs, the
28 commission shall consider the requirements and guidelines of the
29 federal government, state safety standards, and good engineering
30 ~~((practices))~~ practices; and

31 (b) A uniform and equitable means of estimating and allocating
32 costs of other duties relating to inspecting pipelines for safety that
33 are not directly assignable, including but not limited to design review
34 and construction inspections, specialized inspections, incident
35 investigations, geographic mapping system design and maintenance, and
36 administrative support.

37 (3) The commission shall require reports from those entities
38 subject to this section in the form and at such time as necessary to

1 set the fees. After considering the reports supplied by the entities,
2 the commission shall set the amount of the fee payable by each entity
3 by general order entered before July 1st of each year.

4 (4) For companies subject to RCW 80.24.010, the commission shall
5 collect the pipeline safety fee as part of the fee specified in RCW
6 80.24.010. The commission shall allocate the moneys collected under
7 RCW 80.24.010 between the pipeline safety program and for other
8 regulatory purposes. The commission shall adopt rules that assure that
9 fee moneys related to the pipeline safety program are maintained
10 separately from other moneys collected by the commission under this
11 chapter.

12 (5) Any payment of the fee imposed by this section made after its
13 due date must include a late fee of two percent of the amount due.
14 Delinquent fees accrue interest at the rate of one percent per month.

15 (6) The commission shall keep accurate records of the costs
16 incurred in administering its gas pipeline safety program, and the
17 records are open to inspection by interested parties. The records and
18 data upon which the commission's determination is made shall be prima
19 facie correct in any proceeding to challenge the reasonableness or
20 correctness of any order of the commission fixing fees and distributing
21 regulatory expenses.

22 (7) If any entity seeks to contest the imposition of a fee imposed
23 under this section, that entity shall pay the fee and request a refund
24 within six months of the due date for the payment by filing a petition
25 for a refund with the commission. The commission shall establish by
26 rule procedures for handling refund petitions and may delegate the
27 decisions on refund petitions to the secretary of the commission.

28 (8) After establishing the fee methodology by rule as required in
29 subsection (2) of this section, the commission shall create a
30 regulatory incentive program for pipeline safety programs in
31 collaboration with the citizens committee on pipeline safety. The
32 regulatory incentive program created by the commission shall not shift
33 costs among companies paying pipeline safety fees and shall not
34 decrease revenue to pipeline safety programs. The regulatory incentive
35 program shall not be implemented until after the review conducted
36 according to RCW 81.88.150 (as recodified by this act).

1 **Sec. 167.** RCW 80.28.075 and 1988 c 166 s 2 are each amended to
2 read as follows:

3 Upon request by a natural gas company or an electrical company, the
4 commission may approve a tariff that includes banded rates for any
5 nonresidential natural gas or electric service that is subject to
6 effective competition from energy suppliers not regulated by the
7 utilities (~~and transportation~~) commission. "Banded rate" means a
8 rate that has a minimum and maximum rate. Rates may be changed within
9 the rate band upon such notice as the commission may order.

10 **Sec. 168.** RCW 80.28.190 and 2003 c 53 s 383 are each amended to
11 read as follows:

12 (1) No gas company shall, after January 1, 1956, operate in this
13 state any gas plant for hire without first having obtained from the
14 utilities commission under the provisions of this chapter a certificate
15 declaring that public convenience and necessity requires or will
16 require such operation and setting forth the area or areas within which
17 service is to be rendered; but a certificate shall be granted where it
18 appears to the satisfaction of the commission that such gas company was
19 actually operating in good faith, within the confines of the area for
20 which such certificate shall be sought, on June 8, 1955. Any right,
21 privilege, certificate held, owned or obtained by a gas company may be
22 sold, assigned, leased, transferred or inherited as other property,
23 only upon authorization by the commission. The commission shall have
24 power, after hearing, when the applicant requests a certificate to
25 render service in an area already served by a certificate holder under
26 this chapter only when the existing gas company or companies serving
27 such area will not provide the same to the satisfaction of the
28 commission and in all other cases, with or without hearing, to issue
29 the certificate as prayed for; or for good cause shown to refuse to
30 issue same, or to issue it for the partial exercise only of the
31 privilege sought, and may attach to the exercise of the rights granted
32 by the certificate such terms and conditions as, in its judgment, the
33 public convenience and necessity may require.

34 (2) The utilities commission may, at any time, by its order duly
35 entered after a hearing had upon notice to the holder of any
36 certificate hereunder, and an opportunity to such holder to be heard,
37 at which it shall be proven that such holder willfully violates or

1 refuses to observe any of its proper orders, rules, or regulations,
2 suspend, revoke, alter or amend any certificate issued under the
3 provisions of this section, but the holder of such certificate shall
4 have all the rights of rehearing, review, and appeal as to such order
5 of the commission as is provided herein.

6 (3) In all respects in which the utilities commission has power and
7 authority under this chapter, applications and complaints may be made
8 and filed with it, process issued, hearings held, opinions, orders, and
9 decisions made and filed, petitions for rehearing filed and acted upon,
10 and petitions for writs of review to the superior court filed
11 therewith, appeals or mandate filed with the supreme court or the court
12 of appeals of this state considered and disposed of by such courts in
13 the manner, under the conditions, and subject to the limitations and
14 with the effect specified in the (~~Washington~~) utilities (~~and~~
15 ~~transportation~~) commission laws of this state.

16 (4) Every officer, agent, or employee of any corporation, and every
17 other person who violates or fails to comply with, or who procures,
18 aids or abets in the violation of any of the provisions of this section
19 or who fails to obey, observe, or comply with any order, decision, rule
20 or regulation, directive, demand or requirements, or any provision of
21 this section, is guilty of a gross misdemeanor.

22 (5) Neither this section, RCW 80.28.200, 80.28.210, nor any
23 provisions thereof shall apply or be construed to apply to commerce
24 with foreign nations or commerce among the several states of this union
25 except insofar as the same may be permitted under the provisions of the
26 Constitution of the United States and acts of congress.

27 (6) The utilities commission shall collect the following
28 miscellaneous fees from gas companies: Application for a certificate
29 of public convenience and necessity or to amend a certificate, twenty-
30 five dollars; application to sell, lease, mortgage, or transfer a
31 certificate of public convenience and necessity or any interest
32 therein, ten dollars.

33 **Sec. 169.** RCW 80.28.210 and 2003 c 53 s 384 are each amended to
34 read as follows:

35 (1) Every person or corporation transporting natural gas by
36 pipeline, or having for one or more of its principal purposes the
37 construction, maintenance, or operation of pipelines for transporting

1 natural gas, in this state, even though such person or corporation not
2 be a public service company under chapter 80.28 RCW, and even though
3 such person or corporation does not deliver, sell, or furnish any such
4 gas to any person or corporation within this state, shall be subject to
5 regulation by the utilities (~~and transportation~~) commission insofar
6 as the construction and operation of such facilities shall affect
7 matters of public safety, and every such company shall construct and
8 maintain such facilities as will be safe and efficient. The commission
9 shall have the authority to prescribe rules and regulations to
10 effectuate the purpose of this enactment.

11 (2) Every such person and every such officer, agent, and employee
12 of a corporation who, as an individual or as an officer or agent of
13 such corporation, violates or fails to comply with, or who procures,
14 aids, or abets another, or his or her company, in the violation of, or
15 noncompliance with, any provision of this section or any order, rule,
16 or requirement of the commission hereunder, is guilty of a gross
17 misdemeanor.

18 **Sec. 170.** RCW 80.28.220 and 1961 c 14 s 80.28.220 are each amended
19 to read as follows:

20 Every corporation having for one of its principal purposes the
21 transmission, distribution, sale, or furnishing of natural gas or other
22 type gas for light, heat, or power and holding and owning a certificate
23 of public convenience and necessity from the utilities (~~and~~
24 ~~transportation~~) commission authorizing the operation of a gas plant,
25 may appropriate, by condemnation, lands and property and interests
26 therein, for the transmission, distribution, sale, or furnishing of
27 such natural gas or other type gas through gas mains or pipelines under
28 the provisions of chapter 8.20 RCW.

29 **Sec. 171.** RCW 80.28.240 and 1989 c 11 s 30 are each amended to
30 read as follows:

31 (1) A utility may bring a civil action for damages against any
32 person who commits, authorizes, solicits, aids, abets, or attempts to:

33 (a) Divert, or cause to be diverted, utility services by any means
34 whatsoever;

35 (b) Make, or cause to be made, any connection or reconnection with

1 property owned or used by the utility to provide utility service
2 without the authorization or consent of the utility;

3 (c) Prevent any utility meter or other device used in determining
4 the charge for utility services from accurately performing its
5 measuring function by tampering or by any other means;

6 (d) Tamper with any property owned or used by the utility to
7 provide utility services; or

8 (e) Use or receive the direct benefit of all or a portion of the
9 utility service with knowledge of, or reason to believe that, the
10 diversion, tampering, or unauthorized connection existed at the time of
11 the use or that the use or receipt was without the authorization or
12 consent of the utility.

13 (2) In any civil action brought under this section, the utility may
14 recover from the defendant as damages three times the amount of actual
15 damages, if any, plus the cost of the suit and reasonable attorney's
16 fees, plus the costs incurred on account of the bypassing, tampering,
17 or unauthorized reconnection, including but not limited to costs and
18 expenses for investigation, disconnection, reconnection, service calls,
19 and expert witnesses.

20 (3) Any damages recovered under this section in excess of the
21 actual damages sustained by the utility may be taken into account by
22 the utilities ((and transportation)) commission or other applicable
23 rate-making agency in establishing utility rates.

24 (4) As used in this section:

25 (a) "Customer" means the person in whose name a utility service is
26 provided;

27 (b) "Divert" means to change the intended course or path of
28 electricity, gas, or water without the authorization or consent of the
29 utility;

30 (c) "Person" means any individual, partnership, firm, association,
31 or corporation or government agency;

32 (d) "Reconnection" means the commencement of utility service to a
33 customer or other person after service has been lawfully disconnected
34 by the utility;

35 (e) "Tamper" means to rearrange, injure, alter, interfere with, or
36 otherwise prevent from performing the normal or customary function;

37 (f) "Utility" means any electrical company, gas company, or water

1 company as those terms are defined in RCW 80.04.010, and includes any
2 electrical, gas, or water system operated by any public agency; and
3 (g) "Utility service" means the provision of electricity, gas,
4 water, or any other service or commodity furnished by the utility for
5 compensation.

6 **Sec. 172.** RCW 80.28.250 and 1986 c 119 s 1 are each amended to
7 read as follows:

8 A city, town, or county may, by ordinance or resolution, require a
9 water company to maintain fire hydrants in the area served by the water
10 company. The utilities (~~(and transportation)~~) commission (~~(has no~~
11 ~~authority to)~~) may not waive this obligation.

12 **Sec. 173.** RCW 80.36.390 and 1987 c 229 s 13 are each amended to
13 read as follows:

14 (1) As used in this section, "telephone solicitation" means the
15 unsolicited initiation of a telephone call by a commercial or nonprofit
16 company or organization to a residential telephone customer and
17 conversation for the purpose of encouraging a person to purchase
18 property, goods, or services or soliciting donations of money,
19 property, goods, or services. "Telephone solicitation" does not
20 include:

21 (a) Calls made in response to a request or inquiry by the called
22 party. This includes calls regarding an item that has been purchased
23 by the called party from the company or organization during a period
24 not longer than twelve months prior to the telephone contact;

25 (b) Calls made by a not-for-profit organization to its own list of
26 bona fide or active members of the organization;

27 (c) Calls limited to polling or soliciting the expression of ideas,
28 opinions, or votes; or

29 (d) Business-to-business contacts.

30 For purposes of this section, each individual real estate agent or
31 insurance agent who maintains a separate list from other individual
32 real estate or insurance agents shall be treated as a company or
33 organization. For purposes of this section, (~~an~~) political party
34 organization as defined in RCW (~~(29.01.090 or 29.01.100)~~) 29A.04.086 or
35 29A.04.097 and organized pursuant to RCW (~~(29.42.010)~~) 29A.80.011 shall
36 not be considered a commercial or nonprofit company or organization.

1 (2) A person making a telephone solicitation must identify him or
2 herself and the company or organization on whose behalf the
3 solicitation is being made and the purpose of the call within the first
4 thirty seconds of the telephone call.

5 (3) If, at any time during the telephone contact, the called party
6 states or indicates that he or she does not wish to be called again by
7 the company or organization or wants to have his or her name and
8 individual telephone number removed from the telephone lists used by
9 the company or organization making the telephone solicitation, then:

10 (a) The company or organization shall not make any additional
11 telephone solicitation of the called party at that telephone number
12 within a period of at least one year; and

13 (b) The company or organization shall not sell or give the called
14 party's name and telephone number to another company or organization:
15 PROVIDED, That the company or organization may return the list,
16 including the called party's name and telephone number, to the company
17 or organization from which it received the list.

18 (4) A violation of subsection (2) or (3) of this section is
19 punishable by a fine of up to one thousand dollars for each violation.

20 (5) The attorney general may bring actions to enforce compliance
21 with this section. For the first violation by any company or
22 organization of this section, the attorney general shall notify the
23 company with a letter of warning that the section has been violated.

24 (6) A person aggrieved by repeated violations of this section may
25 bring a civil action in superior court to enjoin future violations, to
26 recover damages, or both. The court shall award damages of at least
27 one hundred dollars for each individual violation of this section. If
28 the aggrieved person prevails in a civil action under this subsection,
29 the court shall award the aggrieved person reasonable attorneys' fees
30 and cost of the suit.

31 (7) The utilities (~~(and transportation)~~) commission shall by rule
32 ensure that telecommunications companies inform their residential
33 customers of the provisions of this section. The notification may be
34 made by (a) annual inserts in the billing statements mailed to
35 residential customers, or (b) conspicuous publication of the notice in
36 the consumer information pages of local telephone directories.

1 **Sec. 174.** RCW 80.36.400 and 1986 c 281 s 2 are each amended to
2 read as follows:

3 (1) As used in this section:

4 (a) An automatic dialing and announcing device is a device which
5 automatically dials telephone numbers and plays a recorded message once
6 a connection is made.

7 (b) Commercial solicitation means the unsolicited initiation of a
8 telephone conversation for the purpose of encouraging a person to
9 purchase property, goods, or services.

10 (2) No person may use an automatic dialing and announcing device
11 for purposes of commercial solicitation. This section applies to all
12 commercial solicitation intended to be received by telephone customers
13 within the state.

14 (3) A violation of this section is a violation of chapter 19.86
15 RCW. It shall be presumed that damages to the recipient of commercial
16 solicitations made using an automatic dialing and announcing device are
17 five hundred dollars.

18 (4) Nothing in this section shall be construed to prevent the
19 ((Washington)) utilities ((and—transportation)) commission from
20 adopting additional rules regulating automatic dialing and announcing
21 devices.

22 **Sec. 175.** RCW 80.36.430 and 2004 c 254 s 2 are each amended to
23 read as follows:

24 (1) The Washington telephone assistance program shall be funded by
25 a telephone assistance excise tax on all switched access lines and by
26 funds from any federal government or other programs for this purpose.
27 Switched access lines are defined in RCW 82.14B.020. The telephone
28 assistance excise tax shall be applied equally to all residential and
29 business access lines not to exceed fourteen cents per month. The
30 department shall submit an approved annual budget for the Washington
31 telephone assistance program to the department of revenue no later than
32 March 1st prior to the beginning of each fiscal year. The department
33 of revenue shall then determine the amount of telephone assistance
34 excise tax to be placed on each switched access line and shall inform
35 local exchange companies and the utilities ((and—transportation))
36 commission of this amount no later than May 1st. The department of
37 revenue shall determine the amount of telephone assistance excise tax

1 by dividing the total of the program budget funded by the telephone
2 assistance excise tax, as submitted by the department, by the total
3 number of switched access lines in the prior calendar year. The
4 telephone assistance excise tax shall be separately identified on each
5 ratepayer's bill as the "Washington telephone assistance program." All
6 money collected from the telephone assistance excise tax shall be
7 transferred to a telephone assistance fund administered by the
8 department.

9 (2) Local exchange companies shall bill the fund for their expenses
10 incurred in offering the telephone assistance program, including
11 administrative and program expenses. The department shall disburse the
12 money to the local exchange companies. The department is exempted from
13 having to conclude a contract with local exchange companies in order to
14 effect this reimbursement. The department shall recover its
15 administrative costs from the fund. The department may specify by rule
16 the range and extent of administrative and program expenses that will
17 be reimbursed to local exchange companies.

18 (3) The department shall enter into an agreement with the
19 department of community, trade, and economic development for an amount
20 not to exceed eight percent of the prior fiscal year's total revenue
21 for the administrative and program expenses of providing community
22 service voice mail services. The community service voice mail service
23 may include toll-free lines in community action agencies through which
24 recipients can access their community service voice mailboxes at no
25 charge.

26 **Sec. 176.** RCW 80.36.500 and 1991 c 191 s 8 are each amended to
27 read as follows:

28 (1) As used in this section:

29 (a) "Information delivery services" means telephone recorded
30 messages, interactive programs, or other information services that are
31 provided for a charge to a caller through an exclusive telephone number
32 prefix or service access code.

33 (b) "Information providers" means the persons or corporations that
34 provide the information, prerecorded message, or interactive program
35 for the information delivery service. The information provider
36 generally receives a portion of the revenue from the calls.

1 (c) "Interactive program" means a program that allows an
2 information delivery service caller, once connected to the information
3 provider's announcement machine, to use the caller's telephone device
4 to access more specific information.

5 (2) The utilities (~~(and transportation)~~) commission shall by rule
6 require any local exchange company that offers information delivery
7 services to a local telephone exchange to provide each residential
8 telephone subscriber the opportunity to block access to all information
9 delivery services offered through the local exchange company. The rule
10 shall take effect by October 1, 1988.

11 (3) All costs of complying with this section shall be borne by the
12 information providers.

13 (4) The local exchange company shall inform subscribers of the
14 availability of the blocking service through a bill insert and by
15 publication in a local telephone directory.

16 **Sec. 177.** RCW 80.36.520 and 1988 c 91 s 2 are each amended to read
17 as follows:

18 The utilities (~~(and transportation)~~) commission shall by rule
19 require, at a minimum, that any telecommunications company, operating
20 as or contracting with an alternate operator services company, assure
21 appropriate disclosure to consumers of the provision and the rate,
22 charge, or fee of services provided by an alternate operator services
23 company.

24 For the purposes of this chapter, "alternate operator services
25 company" means a person providing a connection to intrastate or
26 interstate long-distance services from places including, but not
27 limited to, hotels, motels, hospitals, and customer-owned pay
28 telephones.

29 **Sec. 178.** RCW 80.36.540 and 1990 c 221 s 1 are each amended to
30 read as follows:

31 (1) As used in this section, "telefacsimile message" means the
32 transmittal of electronic signals over telephone lines for conversion
33 into written text.

34 (2) No person, corporation, partnership, or association shall
35 initiate the unsolicited transmission of telefacsimile messages
36 promoting goods or services for purchase by the recipient.

1 (3)(a) Except as provided in (b) of this subsection, this section
2 shall not apply to telefacsimile messages sent to a recipient with whom
3 the initiator has had a prior contractual or business relationship.

4 (b) A person shall not initiate an unsolicited telefacsimile
5 message under the provisions of (a) of this subsection if the person
6 knew or reasonably should have known that the recipient is a
7 governmental entity.

8 (4) Notwithstanding subsection (3) of this section, it is unlawful
9 to initiate any telefacsimile message to a recipient who has previously
10 sent a written or telefacsimile message to the initiator clearly
11 indicating that the recipient does not want to receive telefacsimile
12 messages from the initiator.

13 (5) The unsolicited transmission of telefacsimile messages
14 promoting goods or services for purchase by the recipient is a matter
15 affecting the public interest for the purpose of applying the consumer
16 protection act, chapter 19.86 RCW. The transmission of unsolicited
17 telefacsimile messages is not reasonable in relation to the development
18 and preservation of business. A violation of this section is an unfair
19 or deceptive act in trade or commerce for the purpose of applying the
20 consumer protection act, chapter 19.86 RCW. Damages to the recipient
21 of telefacsimile messages in violation of this section are five hundred
22 dollars or actual damages, whichever is greater.

23 (6) Nothing in this section shall be construed to prevent the
24 ((Washington)) utilities ((and—transportation)) commission from
25 adopting additional rules regulating transmissions of telefacsimile
26 messages.

27 **Sec. 179.** RCW 80.36.555 and 1995 c 243 s 3 are each amended to
28 read as follows:

29 By January 1, 1997, or one year after enhanced 911 service becomes
30 available or a private switch automatic location identification service
31 approved by the ((Washington)) utilities ((and—transportation))
32 commission is available from the serving local exchange
33 telecommunications company, whichever is later, any private shared
34 telecommunications services provider that provides service to
35 residential customers shall assure that the telecommunications system
36 is connected to the public switched network such that calls to 911

1 result in automatic location identification for each residential unit
2 in a format that is compatible with the existing or planned county
3 enhanced 911 system.

4 **Sec. 180.** RCW 80.36.560 and 1995 c 243 s 5 are each amended to
5 read as follows:

6 By January 1, 1997, or one year after enhanced 911 service becomes
7 available or a private switch automatic location identification service
8 approved by the ((Washington)) utilities ((and—transportation))
9 commission is available from the serving local exchange
10 telecommunications company, whichever is later, any commercial shared
11 services provider of private shared telecommunications services for
12 hire or resale to the general public to multiple unaffiliated business
13 users from a single system shall assure that such a system is connected
14 to the public switched network such that calls to 911 result in
15 automatic location identification for each telephone in a format that
16 is compatible with the existing or planned county enhanced 911 system.
17 This section shall apply only to providers of service to businesses
18 containing a physical area exceeding twenty-five thousand square feet,
19 or businesses on more than one floor of a building, or businesses in
20 multiple buildings.

21 **Sec. 181.** RCW 80.36.620 and 1998 c 337 s 3 are each amended to
22 read as follows:

23 Any rules regarding universal service adopted by the utilities
24 ((and—transportation)) commission shall comply with the purpose, as
25 stated in RCW 80.36.600, for establishing a program for the
26 preservation and advancement of universal telecommunications service.
27 Services to be supported are only those basic services defined in RCW
28 80.36.600((+7)) (6).

29 **Sec. 182.** RCW 80.40.010 and 1963 c 201 s 2 are each amended to
30 read as follows:

31 As used in this chapter, unless specifically defined otherwise or
32 unless the context indicates otherwise:

33 (1) "Commission" ((shall)) means the ((Washington)) utilities ((and
34 transportation)) commission;

1 (~~"Committee" shall mean the oil and gas conservation committee~~
2 ~~established by RCW 78.52.020;~~)

3 (2) "Department" means the department of natural resources;

4 (3) "Natural gas" (~~shall~~) means gas either in the earth in its
5 original state or after the same has been produced by removal therefrom
6 of component parts not essential to its use for light and fuel;

7 (4) "Natural gas company" (~~shall~~) means every corporation,
8 company, association, joint stock association, partnership, or person
9 authorized to do business in this state and engaged in the
10 transportation, distribution, or underground storage of natural gas;

11 (5) "Underground reservoir" (~~shall~~) means any subsurface sand,
12 strata, formation, aquifer, cavern, or void, whether natural or
13 artificially created, suitable for the injection and storage of natural
14 gas therein and the withdrawal of natural gas therefrom;

15 (6) "Underground storage" (~~shall~~) means the process of injecting
16 and storing natural gas within and withdrawing natural gas from an
17 underground reservoir: PROVIDED, The withdrawal of gas from an
18 underground reservoir shall not be deemed a taking or producing within
19 the terms of RCW 82.04.100.

20 **Sec. 183.** RCW 80.40.040 and 1988 c 127 s 35 are each amended to
21 read as follows:

22 Any natural gas company desiring to exercise the right of eminent
23 domain to condemn any property or interest in property for the
24 underground storage of natural gas shall first make application to the
25 (~~oil and gas conservation committee~~) department for an order
26 approving the proposed project. Notice of such application shall be
27 given by the (~~committee~~) department to the utilities (~~and~~
28 ~~transportation~~) commission, to the director of ecology, to the
29 commissioner of public lands, and to all other persons known to have an
30 interest in the property to be condemned. Said notice shall be given
31 in the manner provided by RCW 8.20.020 as amended. The (~~committee~~)
32 department shall publish notice of said application at least once each
33 week for three successive weeks in some newspaper of general
34 circulation in the county or counties where the proposed underground
35 storage project is located. If no written requests for hearing on the
36 application are received by the committee within forty-five days from
37 the date of service of notice of the application and publication

1 thereof, the ((~~committee~~)) department may proceed without hearing and
2 issue its order. If a hearing is requested, a public hearing on the
3 application will be held within the county or one of the counties where
4 the proposed underground storage project is located. Any order
5 approving the proposed underground storage project shall contain
6 findings that: (1) The underground storage of natural gas in the lands
7 or property sought to be condemned is in the public interest and
8 welfare; (2) the underground reservoir is reasonably practicable, and
9 the applicant has complied with all applicable oil and gas conservation
10 laws of the state of Washington; (3) the underground reservoir sought
11 to be condemned is nonproductive of economically recoverable valuable
12 minerals or materials, or of oil or gas in commercial quantities under
13 either primary or secondary recovery methods, and nonproductive of
14 fresh water in commercial quantities with feasible and reasonable
15 pumping lift; (4) the natural gas company has acquired the right by
16 grant, lease, or other agreement to store natural gas under at least
17 sixty-five percent of the area of the surface of the land under which
18 such proposed underground storage reservoir extends; (5) the natural
19 gas company carries public liability insurance or has deposited
20 collateral in amounts satisfactory to the committee or has furnished a
21 financial statement showing assets in a satisfactory amount, to secure
22 payment of any liability resulting from any occurrence arising out of
23 or caused by the operation or use of any underground reservoir or
24 facilities incidental thereto; (6) the underground storage project will
25 not injure, pollute, or contaminate any usable fresh water resources;
26 and (7) the underground storage project will not injure, interfere
27 with, or endanger any mineral resources or the development or
28 extraction thereof. The order of the ((~~committee~~)) department may be
29 reviewed in the manner provided by chapter 34.05 RCW: PROVIDED, That
30 if an appeal is not commenced within thirty days of the date of the
31 order of the ((~~committee~~)) department, the same shall be final and
32 conclusive.

33 **Sec. 184.** RCW 80.40.050 and 1963 c 201 s 6 are each amended to
34 read as follows:

35 All natural gas in an underground reservoir utilized for
36 underground storage, whether acquired by eminent domain or otherwise,
37 shall at all times be the property of the natural gas company utilizing

1 said underground storage, its heirs, successors, or assigns; and in no
2 event shall such gas be subject to any right of the owner of the
3 surface of the land under which said underground reservoir lies or of
4 the owner of any mineral interest therein or of any person other than
5 the said natural gas company, its heirs, successors, and assigns to
6 release, produce, take, reduce to possession, or otherwise interfere
7 with or exercise any control thereof: PROVIDED, That the right of
8 condemnation hereby granted shall be without prejudice to the rights of
9 the owner of the condemned lands or of the rights and interest therein
10 to drill or bore through the underground reservoir in such a manner as
11 shall protect the underground reservoir against pollution and against
12 the escape of natural gas in a manner which complies with the orders,
13 rules, and regulations of the (~~oil and gas conservation committee~~)
14 department issued for the purpose of protecting underground storage and
15 shall be without prejudice to the rights of the owners of said lands or
16 other rights or interests therein as to all other uses thereof. The
17 additional cost of complying with regulations or orders to protect the
18 underground storage shall be paid by the condemnor.

19 **Sec. 185.** RCW 80.50.030 and 2001 c 214 s 4 are each amended to
20 read as follows:

21 (1) There is created and established the energy facility site
22 evaluation council.

23 (2)(a) The chair of the council shall be appointed by the governor
24 with the advice and consent of the senate, shall have a vote on matters
25 before the council, shall serve for a term coextensive with the term of
26 the governor, and is removable for cause. The chair may designate a
27 member of the council to serve as acting chair in the event of the
28 chair's absence. The salary of the chair shall be determined under RCW
29 43.03.040. The chair is a "state employee" for the purposes of chapter
30 42.52 RCW. As applicable, when attending meetings of the council,
31 members may receive reimbursement for travel expenses in accordance
32 with RCW 43.03.050 and 43.03.060, and are eligible for compensation
33 under RCW 43.03.250.

34 (b) The chair or a designee shall execute all official documents,
35 contracts, and other materials on behalf of the council. The
36 Washington state department of community, trade, and economic
37 development shall provide all administrative and staff support for the

1 council. The director of the department of community, trade, and
2 economic development has supervisory authority over the staff of the
3 council and shall employ such personnel as are necessary to implement
4 this chapter. Not more than three such employees may be exempt from
5 chapter 41.06 RCW.

6 (3)(a) The council shall consist of the directors, administrators,
7 or their designees, of the following departments, agencies,
8 commissions, and committees or their statutory successors:

- 9 (i) Department of ecology;
10 (ii) Department of fish and wildlife;
11 (iii) Department of community, trade, and economic development;
12 (iv) Utilities ((and ~~transportation~~)) commission; and
13 (v) Department of natural resources.

14 (b) The directors, administrators, or their designees, of the
15 following departments, agencies, and commissions, or their statutory
16 successors, may participate as councilmembers at their own discretion
17 provided they elect to participate no later than sixty days after an
18 application is filed:

- 19 (i) Department of agriculture;
20 (ii) Department of health;
21 (iii) Military department; and
22 (iv) Department of transportation.

23 (c) Council membership is discretionary for agencies that choose to
24 participate under (b) of this subsection only for applications that are
25 filed with the council on or after May 8, 2001. For applications filed
26 before May 8, 2001, council membership is mandatory for those agencies
27 listed in (b) of this subsection.

28 (4) The appropriate county legislative authority of every county
29 wherein an application for a proposed site is filed shall appoint a
30 member or designee as a voting member to the council. The member or
31 designee so appointed shall sit with the council only at such times as
32 the council considers the proposed site for the county which he or she
33 represents, and such member or designee shall serve until there has
34 been a final acceptance or rejection of the proposed site.

35 (5) The city legislative authority of every city within whose
36 corporate limits an energy plant is proposed to be located shall
37 appoint a member or designee as a voting member to the council. The
38 member or designee so appointed shall sit with the council only at such

1 times as the council considers the proposed site for the city which he
2 or she represents, and such member or designee shall serve until there
3 has been a final acceptance or rejection of the proposed site.

4 (6) For any port district wherein an application for a proposed
5 port facility is filed subject to this chapter, the port district shall
6 appoint a member or designee as a nonvoting member to the council. The
7 member or designee so appointed shall sit with the council only at such
8 times as the council considers the proposed site for the port district
9 which he or she represents, and such member or designee shall serve
10 until there has been a final acceptance or rejection of the proposed
11 site. The provisions of this subsection shall not apply if the port
12 district is the applicant, either singly or in partnership or
13 association with any other person.

14 **Sec. 186.** RCW 80.54.070 and 1979 c 33 s 7 are each amended to read
15 as follows:

16 Notwithstanding any other provision of law, a utility as defined in
17 RCW 80.54.010(3) and any utility not regulated by the utilities (~~and~~
18 ~~transportation~~) commission shall levy attachment rates which are
19 uniform for all licensees within the utility service area.

20 **Sec. 187.** RCW 80.60.010 and 2006 c 201 s 1 are each amended to
21 read as follows:

22 The definitions in this section apply throughout this chapter
23 unless the context clearly indicates otherwise.

24 (1) "Commission" means the utilities (~~and—transportation~~)
25 commission.

26 (2) "Customer-generator" means a user of a net metering system.

27 (3) "Electrical company" means a company owned by investors that
28 meets the definition of RCW 80.04.010.

29 (4) "Electric cooperative" means a cooperative or association
30 organized under chapter 23.86 or 24.06 RCW.

31 (5) "Electric utility" means any electrical company, public utility
32 district, irrigation district, port district, electric cooperative, or
33 municipal electric utility that is engaged in the business of
34 distributing electricity to retail electric customers in the state.

35 (6) "Irrigation district" means an irrigation district under
36 chapter 87.03 RCW.

1 (7) "Municipal electric utility" means a city or town that owns or
2 operates an electric utility authorized by chapter 35.92 RCW.

3 (8) "Net metering" means measuring the difference between the
4 electricity supplied by an electric utility and the electricity
5 generated by a customer-generator over the applicable billing period.

6 (9) "Net metering system" means a fuel cell, a facility that
7 produces electricity and used and useful thermal energy from a common
8 fuel source, or a facility for the production of electrical energy that
9 generates renewable energy, and that:

10 (a) Has an electrical generating capacity of not more than one
11 hundred kilowatts;

12 (b) Is located on the customer-generator's premises;

13 (c) Operates in parallel with the electric utility's transmission
14 and distribution facilities; and

15 (d) Is intended primarily to offset part or all of the customer-
16 generator's requirements for electricity.

17 (10) "Port district" means a port district within which an
18 industrial development district has been established as authorized by
19 Title 53 RCW.

20 (11) "Public utility district" means a district authorized by
21 chapter 54.04 RCW.

22 (12) "Renewable energy" means energy generated by a facility that
23 uses water, wind, solar energy, or biogas from animal waste as a fuel.

24 NEW SECTION. **Sec. 188.** The legislature finds that the economic
25 vitality of Washington state requires robust rail and freight systems
26 capable of providing its businesses, ports, and agricultural producers
27 with competitive access to domestic and international markets. The
28 legislature further finds that a carefully planned program of state
29 investments in rail and freight infrastructure will allow Washington
30 state to realize important public benefits, including increased safety
31 and economic growth. To the extent that state funds are used to
32 improve rail infrastructure, the legislature declares that it is the
33 policy of the state of Washington to examine the cost of any rail
34 infrastructure improvement as compared to the public benefits to be
35 gained by making a rail infrastructure improvement according to the
36 following priorities, in order of relative importance: (1) Economic,
37 safety, or environmental advantages of freight movement by rail

1 compared to alternative modes; (2) self-sustaining economic development
2 that creates family-wage jobs; (3) preservation of transportation
3 corridors that would otherwise be lost; (4) increased access to
4 efficient and cost-effective transport to market for Washington's
5 agricultural and industrial products; (5) better integration and
6 cooperation within the regional, national, and international systems of
7 freight distribution; and (6) mitigation of impacts of increased rail
8 traffic on communities. In all cases, state investment in rail
9 infrastructure should be allocated to leverage the greatest amount of
10 partnership funding possible, and should only be considered when there
11 is a demonstrably lower likelihood of obtaining the benefits specified
12 in this section without some state funding of the infrastructure
13 improvement.

14 NEW SECTION. **Sec. 189.** (1) The department of transportation shall
15 plan and coordinate the state's investment in the preservation and
16 improvement of rail infrastructure and the rail transportation system.
17 In executing its duties under this chapter, the department shall
18 carefully consider the recommendations submitted by the transportation
19 commission annually by August 1st. The department shall promptly and
20 diligently furnish information that the transportation commission or
21 the transportation committees of the house of representatives or senate
22 may request relating to the rail transportation system or the rail
23 infrastructure actions and projects plan described in section 190 of
24 this act.

25 (2) The freight mobility strategic investment board created in RCW
26 47.06A.030 becomes a division within the department of transportation
27 on July 1, 2008.

28 NEW SECTION. **Sec. 190.** The department of transportation shall
29 identify rail infrastructure needs that could be addressed through the
30 state's financial or other participation. The department shall
31 consider possible types of state participation to address a rail
32 infrastructure need, and shall analyze reasonable possibilities
33 according to the priorities identified in section 188 of this act using
34 the benefit/impact evaluation methodology developed as part of the
35 statewide rail capacity and needs study finalized in December 2006.
36 Based upon the benefit/impact analysis, the department shall develop

1 and sequence a plan of actions and projects in which the state should
2 participate. The rail infrastructure actions and projects plan must
3 include an explanation of the analysis undertaken, and the conclusions
4 derived from the analysis, for actions and projects recommended for
5 state participation, as well as those actions and projects considered,
6 but not recommended. The department shall update and report the plan
7 to the transportation commission and the transportation committees of
8 the house of representatives and senate by October 1st each year. The
9 department shall monitor any circumstance with a foreseeable impact on
10 the plan, and advise the transportation committees of the house of
11 representatives and senate by February 15th each year regarding any
12 changed circumstances that affect the plan.

13 NEW SECTION. **Sec. 191.** By November 15th each year, the
14 transportation commission shall report to the transportation committees
15 of the house of representatives and senate the commission's concurrence
16 or disagreement with the actions and projects recommended by the
17 department of transportation in the plan developed by the department
18 under section 190 of this act. The commission shall base its
19 determinations on the priorities identified in section 188 of this act,
20 and an evaluation of each action or project according to the
21 methodology developed as part of the statewide rail capacity and needs
22 study finalized in December 2006. If the commission finds that certain
23 actions or projects do not appear within the department's plan, but
24 warrant consideration, then the commission shall report its own
25 analysis of the action or project to the transportation committees of
26 the house of representatives and senate.

27 NEW SECTION. **Sec. 192.** A new section is added to chapter 81.04
28 RCW to read as follows:

29 The commission shall administer the railroad safety provisions of
30 this title to the fullest extent allowed under federal and state law.
31 For the purpose of participating with the United States department of
32 transportation in investigation and surveillance activities necessary
33 to enforce federal railroad safety regulations, the commission has
34 regulatory jurisdiction over the safety practices for railroad
35 equipment, facilities, rolling stock, and operations in the state.

1 While the commission is responsible for overseeing rail safety, the
2 department of transportation is responsible for performing inspections
3 of rail infrastructure and equipment, investigating rail accidents,
4 cooperating with federal authorities regarding rail accident
5 investigations, and program delivery. The department shall report its
6 inspection and investigation findings to the commission and provide
7 operational support for the adjudicatory functions of the commission.

8 **Sec. 193.** RCW 81.04.010 and 1993 c 427 s 9 are each amended to
9 read as follows:

10 As used in this title, unless specially defined otherwise or unless
11 the context indicates otherwise:

12 (1) "Commission" means the ((utilities—and)) transportation
13 commission.

14 (2) "Commissioner" means one of the members of ((such)) the
15 commission.

16 (3) "Corporation" includes a corporation, company, association, or
17 joint stock association.

18 (4) "Low-level radioactive waste site operating company" includes
19 every corporation, company, association, joint stock association,
20 partnership, and person, their lessees, trustees, or receivers
21 appointed by any court whatsoever, owning, operating, controlling, or
22 managing a low-level radioactive waste disposal site or sites located
23 within the state of Washington.

24 (5) "Low-level radioactive waste" means low-level waste as defined
25 by RCW 43.145.010.

26 (6) "Person" includes an individual, a firm, or copartnership.

27 (7) "Street railroad" includes every railroad by whatsoever power
28 operated, or any extension or extensions, branch or branches thereof,
29 for public use in the conveyance of persons or property for hire, being
30 mainly upon, along, above, or below any street, avenue, road, highway,
31 bridge, or public place within any one city or town, and includes all
32 equipment, switches, spurs, tracks, bridges, right of trackage,
33 subways, tunnels, stations, terminals, and terminal facilities of every
34 kind used, operated, controlled, or owned by or in connection with any
35 such street railroad, within this state.

36 (8) "Street railroad company" includes every corporation, company,
37 association, joint stock association, partnership, and person, their

1 lessees, trustees, or receivers appointed by any court whatsoever, and
2 every city or town, owning, controlling, operating, or managing any
3 street railroad or any cars or other equipment used thereon or in
4 connection therewith within this state.

5 (9) "Railroad" includes every railroad, other than street railroad,
6 by whatsoever power operated for public use in the conveyance of
7 persons or property for hire, with all bridges, ferries, tunnels,
8 equipment, switches, spurs, tracks, stations, and terminal facilities
9 of every kind used, operated, controlled, or owned by or in connection
10 with any such railroad.

11 (10) "Railroad company" includes every corporation, company,
12 association, joint stock association, partnership, or person, their
13 lessees, trustees, or receivers appointed by any court whatsoever,
14 owning, operating, controlling, or managing any railroad or any cars or
15 other equipment used thereon or in connection therewith within this
16 state.

17 (~~"Express company" includes every corporation, company,~~
18 ~~association, joint stock association, partnership, and person, their~~
19 ~~lessees, trustees, or receivers appointed by any court whatsoever, who~~
20 ~~shall engage in or transact the business of carrying any freight,~~
21 ~~merchandise, or property for hire on the line of any common carrier~~
22 ~~operated in this state.~~

23 ~~"Common carrier" includes all railroads, railroad companies, street~~
24 ~~railroads, street railroad companies, commercial ferries, express~~
25 ~~companies, car companies, sleeping car companies, freight companies,~~
26 ~~freight line companies, and every corporation, company, association,~~
27 ~~joint stock association, partnership, and person, their lessees,~~
28 ~~trustees, or receivers appointed by any court whatsoever, and every~~
29 ~~city or town, owning, operating, managing, or controlling any such~~
30 ~~agency for public use in the conveyance of persons or property for hire~~
31 ~~within this state.~~

32 ~~"Vessel" includes every species of watercraft, by whatsoever power~~
33 ~~operated, for public use in the conveyance of persons or property for~~
34 ~~hire over and upon the waters within this state, excepting all~~
35 ~~towboats, tugs, scows, barges, and lighters, and excepting rowboats and~~
36 ~~sailing boats under twenty gross tons burden, open steam launches of~~
37 ~~five tons gross and under, and vessels under five tons gross propelled~~
38 ~~by gas, fluid, naphtha, or electric motors.~~

1 ~~"Commercial ferry" includes every corporation, company,~~
2 ~~association, joint stock association, partnership, and person, their~~
3 ~~lessees, trustees, or receivers, appointed by any court whatsoever,~~
4 ~~owning, controlling, leasing, operating, or managing any vessel over~~
5 ~~and upon the waters of this state.~~

6 ~~"Transportation of property" includes any service in connection~~
7 ~~with the receiving, delivery, elevation, transfer in transit,~~
8 ~~ventilation, refrigeration, icing, storage, and handling of the~~
9 ~~property transported, and the transmission of credit.~~

10 ~~"Transportation of persons" includes any service in connection with~~
11 ~~the receiving, carriage, and delivery of the person transported and his~~
12 ~~baggage and all facilities used, or necessary to be used in connection~~
13 ~~with the safety, comfort, and convenience of the person transported.~~

14 ~~"Public service company" includes every common carrier.~~

15 ~~The term~~) (11) "Service" is used in this title in its broadest and
16 most inclusive sense.

17 **Sec. 194.** RCW 81.04.080 and 1989 c 107 s 2 are each amended to
18 read as follows:

19 Every ((~~public service~~)) company regulated under this title shall
20 annually furnish to the commission a report in ((~~such~~)) a form as the
21 commission may require, and shall specifically answer all questions
22 propounded to it by the commission((~~, upon or concerning which the~~
23 ~~commission may need information. Such annual reports shall show in~~
24 ~~detail the amount of capital stock issued, the amounts paid therefor~~
25 ~~and the manner of payment for same, the dividends paid, the surplus~~
26 ~~fund, if any, and the number of stockholders, the funded and floating~~
27 ~~debts and the interest paid thereon, the cost and value of the~~
28 ~~company's property, franchises and equipment, the number of employees~~
29 ~~and the salaries paid each class, the accidents to passengers,~~
30 ~~employees and other persons and the cost thereof, the amounts expended~~
31 ~~for improvements each year, how expended and the character of such~~
32 ~~improvements, the earnings or receipts from each franchise or business~~
33 ~~and from all sources, the proportion thereof earned from business~~
34 ~~moving wholly within the state and the proportion earned from~~
35 ~~interstate traffic, the nature of the traffic movement showing the~~
36 ~~percentage of the ton miles each class of commodity bears to the total~~
37 ~~ton mileage, the operating and other expenses and the proportion of~~

1 ~~such expense incurred in transacting business wholly within the state,~~
2 ~~and the proportion incurred in transacting interstate business, such~~
3 ~~division to be shown according to such rules of division as the~~
4 ~~commission may prescribe, the balances of profit and loss, and a~~
5 ~~complete exhibit of the financial operations of the carrier each year,~~
6 ~~including an annual balance sheet. Such report shall also contain such~~
7 ~~information in relation to rates, charges or regulations concerning~~
8 ~~fares, charges or freights, or agreements, arrangements or contracts~~
9 ~~affecting the same, as the commission may require; and the commission~~
10 ~~may, in its discretion, for the purpose of enabling it the better to~~
11 ~~carry out the provisions of this title,)). The commission may~~
12 ~~prescribe the period of time within which all ((public service))~~
13 ~~companies subject to ((the provisions of)) this title ((shall)) must~~
14 ~~have, as near as ((may be)) possible, a uniform system of accounts, and~~
15 ~~the manner in which ((such)) the accounts ((shall)) must be kept.~~
16 ~~((Such)) The detailed report ((shall)) must contain all the required~~
17 ~~statistics for the period of twelve months ending on the last day of~~
18 ~~any particular month prescribed by the commission for any ((public~~
19 ~~service)) company subject to this title. ((Such)) The report((s~~
20 ~~shall)) must be made out under oath and filed with the commission at~~
21 ~~its office in Olympia on ((such)) a date ((as)) the commission~~
22 ~~specifies by rule, unless additional time ((be)) is granted ((in any~~
23 ~~ease)) by the commission. The commission ((shall have authority to))~~
24 ~~may require any ((public service)) company subject to this title to~~
25 ~~file monthly reports of earnings and expenses, and to file periodical~~
26 ~~or special, or both periodical and special, reports concerning any~~
27 ~~matter ((about which)) the commission is authorized or required by this~~
28 ~~or any other law, to inquire into or keep itself informed about, or~~
29 ~~which it is required to enforce, ((such)) the periodical or special~~
30 ~~reports to be under oath whenever required by the commission ((se~~
31 ~~requires)).~~

32 **Sec. 195.** RCW 81.04.160 and 1961 c 14 s 81.04.160 are each amended
33 to read as follows:

34 The commission ((is hereby authorized and empowered to adopt,
35 promulgate and issue rules and regulations covering the bulletining of
36 trains, showing the time of arrival and departure of all trains, and
37 the probable arrival and departure of delayed trains; the conditions to

1 ~~be contained in and become a part of contracts for transportation of~~
2 ~~persons and property, and any and all services concerning the same, or~~
3 ~~connected therewith; the time that station rooms and offices shall be~~
4 ~~kept open; rules governing demurrage and reciprocal demurrage, and to~~
5 ~~provide reasonable penalties to expedite the prompt movement of freight~~
6 ~~and release of cars, the limits of express deliveries in cities and~~
7 ~~towns, and generally such)) may adopt rules ((as)) that pertain to the
8 comfort and convenience of the public ((concerning the subjects treated
9 of in this title. Such rules and regulations shall be promulgated and
10 issued by the commission on its own motion, and shall be served on the
11 public service company affected thereby as other orders of the
12 commission are served. Any public service company affected thereby,
13 and deeming such rules and regulations, or any of them, improper,
14 unjust, unreasonable, or contrary to law, may within twenty days from
15 the date of service of such order upon it file objections thereto with
16 the commission, specifying the particular grounds of such objections.
17 The commission shall, upon receipt of such objections, fix a time and
18 place for hearing the same, and after a full hearing may make such
19 changes or modifications thereto, if any, as the evidence may justify.
20 The commission shall have, and it is hereby given, power to adopt rules
21 to govern its proceedings, and to regulate the mode and manner of all
22 investigations and hearings: PROVIDED, No person desiring to be
23 present at such hearing shall be denied permission. Actions may be
24 instituted to review rules and regulations promulgated under this
25 section as in the case of orders of the commission)) using the services
26 of companies subject to this title.~~

27 **Sec. 196.** RCW 81.08.010 and 1981 c 13 s 3 are each amended to read
28 as follows:

29 ((The term)) "public service company,"((~~τ~~)) as used in this
30 chapter, ((shall)) means every company now or hereafter engaged in
31 business in this state ((as a public utility)) and subject to
32 regulation as to rates and service by the ((utilities and))
33 transportation commission under ((the provisions of)) this title((~~+~~
34 PROVIDED, That it shall not include any such company the issuance of
35 stocks and securities of which is subject to regulation by the
36 Interstate Commerce Commission: PROVIDED FURTHER, That it shall not

1 ~~include any "motor carrier" as that term is defined in RCW 81.80.010 or~~
2 ~~any "garbage and refuse collection company" subject to the provisions~~
3 ~~of chapter 81.77 RCW)).~~

4 **Sec. 197.** RCW 81.12.010 and 1981 c 13 s 4 are each amended to read
5 as follows:

6 ((~~The term~~)) "Public service company," as used in this chapter,
7 ((~~shall~~)) means every company now or hereafter engaged in business in
8 this state ((~~as a public utility~~)) and subject to regulation as to
9 rates and service by the ((~~utilities and~~)) transportation commission
10 under ((~~the provisions of~~)) this title((~~: PROVIDED, That it shall not~~
11 ~~include common carriers subject to regulation by the Interstate~~
12 ~~Commerce Commission: PROVIDED FURTHER, That it shall not include motor~~
13 ~~freight carriers subject to the provisions of chapter 81.80 RCW or~~
14 ~~garbage and refuse collection companies subject to the provisions of~~
15 ~~chapter 81.77 RCW: PROVIDED FURTHER, That nothing contained in this~~
16 ~~chapter shall relieve public service companies from the necessity for~~
17 ~~compliance with the provisions of RCW 81.80.270))).~~

18 **Sec. 198.** RCW 81.20.010 and 1961 c 14 s 81.20.010 are each amended
19 to read as follows:

20 As used in this chapter, ((~~the term~~)) "public service company"
21 means any person, firm, association, or corporation, whether public or
22 private, operating a ((~~utility or~~)) public service enterprise subject
23 ((~~in any respect~~)) to regulation by the ((~~utilities and~~))
24 transportation commission under ((~~the provisions of~~)) this title ((~~or~~
25 ~~Title 22 RCW~~)).

26 **Sec. 199.** RCW 81.20.020 and 1961 c 14 s 81.20.020 are each amended
27 to read as follows:

28 Whenever the commission in any proceeding upon its own motion or
29 upon complaint shall deem it necessary in order to carry out the duties
30 imposed upon it by law to investigate the books, accounts, practices
31 and activities of, or make any valuation or appraisal of the property
32 of any public service company, or to investigate or appraise any phase
33 of its operations, or to render any engineering or accounting service
34 to or in connection with any public service company, and the cost
35 thereof to the commission exceeds in amount the ordinary regulatory

1 fees paid by such public service company during the preceding calendar
2 year or estimated to be paid during the current year, whichever is
3 more, such public service company shall pay the expenses reasonably
4 attributable and allocable to such investigation, valuation, appraisal
5 or services. The commission shall ascertain such expenses, and, after
6 giving notice and an opportunity to be heard, shall render a bill
7 therefor by registered mail to the public service company, either at
8 the conclusion of the investigation, valuation, appraisal or services,
9 or from time to time during its progress. Within thirty days after a
10 bill has been mailed such public service company shall pay to the
11 commission the amount of the bill, and the commission shall transmit
12 such payment to the state treasurer who shall credit it to the (~~public~~
13 ~~service revolving fund~~) multimodal transportation account. The total
14 amount which any public service company shall be required to pay under
15 the provisions of this section in any calendar year shall not exceed
16 one percent of the gross operating revenues derived by such public
17 service company from its intrastate operations during the last
18 preceding calendar year. If such company did not operate during all of
19 the preceding year the calculations shall be based upon estimated gross
20 revenues for the current year.

21 **Sec. 200.** RCW 81.24.010 and 2003 c 296 s 2 are each amended to
22 read as follows:

23 (1) Every company subject to regulation by the commission(~~(, except~~
24 ~~auto transportation companies, steamboat companies, and motor freight~~
25 ~~carriers~~)) shall, on or before the date specified by the commission for
26 filing annual reports under RCW 81.04.080, file with the commission a
27 statement on oath showing its gross operating revenue from intrastate
28 operations for the preceding calendar year, or portion thereof, and pay
29 to the commission a fee equal to one-tenth of one percent of the first
30 fifty thousand dollars of gross operating revenue, plus two-tenths of
31 one percent of any gross operating revenue in excess of fifty thousand
32 dollars, except railroad companies which shall each pay to the
33 commission a fee equal to one and one-half percent of its intrastate
34 gross operating revenue. The commission may, by rule, set minimum fees
35 that do not exceed the cost of collecting the fees. The commission may
36 by rule waive any or all of the minimum fee established pursuant to
37 this section. Any railroad association that qualifies as a not-for-

1 profit charitable organization under the federal internal revenue code
2 section 501(c)(3) is exempt from the fee required under this
3 subsection.

4 (2) The percentage rates of gross operating revenue to be paid in
5 any one year may be decreased by the commission for any class of
6 companies subject to the payment of such fees, by general order entered
7 before March 1st of such year, and for such purpose (~~((such))~~) railroad
8 companies (~~((shall be))~~) are classified as (~~((follows: Railroad, express,~~
9 ~~sleeping car, and toll bridge companies shall constitute))~~) class two.
10 Every other company subject to regulation by the commission, for which
11 regulatory fees are not otherwise fixed by law shall pay fees as herein
12 provided and shall constitute additional classes according to kinds of
13 businesses engaged in.

14 **Sec. 201.** RCW 81.24.050 and 1983 c 3 s 206 are each amended to
15 read as follows:

16 In fixing the percentage rates of gross operating revenue to be
17 paid by companies under RCW 81.24.010(~~(, 81.24.020, and 81.24.030)~~),
18 the commission shall (~~((consider all moneys then in the public service~~
19 ~~revolving fund and the fees currently to be paid into such fund, to the~~
20 ~~end that the fees collected from the companies, or classes of~~
21 ~~companies, covered by each respective section shall be))~~) collect fees
22 approximately (~~((the same as))~~) equal to the reasonable cost of
23 supervising and regulating (~~((such))~~) the companies, or classes of
24 companies, respectively.

25 **Sec. 202.** RCW 81.24.070 and 1961 c 14 s 81.24.070 are each amended
26 to read as follows:

27 All moneys collected under (~~((the provisions of))~~) this chapter shall
28 within thirty days be paid to the state treasurer (~~((and by him~~
29 ~~deposited to the public service revolving fund))~~) for deposit into the
30 multimodal transportation account.

31 **Sec. 203.** RCW 81.24.080 and 1987 c 202 s 242 are each amended to
32 read as follows:

33 Every person, firm, company, or corporation, or the officers,
34 agents or employees thereof, failing or neglecting to pay the fees
35 herein required shall be guilty of a misdemeanor. All fines and

1 penalties collected under the provisions of this chapter shall be
2 deposited into the ((~~public service revolving fund~~)) multimodal
3 transportation account of the state treasury: PROVIDED, That all fees,
4 fines, forfeitures, and penalties collected or assessed by a district
5 court because of the violation of a state law shall be remitted as
6 provided in chapter 3.62 RCW as now exists or is later amended.

7 NEW SECTION. Sec. 204. A new section is added to chapter 81.28
8 RCW to read as follows:

9 As used in this chapter, unless the context clearly requires
10 otherwise, "common carrier" includes all railroads, railroad companies,
11 street railroads, and every corporation, company, association, joint
12 stock association, partnership, and person, their lessees, trustees, or
13 receivers appointed by any court, and every city, town, port district,
14 or rail district owning, operating, managing, or controlling any such
15 agency for public use in the conveyance of persons or property for
16 hire, except for ferries, within this state.

17 Sec. 205. RCW 81.28.010 and 1961 c 14 s 81.28.010 are each amended
18 to read as follows:

19 All charges made for any service rendered or to be rendered in the
20 transportation of persons or property, or in connection therewith, by
21 any common carrier subject to regulation by the commission as to rates
22 and service, or by any two or more common carriers, ((~~shall~~)) must be
23 just, fair, reasonable, and sufficient.

24 Every common carrier shall construct, furnish, maintain, and
25 provide, safe, adequate, and sufficient service facilities((~~, trackage,~~
26 ~~sidings, railroad connections, industrial and commercial spurs~~)) and
27 equipment to enable it to promptly, expeditiously, safely, and properly
28 receive, transport, and deliver all persons or property offered to or
29 received by it for transportation, and to promote the safety, health,
30 comfort, and convenience of its patrons, employees, and the public.

31 All rules and regulations issued by any common carrier affecting or
32 pertaining to the transportation of persons or property ((~~shall~~)) must
33 be just and reasonable.

34 NEW SECTION. Sec. 206. A new section is added to chapter 81.44
35 RCW to read as follows:

1 As used in this chapter, unless the context clearly requires
2 otherwise, "common carrier" includes all railroads, railroad companies,
3 street railroads, and every corporation, company, association, joint
4 stock association, partnership, and person, their lessees, trustees, or
5 receivers appointed by any court, and every city, town, port district,
6 or rail district owning, operating, managing, or controlling any such
7 agency for public use in the conveyance of persons or property for hire
8 within this state. "Common carrier" does not include commercial
9 ferries, car companies, sleeping car companies, freight companies, or
10 freight line companies.

11 **Sec. 207.** RCW 81.44.010 and 1961 c 14 s 81.44.010 are each amended
12 to read as follows:

13 Whenever the transportation commission (~~(shall)~~), after a hearing
14 had upon its own motion or upon complaint, finds that(~~(, additional~~
15 ~~tracks, switches, terminals, terminal facilities, stations, motive~~
16 ~~power or any other property, apparatus,)~~) any equipment(~~(, facilities~~
17 ~~or device)) or facility for use by any common carrier in, or in
18 connection with the transportation of persons or property, ought
19 reasonably to be provided, or any repairs or improvements to, or
20 changes in, any theretofore in use ought reasonably to be made, or any
21 additions or changes in construction should reasonably be made thereto,
22 in order to promote the security or convenience of the public or
23 employees, or in order to secure adequate service or facilities for the
24 transportation of passengers or property, the commission may, after a
25 hearing, either on its own motion or after complaint, (~~(make and)~~)
26 serve an order directing such repairs, improvements, changes, or
27 additions to be made.~~

28 **Sec. 208.** RCW 81.44.020 and 1982 c 141 s 1 are each amended to
29 read as follows:

30 If upon investigation the (~~(commission shall)~~) department of
31 transportation finds that the equipment (~~(or appliances in connection~~
32 ~~therewith, or the apparatus)) facilities, tracks, bridges, or other
33 structures of any common carrier are defective, and that the operation
34 thereof is dangerous to the employees of (~~(such))~~) the common carrier or
35 to the public, it shall immediately give notice to the superintendent
36 or other officer of (~~(such))~~) the common carrier of the repairs or~~

1 reconstruction necessary to place the same in a safe condition, and
2 shall immediately report its findings to the transportation commission.
3 The commission may ~~((also))~~ prescribe the rate of speed for trains or
4 cars passing over ~~((such))~~ the dangerous or defective track, bridge, or
5 other structure until the repairs or reconstruction required are made,
6 and may also prescribe the time ~~((within which the same shall))~~ when
7 the repairs or reconstruction must be made~~((-)); or if((-))~~ in ~~((its))~~
8 the commission's opinion~~((-))~~ it is needful or proper, ~~((it))~~ the
9 commission may forbid ~~((the running of))~~ trains or cars to run over any
10 defective track, bridge, or structure until the ~~((same be))~~ track,
11 bridge, or structure is repaired and placed in a safe condition.
12 ~~((Failure of a))~~ Railroad bridges or trestles ~~((to be equipped with))~~
13 without walkways and handrails may be identified as an unsafe or
14 defective condition under this section after a hearing ~~((had))~~ by the
15 commission upon complaint or on its own motion. The commission, in
16 making ~~((such))~~ the determination, shall balance considerations of
17 employee and public safety with the potential for increased danger to
18 the public resulting from adding ~~((such))~~ walkways or handrails to
19 railway bridges~~((:- PROVIDED, That))~~. A railroad company and its
20 employees ~~((shall))~~ are not ~~((be))~~ liable for injury to or death of any
21 person occurring on or about any railway bridge or trestle if ~~((such))~~
22 the person was not a railway employee but was a trespasser or was
23 otherwise not authorized to be in the location where ~~((such))~~ the
24 injury or death occurred.

25 ~~((There shall be no))~~ Appeal from or action to review any order of
26 the commission made under ~~((the provisions of))~~ this section is not
27 available if the commission finds that immediate compliance is
28 necessary for the protection of employees or the public.

29 **Sec. 209.** RCW 81.44.040 and 1961 c 14 s 81.44.040 are each amended
30 to read as follows:

31 ~~((Each car shall be equipped with couplers coupling automatically,~~
32 ~~which can be coupled or uncoupled without the necessity of men going~~
33 ~~between the ends of the cars, with power brakes, with proper hand~~
34 ~~brakes, sill steps and grab irons, and, where secure ladders and~~
35 ~~running boards are required, with such ladders and running boards, and~~
36 ~~all cars having ladders shall also be equipped with secure hand holds~~
37 ~~or grab irons on their roofs at the tops of such ladders, and with such~~

1 ~~other appliances necessary for the safe operation of such cars, and the~~
2 ~~trains containing such cars, as may be prescribed by the commission:~~
3 ~~PROVIDED, That in the loading and hauling of long commodities requiring~~
4 ~~more than one car, hand brakes may be omitted from all save one of the~~
5 ~~cars, while they are thus combined for such purpose:— AND PROVIDED~~
6 ~~FURTHER, That in the operation of trains not less than eighty five~~
7 ~~percent of the cars in such train, which are associated together, shall~~
8 ~~have their power brakes used and operated by the engineer of the~~
9 ~~locomotive drawing such train.))~~

10 Every street car (~~shall~~) must be equipped with proper and
11 efficient brakes, steps, grab irons or hand rails, fenders or aprons or
12 pilots, and with (~~such~~) other appliances, apparatus, and machinery
13 necessary for the safe operation of (~~such~~) the street car as the
14 (~~commission~~) department of transportation may prescribe.

15 **Sec. 210.** RCW 81.44.032 and 1977 ex.s. c 263 s 2 are each amended
16 to read as follows:

17 Any railroad or railway in this state violating any of the
18 provisions of RCW 81.44.031, shall be fined not less than five hundred
19 dollars nor more than one thousand dollars for each violation; each day
20 such condition exists shall constitute a separate violation. In
21 setting the fine for equipment failure, the location of the locomotive
22 at the time of the violation and access to repair facilities shall be
23 taken into consideration. It shall also be a violation of RCW
24 81.44.031 and this section subject to the same penalty as provided in
25 this section for any railroad employee, except those charged with the
26 duty of installation, maintenance, and repair or removal of
27 speedometers to tamper with, adjust, or break the lock or alter or
28 remove the speed recording tape therein. Any penalty collected under
29 this section shall be transmitted to the state treasurer for deposit
30 into the multimodal transportation account.

31 **Sec. 211.** RCW 81.44.065 and 1961 c 14 s 81.44.065 are each amended
32 to read as follows:

33 To the extent permissible under federal law, the (~~utilities and~~)
34 department of transportation (~~commission~~) shall exercise all powers
35 and duties in relation to the inspection of tracks, bridges,
36 structures, equipment, apparatus, and appliances of railroads with

1 respect to the safety of employees and the public and the
2 administration and enforcement of all laws providing for the protection
3 of the public and employees of railroads which prior to April 1, 1955
4 were vested in and required to be performed by the director of labor
5 and industries.

6 **Sec. 212.** RCW 81.44.070 and 1961 c 14 s 81.44.070 are each amended
7 to read as follows:

8 It shall be the duty of the inspector of tracks, bridges,
9 structures, and equipment, and such deputies as may be appointed, to
10 inspect all equipment, and appliances connected therewith, and all
11 apparatus, tracks, bridges and structures, depots and facilities and
12 accommodations connected therewith, and facilities and accommodations
13 furnished for the use of employees, and make such reports of ~~((his))~~
14 the inspection to the ~~((commission))~~ department of transportation as
15 may be required. ~~((He))~~ The inspector shall, on discovering any
16 defective equipment or appliances connected therewith, rendering the
17 use of such equipment dangerous, immediately report the same to the
18 superintendent of the road on which it is found, and to the proper
19 official at the nearest point where such defect is discovered,
20 describing the defect. ~~((Such))~~ The inspector may, on the discovery of
21 any defect rendering the use of any car, motor, or locomotive
22 dangerous, condemn such car, motor, or locomotive, and order the same
23 out of service until repaired and put in good working order. ~~((He))~~
24 The inspector shall, on discovering any track, bridge, or structure
25 defective or unsafe in any particular, report such condition to the
26 ~~((commission))~~ department of transportation, and, in addition thereto,
27 report the same to the official in charge of the division of such
28 railroad upon which such defect is found. In case any track, bridge,
29 or structure is found so defective as to be dangerous to the employees
30 or public for a train or trains to be operated over the same, the
31 inspector is hereby authorized to condemn such track, bridge, or
32 structure and notify the ~~((commission))~~ department of transportation
33 and the office in charge of the division of such railroad where such
34 defect is found ~~((of his action concerning the same))~~, reporting in
35 detail the defect complained of, and the work or improvements necessary
36 to repair such defect. ~~((He))~~ The inspector shall also report to the
37 ~~((commission))~~ department of transportation the violation of any law

1 governing, controlling, or affecting the conduct of public service
2 companies in this state(~~(, as such companies are defined in this title~~
3 ~~or in Title 80 RCW))~~).

4 The inspector, or such deputies as may be appointed, shall have the
5 right and privilege of riding on any locomotive, either on freight or
6 passenger trains, or on the caboose of any freight train, for the
7 purpose of inspecting the track on any railroad in this state:
8 PROVIDED, That the engineer or conductor in charge of any such
9 locomotive or caboose may require such inspector to produce his or her
10 authority, under the seal of the ~~((commission))~~ department of
11 transportation, showing that he or she is ~~((such))~~ the inspector or
12 deputy inspector.

13 The inspector, or such deputy inspector or inspectors as may be
14 appointed, shall, when required by the ~~((commission))~~ department of
15 transportation, inspect any street railroad, gas plant, electrical
16 plant, water system, telephone line, or telegraph line, and upon
17 discovering any defective or dangerous track, bridge, structure,
18 equipment, apparatus, machinery, appliance, facility, instrumentality,
19 or building, rendering the use of the same dangerous to the public or
20 to the employees of the company owning or operating the same, report
21 the same to the ~~((commission))~~ department of transportation, and to the
22 official in charge of such road, plant, system, or line.

23 **Sec. 213.** RCW 81.48.015 and 1995 c 315 s 2 are each amended to
24 read as follows:

25 (1) The legislature hereby authorizes cities and counties to enact
26 ordinances limiting or prohibiting the sounding of locomotive horns,
27 provided the ordinance applies only at crossings equipped with
28 supplemental safety measures. A supplemental safety measure is a
29 safety device defined in P.L. 103-440, section 20153(a)(3), as that law
30 existed on November 2, 1994. A supplemental safety measure that
31 prevents careless movement over the crossing (e.g., as where adequate
32 median barriers prevent movement around crossing gates extending over
33 the full width of the lanes in a particular direction of travel), shall
34 be deemed to conform to those standards required under P.L. 103-440
35 unless specifically rejected by emergency order issued by the United
36 States secretary of the department of transportation.

1 (2) Prior to enacting the ordinance, the cities and counties shall
2 provide written notification to the railroad companies affected by the
3 proposed ordinance, and to the (~~state utilities and~~) transportation
4 commission, for the purpose of providing an opportunity to comment on
5 the proposed ordinance.

6 (3) Nothing in this section shall be construed as limiting the
7 state's power, guaranteed by the tenth amendment to the Constitution of
8 the United States, to enact laws necessary for the health, safety, or
9 welfare of the people of the state of Washington.

10 NEW SECTION. Sec. 214. A new section is added to chapter 81.53
11 RCW to read as follows:

12 The department of transportation shall not certify, or inspect for
13 the purpose of certifying, the safety of any rail track, rail
14 construction, or grade crossings that are constructed, repaired,
15 refurbished, operated, or funded through grants or otherwise by the
16 department. The department shall facilitate, as needed, inspection of
17 any rail infrastructure within the state that is conducted by federal
18 inspectors.

19 **Sec. 215.** RCW 81.53.010 and 1961 c 14 s 81.53.010 are each amended
20 to read as follows:

21 (~~The term~~) For the purposes of this chapter unless the context
22 clearly requires otherwise:

23 (1) "Commission(())" (~~when used in this chapter,~~) means the
24 (~~utilities and~~) transportation commission (~~of Washington~~).

25 (~~The term~~) (2) "Department" means the department of
26 transportation.

27 (3) "Highway(())" (~~when used in this chapter,~~) includes all
28 state and county roads, streets, alleys, avenues, boulevards, parkways,
29 and other public places actually open and in use, or to be opened and
30 used, for travel by the public.

31 (~~The term~~) (4) "Railroad(())" (~~when used in this chapter,~~)
32 means every railroad, including interurban and suburban electric
33 railroads, by whatsoever power operated, for the public use in the
34 conveyance of persons or property for hire, with all bridges, ferries,
35 tunnels, equipment, switches, spurs, sidings, tracks, stations, and
36 terminal facilities of every kind, used, operated, controlled, managed,

1 or owned by or in connection therewith. (~~The said term shall also~~)
2 "Railroad" includes every logging and other industrial railway owned or
3 operated primarily for the purpose of carrying the property of its
4 owners or operators or of a limited class of persons, with all tracks,
5 spurs, and sidings used in connection therewith. (~~The said term~~
6 ~~shall~~) "Railroad" does not include street railways operating within
7 the limits of any incorporated city or town.

8 (~~The term~~) (5) "Railroad company" (~~when used in this~~
9 ~~chapter~~) includes every corporation, company, association, joint
10 stock association, partnership, or person, (~~its~~) their (~~or his~~)
11 lessees, trustees, or receivers appointed by any court (~~whatsoever~~),
12 owning, operating, controlling, or managing any railroad (~~as that~~
13 ~~term is defined in this section~~).

14 (~~The term~~) (6)(a) "Over-crossing" (~~when used in this~~
15 ~~chapter~~) means any point or place where a highway crosses a railroad
16 by passing above the (~~same~~) railroad.

17 (~~The term~~) (b) "Under-crossing" (~~when used in this~~
18 ~~chapter~~) means any point or place where a highway crosses a railroad
19 by passing under the (~~same~~) railroad.

20 (~~The term~~) (c) "Over-crossing" or "under-crossing" (~~shall~~)
21 also means any point or place where one railroad crosses another
22 railroad not at grade.

23 (~~The term~~) (7) "Grade crossing" (~~when used in this~~
24 ~~chapter~~) means any point or place where a railroad crosses a highway
25 or a highway crosses a railroad or one railroad crosses another, at a
26 common grade.

27 **Sec. 216.** RCW 81.53.020 and 1961 c 14 s 81.53.020 are each amended
28 to read as follows:

29 All railroads and extensions of railroads hereafter constructed
30 shall cross existing railroads and highways by passing either over or
31 under the same, when practicable, and shall in no instance cross any
32 railroad or highway at grade without authority first being obtained
33 from the (~~commission~~) department to do so. All highways and
34 extensions of highways hereafter laid out and constructed shall cross
35 existing railroads by passing either over or under the same, when
36 practicable, and shall in no instance cross any railroad at grade
37 without authority first being obtained from the (~~commission~~)

1 department to do so: PROVIDED, That this section shall not be
2 construed to prohibit a railroad company from constructing tracks at
3 grade across other tracks owned or operated by it within established
4 yard limits. In determining whether a separation of grades is
5 practicable, the ((~~commission~~)) department shall take into
6 consideration the amount and character of travel on the railroad and on
7 the highway; the grade and alignment of the railroad and the highway;
8 the cost of separating grades; the topography of the country, and all
9 other circumstances and conditions naturally involved in such an
10 inquiry.

11 **Sec. 217.** RCW 81.53.050 and 1961 c 14 s 81.53.050 are each amended
12 to read as follows:

13 If the ((~~commission~~)) department finds and determines that a change
14 in route of an existing highway, or vacation of a portion thereof, is
15 necessary or advisable, it shall further find and determine what
16 private property or property rights it is necessary to take, damage, or
17 injuriously affect for the purpose of constructing the highway along a
18 new route, and what private property or property rights, will be
19 affected by the proposed vacation of a portion of an existing highway.
20 The property and property rights found necessary to be taken, damaged,
21 or affected shall be described in the findings with reasonable
22 accuracy. In any action brought to acquire the right to take or damage
23 any such property or property rights, the findings of the
24 ((~~commission~~)) department shall be conclusive as to the necessity
25 therefor. A copy of the findings shall be served upon all parties to
26 the cause.

27 **Sec. 218.** RCW 81.53.070 and 1961 c 14 s 81.53.070 are each amended
28 to read as follows:

29 At the conclusion of the hearing the ((~~commission~~)) department
30 shall make and file its written findings of fact concerning the matters
31 inquired into in like manner as provided for findings of fact upon
32 petition for new crossings. The ((~~commission~~)) department shall also
33 enter its order based upon said findings of fact, which shall specify
34 whether the highway shall continue at grade or whether it shall be
35 changed to cross over or under the railroad in its existing location or
36 at some other point, and whether an over-crossing or under-crossing

1 shall be established at the proposed location of any street or highway
2 or at some other point, or whether the style and nature of construction
3 of an existing crossing shall be changed, or whether said highway shall
4 be closed and travel thereon diverted to another channel, or any other
5 change that the (~~commission~~) department may find advisable or
6 necessary: PROVIDED, That in an emergency where a highway is relocated
7 to avoid a grade crossing, or a new crossing is constructed in the
8 vicinity of an existing crossing in the interest of public safety, the
9 (~~commission~~) department may order such existing crossing closed
10 without notice or hearing as specified herein. In case the order made
11 requires that private lands, property, or property rights be taken,
12 damaged or injuriously affected, the right to take, damage or
13 injuriously affect the same shall be acquired as hereinafter provided.

14 Any petition herein authorized may be filed by the commission on
15 its own motion, and proceedings thereon shall be the same as herein
16 provided for the hearing and determination of a petition filed by a
17 railroad company.

18 **Sec. 219.** RCW 81.53.080 and 1969 ex.s. c 210 s 9 are each amended
19 to read as follows:

20 After February 24, 1937, no building, loading platform, or other
21 structure which will tend to obstruct the vision of travelers on a
22 highway or parkway, of approaching railway traffic, shall be erected or
23 placed on railroad or public highway rights of way within a distance of
24 one hundred feet of any grade crossing located outside the corporate
25 limits of any city or town unless authorized by the (~~commission~~)
26 department, and no trains, railway cars or equipment shall be spotted
27 less than one hundred feet from any grade crossing within or without
28 the corporate limits of any city or town except to serve station
29 facilities and existing facilities of industries.

30 The (~~commission~~) department shall have the power to specify the
31 minimum vertical and horizontal clearance of under-crossings
32 constructed, repaired, or reconstructed after February 24, 1937, except
33 as to primary state highways.

34 **Sec. 220.** RCW 81.53.110 and 1961 c 14 s 81.53.110 are each amended
35 to read as follows:

36 Whenever, under the provisions of this chapter, a new highway is

1 constructed across a railroad, or an existing grade crossing is
2 eliminated or changed (or the style or nature of construction of an
3 existing crossing is changed), the entire expense of constructing a new
4 grade crossing, an overcrossing, under-crossing, or safer grade
5 crossing, or changing the nature and style of construction of an
6 existing crossing, including the expense of constructing approaches to
7 such crossing and the expense of securing rights of way for such
8 approaches, as the case may be, shall be apportioned by the
9 ((~~commission~~)) department between the railroad, municipality, or county
10 affected, or if the highway is a state road or parkway, between the
11 railroad and the state, in such manner as justice may require, regard
12 being had for all facts relating to the establishment, reason for, and
13 construction of said improvement. If the highway involved is a state
14 road or parkway, the amount not apportioned to the railroad company
15 shall be paid as provided by law for constructing such state road or
16 parkway.

17 **Sec. 221.** RCW 81.53.120 and 1961 c 14 s 81.53.120 are each amended
18 to read as follows:

19 Whenever two or more lines of railroad owned or operated by
20 different companies cross a highway, or each other, by an over-
21 crossing, under-crossing, or grade crossing required or permitted by
22 this chapter or by an order of the ((~~commission~~)) department, the
23 portion of the expense of making such crossing not chargeable to any
24 municipality, county or to the state, and the expense of constructing
25 and maintaining such signals, warnings, flagmen, interlocking devices,
26 or other devices or means to secure the safety of the public and the
27 employees of the railroad company, as the ((~~commission~~)) department may
28 require to be constructed and maintained, shall be apportioned between
29 said railroad companies by the ((~~commission~~)) department in such manner
30 as justice may require, regard being had for all facts relating to the
31 establishment, reason for, and construction of said improvement, unless
32 said companies shall mutually agree upon an apportionment. If it
33 becomes necessary for the ((~~commission~~)) department to make an
34 apportionment between the railroad companies, a hearing for that
35 purpose shall be held, at least ten days' notice of which shall be
36 given.

1 **Sec. 222.** RCW 81.53.130 and 1988 c 202 s 65 are each amended to
2 read as follows:

3 In the construction of new railroads across existing highways, the
4 railroads shall do or cause to be done all the work of constructing the
5 crossings and road changes that may be required, and shall acquire and
6 furnish whatever property or easements may be necessary, and shall pay,
7 as provided in RCW 81.53.100 through 81.53.120, the entire expense of
8 such work including all compensation or damages for property or
9 property rights taken, damaged or injuriously affected. In all other
10 cases the construction work may be apportioned by the ((~~commission~~))
11 department between the parties who may be required to contribute to the
12 cost thereof as the parties may agree, or as the ((~~commission~~))
13 department may consider advisable. All work within the limits of
14 railroad rights of way shall in every case be done by the railroad
15 company owning or operating the same. The cost of acquiring additional
16 lands, rights or easements to provide for the change of existing
17 crossings shall, unless the parties otherwise agree, in the first
18 instance be paid by the municipality or county within which the
19 crossing is located; or in the case of a state road or parkway, shall
20 be paid in the manner provided by law for paying the cost of acquiring
21 lands, rights, or easements for the construction of state roads or
22 parkways. The expense accruing on account of property taken or damaged
23 shall be divided and paid in the manner provided for dividing and
24 paying other costs of construction. Upon the completion of the work
25 and its approval by the ((~~commission~~)) department, an accounting shall
26 be had, and if it shall appear that any party has expended more than
27 its proportion of the total cost, a settlement shall be forthwith made.
28 If the parties shall be unable to agree upon a settlement, the
29 ((~~commission~~)) department shall arbitrate, adjust and settle the
30 account after notice to the parties. In the event of failure and
31 refusal of any party to pay its proportion of the expense, the sum with
32 interest from the date of the settlement may be recovered in a civil
33 action by the party entitled thereto. In cases where the
34 ((~~commission~~)) department has settled the account, the finding of the
35 ((~~commission~~)) department as to the amount due shall be conclusive in
36 any civil action brought to recover the same if such finding has not
37 been reviewed or appealed from as herein provided, and the time for
38 review or appeal has expired. If any party shall seek review of any

1 finding or order of the ((~~commission~~)) department apportioning the cost
2 between the parties liable therefor, the superior court, the court of
3 appeals, or the supreme court, as the case may be, shall cause judgment
4 to be entered in such review proceedings for such sum or sums as may be
5 found lawfully or justly due by one party to another.

6 **Sec. 223.** RCW 81.53.140 and 1961 c 14 s 81.53.140 are each amended
7 to read as follows:

8 The ((~~commission~~)) department, in any order requiring work to be
9 done, shall have power to fix the time within which the same shall be
10 performed and completed: PROVIDED, That if any party having a duty to
11 perform within a fixed time under any order of the ((~~commission~~))
12 department shall make it appear to the ((~~commission~~)) department that
13 the order cannot reasonably be complied with within the time fixed by
14 reason either of facts arising after the entry of the order or of facts
15 existing prior to the entry thereof that were not presented, and with
16 reasonable diligence could not have been sooner presented to the
17 ((~~commission~~)) department, such party shall be entitled to a reasonable
18 extension of time within which to perform the work. An order of the
19 ((~~commission~~)) department refusing to grant an extension of time may be
20 reviewed as provided for the review of other orders of the
21 ((~~commission~~)) department.

22 **Sec. 224.** RCW 81.53.150 and 1961 c 14 s 81.53.150 are each amended
23 to read as follows:

24 Modes of procedure under this chapter, unless otherwise provided in
25 this chapter, shall be as provided in other provisions of this title.
26 The ((~~commission~~)) department is hereby given power to adopt rules to
27 govern its proceedings and to regulate the mode and manner of all
28 investigations and hearings under this chapter.

29 **Sec. 225.** RCW 81.53.160 and 1961 c 14 s 81.53.160 are each amended
30 to read as follows:

31 All notices required to be served by this chapter shall be in
32 writing, and shall briefly state the nature of the matter to be
33 inquired into and investigated. Notices may be served in the manner
34 provided by law for the service of summons in civil cases, or by
35 registered United States mail. When service is made by registered

1 mail, the receipt of the receiving post office shall be sufficient
2 proof of service. When, under the provisions of this chapter, it is
3 necessary to serve notice of hearings before the ((~~commission~~))
4 department on owners of private lands, property, or property rights,
5 and such owners cannot be found, service may be made by publication in
6 the manner provided by law for the publication of summons in civil
7 actions, except that publication need be made but once each week for
8 three consecutive weeks, and the hearing may be held at any time after
9 the expiration of thirty days from the date of the first publication of
10 the notice.

11 **Sec. 226.** RCW 81.53.170 and 1988 c 202 s 66 are each amended to
12 read as follows:

13 Upon the petition of any party to a proceeding before the
14 ((~~commission~~)) department, any finding or findings, or order or orders
15 of the ((~~commission~~)) department, made under color of authority of this
16 chapter, except as otherwise provided, may be reviewed ((~~in the~~
17 ~~superior court of the county wherein the crossing is situated~~)) by the
18 commission, and the reasonableness and lawfulness of such finding or
19 findings, order or orders inquired into and determined, as provided in
20 this title for the review of the ((~~commission's~~)) department's orders
21 generally. Appellate review of the judgment of the ((~~superior court~~))
22 commission may be sought ((~~in like manner as provided in said utilities~~
23 ~~and transportation commission law for review~~)) by the superior court of
24 the county in which the crossing is situated, and the supreme court or
25 the court of appeals thereafter. If the department has a conflict of
26 interest with respect to a matter contested or brought for hearing
27 before the department under this chapter, then the department shall
28 recuse itself from hearing the matter. The commission has jurisdiction
29 over any matter arising under this chapter from which the department
30 recuses itself, with appellate review sought by the superior court of
31 the county in which the crossing is situated, and the supreme court or
32 the court of appeals thereafter. For purposes of adjudicatory
33 proceedings to address matters properly subjected to a hearing before
34 the commission under this chapter, the commission is empowered with all
35 the authorities granted to the department under this chapter.

1 **Sec. 227.** RCW 81.53.180 and 1961 c 14 s 81.53.180 are each amended
2 to read as follows:

3 Whenever to carry out any work undertaken under this chapter it is
4 necessary to take, damage, or injuriously affect any private lands,
5 property, or property rights, the right so to take, damage, or
6 injuriously affect the same may be acquired by condemnation as
7 hereinafter provided:

8 (1) In cases where new railroads are constructed and laid out by
9 railroad company authorized to exercise the power of eminent domain,
10 the right to take, damage, or injuriously affect private lands,
11 property, or property rights shall be acquired by the railroad company
12 by a condemnation proceedings brought in its own name and prosecuted as
13 provided by law for the exercise of the power of eminent domain by
14 railroad companies, and the right of eminent domain is hereby conferred
15 on railroad companies for the purpose of carrying out the requirements
16 of this chapter or the requirements of any order of the (~~commission~~)
17 department.

18 (2) In cases where it is necessary to take, damage, or injuriously
19 affect private lands, property, or property rights to permit the
20 opening of a new highway or highway crossing across a railroad, the
21 right to take, damage, or injuriously affect such lands, property, or
22 property rights shall be acquired by the municipality or county
23 petitioning for such new crossing by a condemnation proceeding brought
24 in the name of such municipality or county as provided by law for the
25 exercise of the power of eminent domain by such municipality or county.
26 If the highway involved be a state highway, then the right to take,
27 damage, or injuriously affect private lands, property, or property
28 rights shall be acquired by a condemnation proceeding prosecuted under
29 the laws relative to the exercise of the power of eminent domain in aid
30 of such state road.

31 (3) In cases where the (~~commission~~) department orders changes in
32 existing crossings to secure an under-crossing, over-crossing, or safer
33 grade crossing, and it is necessary to take, damage, or injuriously
34 affect private lands, property, or property rights to execute the work,
35 the right to take, damage, or injuriously affect such lands, property,
36 or property rights shall be acquired in a condemnation proceeding
37 prosecuted in the name of the state of Washington by the attorney
38 general under the laws relating to the exercise of the power of eminent

1 domain by cities of the first class for street and highway purposes:
2 PROVIDED, That in the cases mentioned in this subdivision the full
3 value of any lands taken shall be awarded, together with damages, if
4 any accruing to the remainder of the land not taken by reason of the
5 severance of the part taken, but in computing the damages to the
6 remainder, if any, the jury shall offset against such damages, if any,
7 the special benefits, if any, accruing to such remainder by reason of
8 the proposed improvement. The right of eminent domain for the purposes
9 mentioned in this subdivision is hereby granted.

10 **Sec. 228.** RCW 81.53.190 and 1961 c 14 s 81.53.190 are each amended
11 to read as follows:

12 If an under-crossing, over-crossing, or grade crossing is
13 constructed, maintained, or operated, or is about to be constructed,
14 operated, or maintained, in violation of the provisions of this
15 chapter, or in violation of any order of the ((~~commission~~)) department,
16 such construction, operation, or maintenance may be enjoined, or may be
17 abated, as provided by law for the abatement of nuisances. Suits to
18 enjoin or abate may be brought by the attorney general, or by the
19 prosecuting attorney of the county in which the unauthorized crossing
20 is located.

21 **Sec. 229.** RCW 81.53.200 and 1961 c 14 s 81.53.200 are each amended
22 to read as follows:

23 If any railroad company, county, municipality, or officers thereof,
24 or other person, shall fail, neglect, or refuse to perform or discharge
25 any duty required of it or them under this chapter or any order of the
26 ((~~commission~~)) department, the performance of such duty may be
27 compelled by mandamus, or other appropriate proceeding, prosecuted by
28 the attorney general upon request of the ((~~commission~~)) department.

29 **Sec. 230.** RCW 81.53.210 and 1961 c 14 s 81.53.210 are each amended
30 to read as follows:

31 If any railroad company shall fail or neglect to obey, comply with,
32 or carry out the requirements of this chapter, or any order of the
33 ((~~commission~~)) department made under it, such company shall be liable
34 to a penalty not to exceed five thousand dollars, such penalty to be

1 recovered in a civil action brought in the name of the state of
2 Washington by the attorney general. All penalties recovered shall be
3 paid into the state treasury.

4 **Sec. 231.** RCW 81.53.220 and 1983 c 3 s 210 are each amended to
5 read as follows:

6 Whenever, to carry out any work ordered under RCW 81.53.010 through
7 81.53.281 and 81.54.010, it is necessary to erect and maintain posts,
8 piers, or abutments in a highway, the right and authority to erect and
9 maintain the same is hereby granted: PROVIDED, That, in case of a
10 state highway the same shall be placed only at such points on such
11 state highway as may be approved by the state secretary of
12 transportation ~~((and fixed after such approval by order of the
13 commission))~~.

14 **Sec. 232.** RCW 81.53.240 and 1984 c 7 s 375 are each amended to
15 read as follows:

16 Except to the extent necessary to permit participation by first
17 class cities in the grade crossing protective fund, when an election to
18 participate is made as provided in RCW 81.53.261 through 81.53.291,
19 chapter 81.53 RCW is not operative within the limits of first class
20 cities, and does not apply to street railway lines operating on or
21 across any street, alley, or other public place within the limits of
22 any city, except that a street car line outside of cities of the first
23 class shall not cross a railroad at grade without express authority
24 from the ~~((commission))~~ department. ~~((The commission may not change
25 the location of a state highway without the approval of the secretary
26 of transportation, or the location of any crossing thereon adopted or
27 approved by the department of transportation, or grant a railroad
28 authority to cross a state highway at grade without the consent of the
29 secretary of transportation.))~~

30 **Sec. 233.** RCW 81.53.250 and 1961 c 14 s 81.53.250 are each amended
31 to read as follows:

32 The ~~((commission))~~ department may employ temporarily such experts,
33 engineers, and inspectors as may be necessary to supervise changes in
34 existing crossings undertaken under this chapter; the expense thereof
35 shall be paid by the railroad upon the request and certificate of the

1 ((~~commission~~)) department, said expense to be included in the cost of
2 the particular change of grade on account of which it is incurred, and
3 apportioned as provided in this chapter.

4 The ((~~commission~~)) department may also employ such engineers and
5 other persons as permanent employees as may be necessary to properly
6 administer this chapter.

7 **Sec. 234.** RCW 81.53.261 and 1982 c 94 s 1 are each amended to read
8 as follows:

9 Whenever the secretary of transportation or the governing body of
10 any city, town, or county, or any railroad company whose road is
11 crossed by any highway, shall deem that the public safety requires
12 signals or other warning devices, other than sawbuck signs, at any
13 crossing of a railroad at common grade by any state, city, town, or
14 county highway, road, street, alley, avenue, boulevard, parkway, or
15 other public place actually open and in use or to be opened and used
16 for travel by the public, (~~he or it shall file with the utilities and
17 transportation commission a petition in writing, alleging that the
18 public safety requires the installation of specified signals or other
19 warning devices at such crossing or specified changes in the method and
20 manner of existing crossing warning devices. Upon receiving such
21 petition,~~) the ((~~commission~~)) department shall promptly set the matter
22 for hearing, giving at least twenty days notice to the railroad company
23 or companies and the county or municipality affected (~~thereby, or the
24 secretary of transportation in the case of a state highway,~~) of the
25 time and place of such hearing. At the time and place fixed in the
26 notice, all persons and parties interested shall be entitled to be
27 heard and introduce evidence, which shall be reduced to writing and
28 filed by the ((~~commission~~)) department. If the ((~~commission~~))
29 department shall determine from the evidence that public safety does
30 not require the installation of the signal, other warning device, or
31 change in the existing warning device specified in the petition, it
32 shall make determinations to that effect and enter an order denying
33 said petition in toto. If the ((~~commission~~)) department shall
34 determine from the evidence that public safety requires the
35 installation of such signals or other warning devices at such crossing
36 or such change in the existing warning devices at said crossing, it
37 shall make determinations to that effect and enter an order directing

1 the installation of such signals or other warning devices or directing
2 that such changes shall be made in existing warning devices. The
3 ((~~commission~~)) department shall also at said hearing apportion the
4 entire cost of installation and maintenance of such signals or other
5 warning devices, other than sawbuck signs, as provided in RCW
6 81.53.271: PROVIDED, That upon agreement by all parties to waive
7 hearing, the ((~~commission~~)) department shall forthwith enter its order.

8 No railroad shall be required to install any such signal or other
9 warning device until the public body involved has either paid or
10 executed its promise to pay to the railroad its portion of the
11 estimated cost thereof.

12 Nothing in this section shall be deemed to foreclose the right of
13 the interested parties to enter into an agreement, franchise, or permit
14 arrangement providing for the installation of signals or other warning
15 devices at any such crossing or for the apportionment of the cost of
16 installation and maintenance thereof, or compliance with an existing
17 agreement, franchise, or permit arrangement providing for the same.

18 The hearing and determinations authorized by this section may be
19 instituted by the ((~~commission~~)) department on its own motion, and the
20 proceedings, hearing, and consequences thereof shall be the same as for
21 the hearing and determination of any petition authorized by this
22 section.

23 No part of the record, or a copy thereof, of the hearing and
24 determination provided for in this section and no finding, conclusion,
25 or order made pursuant thereto shall be used as evidence in any trial,
26 civil or criminal, arising out of an accident at or in the vicinity of
27 any crossing prior to installation of signals or other warning devices
28 pursuant to an order of the ((~~commission~~)) department as a result of
29 any such investigation.

30 Any order entered by the ((~~utilities and transportation~~
31 ~~commission~~)) department under this section shall be subject to review,
32 supersedeas, and appeal as provided in RCW 81.04.170 through 81.04.190,
33 respectively.

34 Nothing in this section shall be deemed to relieve any railroad
35 from liability on account of failure to provide adequate protective
36 devices at any such crossing.

1 **Sec. 235.** RCW 81.53.271 and 2003 c 190 s 2 are each amended to
2 read as follows:

3 The petition shall set forth by description the location of the
4 crossing or crossings, the type of signal or other warning device to be
5 installed, the necessity from the standpoint of public safety for such
6 installation, the approximate cost of installation and related work,
7 and the approximate annual cost of maintenance. If the ((~~commission~~))
8 department directs the installation of a grade crossing protective
9 device, and a federal-aid funding program is available to participate
10 in the costs of such installation, installation and maintenance costs
11 of the device shall be apportioned in accordance with the provisions of
12 RCW 81.53.295. Otherwise if installation is directed by the
13 ((~~commission~~)) department, it shall apportion the cost of installation
14 and maintenance as provided in this section:

15 (1) Installation: (a) The first twenty thousand dollars shall be
16 apportioned to the grade crossing protective fund created by RCW
17 81.53.281; and

18 (b) The remainder of the cost shall be apportioned as follows:

19 (i) Sixty percent to the grade crossing protective fund, created by
20 RCW 81.53.281;

21 (ii) Thirty percent to the city, town, county, or state; and

22 (iii) Ten percent to the railroad:

23 PROVIDED, That, if the proposed installation is located at a new
24 crossing requested by a city, town, county, or state, forty percent of
25 the cost shall be apportioned to the city, town, county, or state, and
26 none to the railroad. If the proposed installation is located at a new
27 crossing requested by a railroad, then the entire cost shall be
28 apportioned to the railroad. In the event the city, town, county, or
29 state should concurrently petition the ((~~commission~~)) department and
30 secure an order authorizing the closure of an existing crossing or
31 crossings in proximity to the crossing for which installation of
32 signals or other warning devices shall have been directed, the
33 apportionment to the petitioning city, town, county, or state shall be
34 reduced by ten percent of the total cost for each crossing ordered
35 closed and the apportionment from the grade crossing protective fund
36 increased accordingly. This exception shall not be construed to permit
37 a charge to the grade crossing protective fund in an amount greater
38 than the total cost otherwise apportionable to the city, town, county,

1 or state. No reduction shall be applied where one crossing is closed
2 and another opened in lieu thereof, nor to crossings of a private
3 nature.

4 (2) Maintenance: (a) Twenty-five percent to the grade crossing
5 protective fund, created by RCW 81.53.281; and

6 (b) Seventy-five percent to the railroad:

7 PROVIDED, That if the proposed installation is located at a new
8 crossing requested by a railroad, then the entire cost shall be
9 apportioned to the railroad.

10 **Sec. 236.** RCW 81.53.275 and 1969 ex.s. c 281 s 18 are each amended
11 to read as follows:

12 In the event funds are not available from the grade crossing
13 protective fund, the ((~~commission~~)) department shall apportion to the
14 parties on the basis of the benefits to be derived by the public and
15 the railroad, respectively, that part of the cost which would otherwise
16 be assigned to the fund: PROVIDED, That in such instances the city,
17 town, county or state shall not be assessed more than sixty percent of
18 the total cost of installation on other than federal aid designated
19 highway projects: AND PROVIDED FURTHER, That in such instances the
20 entire cost of maintenance shall be apportioned to the railroad.

21 **Sec. 237.** RCW 81.53.281 and 2003 c 190 s 3 are each amended to
22 read as follows:

23 There is hereby created in the state treasury a "grade crossing
24 protective fund" to carry out the provisions of RCW 81.53.261,
25 81.53.271, 81.53.281, 81.53.291, and 81.53.295; for grants and/or
26 subsidies to public, private, and nonprofit entities for rail safety
27 projects authorized or ordered by the ((~~commission~~)) department; and
28 for personnel and associated costs related to supervising and
29 administering rail safety grants and/or subsidies. The ((~~commission~~))
30 department shall transfer from the public service revolving fund's
31 miscellaneous fees and penalties accounts moneys appropriated for these
32 purposes as needed. At the time the ((~~commission~~)) department makes
33 each allocation of cost to said grade crossing protective fund, it
34 shall certify that such cost shall be payable out of said fund. ((~~When~~
35 ~~federal aid highway funds are involved, the department of~~
36 ~~transportation shall, upon entry of an order by the commission~~

1 ~~requiring the installation or upgrading of a grade crossing protective~~
2 ~~device, submit to the commission an estimate for the cost of the~~
3 ~~proposed installation and related work. Upon receipt of the estimate~~
4 ~~the commission shall pay to the department of transportation the~~
5 ~~percentage of the estimate specified in RCW 81.53.295, as now or~~
6 ~~hereafter amended, to be used as the grade crossing protective fund~~
7 ~~portion of the cost of the installation and related work.)~~

8 The ~~((commission))~~ department may adopt rules for the allocation of
9 money from the grade crossing protective fund.

10 **Sec. 238.** RCW 81.53.291 and 1969 c 134 s 4 are each amended to
11 read as follows:

12 RCW 81.53.261 through 81.53.291 shall be operative within the
13 limits of all cities, towns, and counties, except cities of the first
14 class. Cities of the first class may elect as to each particular
15 crossing whether RCW 81.53.261 through 81.53.291 shall apply. Such
16 election shall be made by the filing by such city of a petition as
17 provided for in RCW 81.53.261 with the ~~((utilities and transportation~~
18 ~~commission))~~ department, or by a statement filed with the
19 ~~((commission))~~ department accepting jurisdiction, when such petition is
20 filed by others.

21 **Sec. 239.** RCW 81.53.420 and 1977 ex.s. c 168 s 3 are each amended
22 to read as follows:

23 The ~~((utilities and transportation commission))~~ department shall
24 adopt rules to implement the provisions of RCW 81.53.400 and 81.53.410
25 pursuant to chapter 34.05 RCW. The ~~((commission))~~ department shall
26 invite the participation of all interested parties in any hearings or
27 proceedings taken under this section, including any parties who request
28 notice of any proceedings.

29 Any rules adopted under this section and any devices employed under
30 RCW 81.53.410 shall conform to the national standards established by
31 the current manual, including any future revisions, on the uniform
32 traffic control devices as approved by the American national standards
33 institute as adopted by the federal highway administrator of the United
34 States department of transportation.

35 Rules adopted by the ~~((commission))~~ department shall specifically

1 prescribe the duties, procedures, and equipment to be used by the
2 flagpersons required by RCW 81.53.410.

3 RCW 81.53.400 through 81.53.420 and rules adopted thereunder shall
4 be enforced by the (~~commission~~) department under the provisions of
5 chapter 81.04 RCW: PROVIDED, That rules adopted by the (~~commission~~)
6 department shall recognize that cities with a population in excess of
7 four hundred thousand are responsible for specific public thoroughfares
8 and have the specific responsibility and authority for determining the
9 practices relating to safeguarding the public during construction,
10 repair, and maintenance activities.

11 **Sec. 240.** RCW 81.61.020 and 1977 ex.s. c 2 s 2 are each amended to
12 read as follows:

13 The (~~utilities and~~) department of transportation (~~commission~~)
14 shall adopt such rules and orders as are necessary to insure that every
15 passenger-carrying vehicle provided by a railroad company to transport
16 employees in the course of their employment shall be maintained and
17 operated in a safe manner whether it is used on a public or private
18 road or railroad. Such rules and orders shall establish minimum
19 standards for:

20 (1) The construction and mechanical equipment of the passenger-
21 carrying vehicles, including coupling devices, lighting devices and
22 reflectors, exhaust system, rear vision mirrors, service and parking
23 brakes, steering mechanisms, tires, warning and signaling devices,
24 windshield wipers, and heating equipment capable of maintaining a
25 reasonable temperature in passenger areas;

26 (2) The operation of passenger-carrying vehicles, including driving
27 rules, the loading and carrying of passengers, maximum daily hours of
28 service by drivers, minimum age and skill of drivers, physical
29 condition of drivers, refueling, road warning devices, and the
30 transportation of gasoline and explosives;

31 (3) The safety of passengers in a passenger-carrying vehicle,
32 including emergency exits, fire extinguishers, first aid kits,
33 facilities for communication between cab and rear compartments, means
34 of ingress and egress, side walls, canopy, and tail gates or other
35 means of retaining passengers within the passenger-carrying vehicle.

1 **Sec. 241.** RCW 81.61.030 and 1977 ex.s. c 2 s 3 are each amended to
2 read as follows:

3 Any rules or orders adopted under this chapter shall be subject to
4 the requirements of, and enforceable by the penalties imposed by
5 chapter 81.04 RCW. Any interested person or group may request notice
6 of, and participate in any hearings or proceedings held pursuant to
7 this chapter. The (~~commission~~) department of transportation shall
8 conduct a hearing prior to the adoption of any rule or order under this
9 chapter.

10 **Sec. 242.** RCW 81.61.040 and 1977 ex.s. c 2 s 4 are each amended to
11 read as follows:

12 The (~~commission~~) department of transportation may, in enforcing
13 rules and orders under this chapter, inspect any passenger-carrying
14 vehicle provided by a railroad company to transport employees in the
15 course of their employment. Upon request, the chief of the state
16 patrol may assist the (~~commission~~) department in these inspections.

17 **Sec. 243.** RCW 81.77.010 and 1989 c 431 s 17 are each amended to
18 read as follows:

19 As used in this chapter:

20 (1) "Motor vehicle" means any truck, trailer, semitrailer, tractor,
21 or any self-propelled or motor driven vehicle used upon any public
22 highway of this state for the purpose of transporting solid waste, for
23 the collection and/or disposal thereof;

24 (2) "Public highway" means every street, road, or highway in this
25 state;

26 (3) "Common carrier" means any person who undertakes to transport
27 solid waste, for the collection and/or disposal thereof, by motor
28 vehicle for compensation, whether over regular or irregular routes, or
29 regular or irregular schedules;

30 (4) "Contract carrier" means all garbage and refuse transporters
31 not included under the terms "common carrier" and "private carrier," as
32 herein defined, and further, shall include any person who under special
33 and individual contracts or agreements transports solid waste by motor
34 vehicle for compensation;

35 (5) "Private carrier" means a person who, in his or her own
36 vehicle, transports solid waste purely as an incidental adjunct to some

1 other established private business owned or operated by him or her in
2 good faith: PROVIDED, That a person who transports solid waste from
3 residential sources in a vehicle designed or used primarily for the
4 transport of solid waste shall not constitute a private carrier;

5 (6) "Vehicle" means every device capable of being moved upon a
6 public highway and in, upon, or by which any solid waste is or may be
7 transported or drawn upon a public highway, excepting devices moved by
8 human or animal power or used exclusively upon stationary rail or
9 tracks;

10 (7) "Solid waste collection company" means every person or his or
11 her lessees, receivers, or trustees, owning, controlling, operating, or
12 managing vehicles used in the business of transporting solid waste for
13 collection and/or disposal for compensation, except septic tank
14 pumpers, over any public highway in this state whether as a "common
15 carrier" thereof or as a "contract carrier" thereof;

16 (8) Solid waste collection does not include collecting or
17 transporting recyclable materials from a drop-box or recycling buy-back
18 center, nor collecting or transporting recyclable materials by or on
19 behalf of a commercial or industrial generator of recyclable materials
20 to a recycler for use or reclamation(~~(. —Transportation of these~~
21 ~~materials is regulated under chapter 81.80 RCW)); and~~

22 (9) "Solid waste" means the same as defined under RCW 70.95.030,
23 except for the purposes of this chapter solid waste does not include
24 recyclable materials except for source separated recyclable materials
25 collected from residences.

26 **Sec. 244.** RCW 81.77.040 and 2005 c 121 s 6 are each amended to
27 read as follows:

28 No solid waste collection company shall hereafter operate for the
29 hauling of solid waste for compensation without first having obtained
30 from the commission a certificate declaring that public convenience and
31 necessity require such operation. A condition of operating a solid
32 waste company in the unincorporated areas of a county shall be
33 complying with the solid waste management plan prepared under chapter
34 70.95 RCW applicable in the company's franchise area.

35 Issuance of the certificate of necessity shall be determined upon,
36 but not limited to, the following factors: The present service and the
37 cost thereof for the contemplated area to be served; an estimate of the

1 cost of the facilities to be utilized in the plant for solid waste
2 collection and disposal, sworn to before a notary public; a statement
3 of the assets on hand of the person, firm, association, or corporation
4 which will be expended on the purported plant for solid waste
5 collection and disposal, sworn to before a notary public; a statement
6 of prior experience, if any, in such field by the petitioner, sworn to
7 before a notary public; and sentiment in the community contemplated to
8 be served as to the necessity for such a service.

9 When an applicant requests a certificate to operate in a territory
10 already served by a certificate holder under this chapter, the
11 commission may, after notice and an opportunity for a hearing, issue
12 the certificate only if the existing solid waste collection company or
13 companies serving the territory will not provide service to the
14 satisfaction of the commission or if the existing solid waste
15 collection company does not object.

16 In all other cases, the commission may, with or without hearing,
17 issue certificates, or for good cause shown refuse to issue them, or
18 issue them for the partial exercise only of the privilege sought, and
19 may attach to the exercise of the rights granted such terms and
20 conditions as, in its judgment, the public convenience and necessity
21 may require.

22 Any right, privilege, certificate held, owned, or obtained by a
23 solid waste collection company may be sold, assigned, leased,
24 transferred, or inherited as other property, but only upon
25 authorization by the commission.

26 ~~((Any solid waste collection company which upon July 1, 1961 is
27 operating under authority of a common carrier or contract carrier
28 permit issued under the provisions of chapter 81.80 RCW shall be
29 granted a certificate of necessity without hearing upon compliance with
30 the provisions of this chapter. Such solid waste collection company
31 which has paid the plate fee and gross weight fees required by chapter
32 81.80 RCW for the year 1961 shall not be required to pay additional
33 like fees under the provisions of this chapter for the remainder of
34 such year.))~~

35 For purposes of issuing certificates under this chapter, the
36 commission may adopt categories of solid wastes as follows: Garbage,
37 refuse, recyclable materials, and demolition debris. A certificate may

1 be issued for one or more categories of solid waste. Certificates
2 issued on or before July 23, 1989, shall not be expanded or restricted
3 by operation of this chapter.

4 **Sec. 245.** RCW 81.104.120 and 1993 c 428 s 2 are each amended to
5 read as follows:

6 (1) Transit agencies and regional transit authorities may operate
7 or contract for commuter rail service where it is deemed to be a
8 reasonable alternative transit mode. A reasonable alternative is one
9 whose passenger costs per mile, including costs of trackage, equipment,
10 maintenance, operations, and administration are equal to or less than
11 comparable bus, entrained bus, trolley, or personal rapid transit
12 systems.

13 (2) A county may use funds collected under RCW 81.100.030 or
14 81.100.060 to contract with one or more transit agencies or regional
15 transit authorities for planning, operation, and maintenance of
16 commuter rail projects which: (a) Are consistent with the regional
17 transportation plan; (b) have met the project planning and oversight
18 requirements of RCW 81.104.100 and 81.104.110; and (c) have been
19 approved by the voters within the service area of each transit agency
20 or regional transit authority participating in the project. For
21 transit agencies in counties adjoining state or international
22 boundaries where the high capacity transportation system plan and
23 financing plan propose a bi-state or international high capacity
24 transportation system, such voter approval shall be required from only
25 those voters residing within the service area in the state of
26 Washington. The phrase "approved by the voters" includes specific
27 funding authorization for the commuter rail project.

28 (3) The (~~utilities and~~) transportation commission shall maintain
29 safety responsibility for passenger rail service operating on freight
30 rail lines. Agencies providing passenger rail service on lines other
31 than freight rail lines shall maintain safety responsibility for that
32 service.

33 **Sec. 246.** RCW 81.112.090 and 1992 c 101 s 9 are each amended to
34 read as follows:

35 Except in accordance with an agreement made as provided in this
36 section, upon the date an authority begins high capacity transportation

1 service, no person or private corporation may operate a high capacity
2 transportation service within the authority boundary with the exception
3 of services owned or operated by any corporation or organization solely
4 for the purposes of the corporation or organization and for the use of
5 which no fee or fare is charged.

6 The authority and any person or corporation legally operating a
7 high capacity transportation service wholly within or partly within and
8 partly without the authority boundary on the date an authority begins
9 high capacity transportation service may enter into an agreement under
10 which such person or corporation may continue to operate such service
11 or any part thereof for such time and upon such terms and conditions as
12 provided in such agreement. Such agreement shall provide for a
13 periodic review of the terms and conditions contained therein. Where
14 any such high capacity transportation service will be required to cease
15 to operate within the authority boundary, the authority may agree with
16 the owner of such service to purchase the assets used in providing such
17 service, or if no agreement can be reached, an authority shall condemn
18 such assets in the manner and by the same procedure as is or may be
19 provided by law for the condemnation of other properties for cities of
20 the first class, except insofar as such laws may be inconsistent with
21 this chapter.

22 ~~((Wherever a privately owned public carrier operates wholly or
23 partly within an authority boundary, the Washington utilities and
24 transportation commission shall continue to exercise jurisdiction over
25 such operation as provided by law.))~~

26 **Sec. 247.** RCW 82.08.0255 and 2005 c 443 s 5 are each amended to
27 read as follows:

28 (1) The tax levied by RCW 82.08.020 shall not apply to sales of
29 motor vehicle and special fuel if:

30 (a) The fuel is purchased for the purpose of public transportation
31 and the purchaser is entitled to a refund or an exemption under RCW
32 82.36.275 or 82.38.080(3); or

33 (b) The fuel is purchased by a private, nonprofit transportation
34 provider ~~((certified under chapter 81.66 RCW))~~ exempt from taxation
35 under section 501(c) of the internal revenue code of 1986 (26 U.S.C.
36 Sec. 501(c)), as amended, and the purchaser is entitled to a refund or
37 an exemption under RCW 82.36.285 or 82.38.080(1)(h); or

1 (c) The fuel is taxable under chapter 82.36 or 82.38 RCW.

2 (2) Any person who has paid the tax imposed by RCW 82.08.020 on the
3 sale of special fuel delivered in this state shall be entitled to a
4 credit or refund of such tax with respect to fuel subsequently
5 established to have been actually transported and used outside this
6 state by persons engaged in interstate commerce. The tax shall be
7 claimed as a credit or refunded through the tax reports required under
8 RCW 82.38.150.

9 **Sec. 248.** RCW 82.12.0256 and 2005 c 443 s 6 are each amended to
10 read as follows:

11 The provisions of this chapter shall not apply in respect to the
12 use of:

13 (1) Special fuel purchased in this state upon which a refund is
14 obtained as provided in RCW 82.38.180(2); and

15 (2) Motor vehicle and special fuel if:

16 (a) The fuel is used for the purpose of public transportation and
17 the purchaser is entitled to a refund or an exemption under RCW
18 82.36.275 or 82.38.080(3); or

19 (b) The fuel is purchased by a private, nonprofit transportation
20 provider (~~certified under chapter 81.66 RCW~~) exempt from taxation
21 under section 501(c) of the internal revenue code of 1986 (26 U.S.C.
22 Sec. 501(c)), as amended, and the purchaser is entitled to a refund or
23 an exemption under RCW 82.36.285 or 82.38.080(1)(h); or

24 (c) The fuel is taxable under chapter 82.36 or 82.38 RCW:
25 PROVIDED, That the use of motor vehicle and special fuel upon which a
26 refund of the applicable fuel tax is obtained shall not be exempt under
27 this subsection (2)(c), and the director of licensing shall deduct from
28 the amount of such tax to be refunded the amount of tax due under this
29 chapter and remit the same each month to the department of revenue.

30 **Sec. 249.** RCW 82.14B.030 and 2002 c 341 s 8 and 2002 c 67 s 8 are
31 each reenacted and amended to read as follows:

32 (1) The legislative authority of a county may impose a county
33 enhanced 911 excise tax on the use of switched access lines in an
34 amount not exceeding fifty cents per month for each switched access
35 line. The amount of tax shall be uniform for each switched access

1 line. Each county shall provide notice of such tax to all local
2 exchange companies serving in the county at least sixty days in advance
3 of the date on which the first payment is due.

4 (2) The legislative authority of a county may also impose a county
5 enhanced 911 excise tax on the use of radio access lines whose place of
6 primary use is located within the county in an amount not exceeding
7 fifty cents per month for each radio access line. The amount of tax
8 shall be uniform for each radio access line. The location of a radio
9 access line is the customer's place of primary use as defined in RCW
10 82.04.065. The county shall provide notice of such tax to all radio
11 communications service companies serving in the county at least sixty
12 days in advance of the date on which the first payment is due. Any
13 county imposing this tax shall include in its ordinance a refund
14 mechanism whereby the amount of any tax ordered to be refunded by the
15 judgment of a court of record, or as a result of the resolution of any
16 appeal therefrom, shall be refunded to the radio communications service
17 company or local exchange company that collected the tax, and those
18 companies shall reimburse the subscribers who paid the tax. The
19 ordinance shall further provide that to the extent the subscribers who
20 paid the tax cannot be identified or located, the tax paid by those
21 subscribers shall be returned to the county.

22 (3) A state enhanced 911 excise tax is imposed on all switched
23 access lines in the state. The amount of tax shall not exceed twenty
24 cents per month for each switched access line. The tax shall be
25 uniform for each switched access line. The tax imposed under this
26 subsection shall be remitted to the department of revenue by local
27 exchange companies on a tax return provided by the department. Tax
28 proceeds shall be deposited by the treasurer in the enhanced 911
29 account created in RCW 38.52.540.

30 (4) A state enhanced 911 excise tax is imposed on all radio access
31 lines whose place of primary use is located within the state in an
32 amount of twenty cents per month for each radio access line. The tax
33 shall be uniform for each radio access line. The tax imposed under
34 this section shall be remitted to the department of revenue by radio
35 communications service companies, including those companies that resell
36 radio access lines, on a tax return provided by the department. Tax
37 proceeds shall be deposited by the treasurer in the enhanced 911

1 account created in RCW 38.52.540. The tax imposed under this section
2 is not subject to the state sales and use tax or any local tax.

3 (5) By August 31st of each year the state enhanced 911 coordinator
4 shall recommend the level for the next year of the state enhanced 911
5 excise tax imposed by subsection (3) of this section, based on a
6 systematic cost and revenue analysis, to the utilities (~~and~~
7 ~~transportation~~) commission. The commission shall by the following
8 October 31st determine the level of the state enhanced 911 excise tax
9 for the following year.

10 **Sec. 250.** RCW 82.14B.030 and 2002 c 341 s 8 are each amended to
11 read as follows:

12 (1) The legislative authority of a county may impose a county
13 enhanced 911 excise tax on the use of switched access lines in an
14 amount not exceeding fifty cents per month for each switched access
15 line. The amount of tax shall be uniform for each switched access
16 line. Each county shall provide notice of such tax to all local
17 exchange companies serving in the county at least sixty days in advance
18 of the date on which the first payment is due.

19 (2) The legislative authority of a county may also impose a county
20 enhanced 911 excise tax on the use of radio access lines whose place of
21 primary use is located within the county in an amount not exceeding
22 fifty cents per month for each radio access line. The amount of tax
23 shall be uniform for each radio access line. The county shall provide
24 notice of such tax to all radio communications service companies
25 serving in the county at least sixty days in advance of the date on
26 which the first payment is due. Any county imposing this tax shall
27 include in its ordinance a refund mechanism whereby the amount of any
28 tax ordered to be refunded by the judgment of a court of record, or as
29 a result of the resolution of any appeal therefrom, shall be refunded
30 to the radio communications service company or local exchange company
31 that collected the tax, and those companies shall reimburse the
32 subscribers who paid the tax. The ordinance shall further provide that
33 to the extent the subscribers who paid the tax cannot be identified or
34 located, the tax paid by those subscribers shall be returned to the
35 county.

36 (3) A state enhanced 911 excise tax is imposed on all switched
37 access lines in the state. The amount of tax shall not exceed twenty

1 cents per month for each switched access line. The tax shall be
2 uniform for each switched access line. The tax imposed under this
3 subsection shall be remitted to the department of revenue by local
4 exchange companies on a tax return provided by the department. Tax
5 proceeds shall be deposited by the treasurer in the enhanced 911
6 account created in RCW 38.52.540.

7 (4) A state enhanced 911 excise tax is imposed on all radio access
8 lines whose place of primary use is located within the state in an
9 amount of twenty cents per month for each radio access line. The tax
10 shall be uniform for each radio access line. The tax imposed under
11 this section shall be remitted to the department of revenue by radio
12 communications service companies, including those companies that resell
13 radio access lines, on a tax return provided by the department. Tax
14 proceeds shall be deposited by the treasurer in the enhanced 911
15 account created in RCW 38.52.540. The tax imposed under this section
16 is not subject to the state sales and use tax or any local tax.

17 (5) By August 31st of each year the state enhanced 911 coordinator
18 shall recommend the level for the next year of the state enhanced 911
19 excise tax imposed by subsection (3) of this section, based on a
20 systematic cost and revenue analysis, to the utilities (~~and~~
21 ~~transportation~~) commission. The commission shall by the following
22 October 31st determine the level of the state enhanced 911 excise tax
23 for the following year.

24 **Sec. 251.** RCW 82.16.010 and 1996 c 150 s 1 are each amended to
25 read as follows:

26 For the purposes of this chapter, unless otherwise required by the
27 context:

28 (1) "Railroad business" means the business of operating any
29 railroad, by whatever power operated, for public use in the conveyance
30 of persons or property for hire. It shall not, however, include any
31 business herein defined as an urban transportation business.

32 (~~(2) ("Express business" means the business of carrying property~~
33 ~~for public hire on the line of any common carrier operated in this~~
34 ~~state, when such common carrier is not owned or leased by the person~~
35 ~~engaging in such business.~~

36 (~~3~~) "Railroad car business" means the business of operating stock
37 cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank

1 cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any
2 other kinds of cars used for transportation of property or persons upon
3 the line of any railroad operated in this state when such railroad is
4 not owned or leased by the person engaging in such business.

5 ((+4)) (3) "Water distribution business" means the business of
6 operating a plant or system for the distribution of water for hire or
7 sale.

8 ((+5)) (4) "Light and power business" means the business of
9 operating a plant or system for the generation, production, or
10 distribution of electrical energy for hire or sale and/or for the
11 wheeling of electricity for others.

12 ((+6)) (5) "Telegraph business" means the business of affording
13 telegraphic communication for hire.

14 ((+7)) (6) "Gas distribution business" means the business of
15 operating a plant or system for the production or distribution for hire
16 or sale of gas, whether manufactured or natural.

17 ((+8)) (7) "Motor transportation business" means the business
18 (except urban transportation business) of operating any motor propelled
19 vehicle by which persons or property of others are conveyed for hire,
20 and includes, but is not limited to, the operation of any motor
21 propelled vehicle as an auto transportation company (except urban
22 transportation business) ~~((, common carrier or contract carrier as
23 defined by RCW 81.68.010 and 81.80.010: PROVIDED, That))~~ or motor
24 carrier as defined in section 72 of this act. "Motor transportation
25 business" ~~((shall not mean or))~~ does not include the transportation of
26 logs or other forest products exclusively upon private roads or private
27 highways.

28 ((+9)) (8) "Urban transportation business" means the business of
29 operating any vehicle for public use in the conveyance of persons or
30 property for hire, insofar as (a) operating entirely within the
31 corporate limits of any city or town, or within five miles of the
32 corporate limits thereof, or (b) operating entirely within and between
33 cities and towns whose corporate limits are not more than five miles
34 apart or within five miles of the corporate limits of either thereof.
35 Included herein, but without limiting the scope hereof, is the business
36 of operating passenger vehicles of every type and also the business of
37 operating cartage, pickup, or delivery services, including in such
38 services the collection and distribution of property arriving from or

1 destined to a point within or without the state, whether or not such
2 collection or distribution be made by the person performing a local or
3 interstate line-haul of such property.

4 ~~((+10+))~~ (9) "Public service business" means any of the businesses
5 defined in ~~((subdivisions))~~ subsections (1)~~((, (2), (3), (4), (5), (6),~~
6 ~~(7), (8), and (9)))~~ through (8) of this section or any business subject
7 to control by the state, or having the powers of eminent domain and the
8 duties incident thereto, or any business hereafter declared by the
9 legislature to be of a public service nature, except telephone business
10 as defined in RCW 82.04.065 and low-level radioactive waste site
11 operating companies ~~((as redefined in RCW 81.04.010))~~ regulated under
12 Title 80 RCW. It includes, among others, without limiting the scope
13 hereof: Airplane transportation, boom, dock, ferry, pipeline, toll
14 bridge, toll logging road, water transportation, and wharf businesses.

15 ~~((+11+))~~ (10) "Tugboat business" means the business of operating
16 tugboats, towboats, wharf boats, or similar vessels in the towing or
17 pushing of vessels, barges, or rafts for hire.

18 ~~((+12+))~~ (11) "Gross income" means the value proceeding or accruing
19 from the performance of the particular public service or transportation
20 business involved, including operations incidental thereto, but without
21 any deduction on account of the cost of the commodity furnished or
22 sold, the cost of materials used, labor costs, interest, discount,
23 delivery costs, taxes, or any other expense whatsoever paid or accrued
24 and without any deduction on account of losses.

25 ~~((+13+))~~ (12) The meaning attributed, in chapter 82.04 RCW, to the
26 term "tax year," "person," "value proceeding or accruing," "business,"
27 "engaging in business," "in this state," "within this state," "cash
28 discount," and "successor" shall apply equally in the provisions of
29 this chapter.

30 **Sec. 252.** RCW 82.16.055 and 1980 c 149 s 3 are each amended to
31 read as follows:

32 (1) In computing tax under this chapter there shall be deducted
33 from the gross income:

34 (a) An amount equal to the cost of production at the plant for
35 consumption within the state of Washington of:

36 (i) Electrical energy produced or generated from cogeneration ~~((as~~
37 ~~defined in RCW 82.35.020))~~; and

1 (ii) Electrical energy or gas produced or generated from renewable
2 energy resources such as solar energy, wind energy, hydroelectric
3 energy, geothermal energy, wood, wood wastes, municipal wastes,
4 agricultural products and wastes, and end-use waste heat; and

5 (b) Those amounts expended to improve consumers' efficiency of
6 energy end use or to otherwise reduce the use of electrical energy or
7 gas by the consumer.

8 (2) This section applies only to new facilities for the production
9 or generation of energy from cogeneration or renewable energy resources
10 or measures to improve the efficiency of energy end use on which
11 construction or installation is begun after June 12, 1980, and before
12 January 1, 1990.

13 (3) Deductions under subsection (1)(a) of this section shall be
14 allowed for a period not to exceed thirty years after the project is
15 placed in operation.

16 (4) Measures or projects encouraged under this section shall at the
17 time they are placed in service be reasonably expected to save,
18 produce, or generate energy at a total incremental system cost per unit
19 of energy delivered to end use which is less than or equal to the
20 incremental system cost per unit of energy delivered to end use from
21 similarly available conventional energy resources which utilize nuclear
22 energy or fossil fuels and which the gas or electric utility could
23 acquire to meet energy demand in the same time period.

24 (5) The department of revenue, after consultation with the
25 utilities (~~and transportation~~) commission in the case of investor-
26 owned utilities and the governing bodies of locally regulated
27 utilities, shall determine the eligibility of individual projects and
28 measures for deductions under this section.

29 **Sec. 253.** RCW 82.26.105 and 2005 c 180 s 6 are each amended to
30 read as follows:

31 (1) For the purposes of obtaining information concerning any matter
32 relating to the administration or enforcement of this chapter, the
33 department, the board, or any of its agents, may inspect the books,
34 documents, or records of any person transporting tobacco products for
35 sale to any person or entity in the state, and books, documents, or
36 records containing any information relating to the transportation or

1 possession of tobacco products for sale in the possession of a specific
2 ((common)) motor carrier ((as defined in RCW 81.80.010)) doing business
3 in this state.

4 (2) If a person neglects or refuses to produce and submit for
5 inspection any book, record, or document as required by this section
6 when requested to do so by the department, the board, or its agent,
7 then the department or the board may seek an order in superior court
8 compelling production of the books, records, or documents.

9 **Sec. 254.** RCW 82.36.285 and 1996 c 244 s 5 are each amended to
10 read as follows:

11 A private, nonprofit transportation provider ((regulated under
12 chapter 81.66 RCW)) exempt from taxation under section 501(c) of the
13 internal revenue code of 1986 (26 U.S.C. Sec. 501(c)), as amended,
14 shall receive a refund of the amount of the motor vehicle fuel tax paid
15 on each gallon of motor vehicle fuel used to provide transportation
16 services for persons with special transportation needs, whether the
17 vehicle fuel tax has been paid either directly to the vendor from whom
18 the motor vehicle fuel was purchased or indirectly by adding the amount
19 of the tax to the price of the fuel.

20 **Sec. 255.** RCW 82.38.080 and 1998 c 176 s 60 are each amended to
21 read as follows:

22 (1) There is exempted from the tax imposed by this chapter, the use
23 of fuel for:

24 (a) Street and highway construction and maintenance purposes in
25 motor vehicles owned and operated by the state of Washington, or any
26 county or municipality;

27 (b) Publicly owned fire fighting equipment;

28 (c) Special mobile equipment as defined in RCW 46.04.552;

29 (d) Power pumping units or other power take-off equipment of any
30 motor vehicle which is accurately measured by metering devices that
31 have been specifically approved by the department or which is
32 established by any of the following formulae:

33 (i) Pumping propane, or fuel or heating oils or milk picked up from
34 a farm or dairy farm storage tank by a power take-off unit on a
35 delivery truck, at a rate determined by the department: PROVIDED, That
36 claimant when presenting his or her claim to the department in

1 accordance with this chapter, shall provide to the claim, invoices of
2 propane, or fuel or heating oil delivered, or such other appropriate
3 information as may be required by the department to substantiate his or
4 her claim;

5 (ii) Operating a power take-off unit on a cement mixer truck or a
6 load compactor on a garbage truck at the rate of twenty-five percent of
7 the total gallons of fuel used in such a truck; or

8 (iii) The department is authorized to establish by rule additional
9 formulae for determining fuel usage when operating other types of
10 equipment by means of power take-off units when direct measurement of
11 the fuel used is not feasible. The department is also authorized to
12 adopt rules regarding the usage of on board computers for the
13 production of records required by this chapter;

14 (e) Motor vehicles owned and operated by the United States
15 government;

16 (f) Heating purposes;

17 (g) Moving a motor vehicle on a public highway between two pieces
18 of private property when said moving is incidental to the primary use
19 of the motor vehicle;

20 (h) Transportation services for persons with special transportation
21 needs by a private, nonprofit transportation provider (~~(regulated under~~
22 ~~chapter 81.66 RCW)) exempt from taxation under section 501(c) of the
23 internal revenue code of 1986 (26 U.S.C. Sec. 501(c)), as amended;~~

24 (i) Vehicle refrigeration units, mixing units, or other equipment
25 powered by separate motors from separate fuel tanks; and

26 (j) The operation of a motor vehicle as a part of or incidental to
27 logging operations upon a highway under federal jurisdiction within the
28 boundaries of a federal area if the federal government requires a fee
29 for the privilege of operating the motor vehicle upon the highway, the
30 proceeds of which are reserved for constructing or maintaining roads in
31 the federal area, or requires maintenance or construction work to be
32 performed on the highway for the privilege of operating the motor
33 vehicle on the highway.

34 (2) There is exempted from the tax imposed by this chapter the
35 removal or entry of special fuel under the following circumstances and
36 conditions:

37 (a) If it is the removal from a terminal or refinery of, or the
38 entry or sale of, a special fuel if all of the following apply:

1 (i) The person otherwise liable for the tax is a licensee other
2 than a dyed special fuel user or international fuel tax agreement
3 licensee;

4 (ii) For a removal from a terminal, the terminal is a licensed
5 terminal; and

6 (iii) The special fuel satisfies the dyeing and marking
7 requirements of this chapter;

8 (b) If it is an entry or removal from a terminal or refinery of
9 taxable special fuel transferred to a refinery or terminal and the
10 persons involved, including the terminal operator, are licensed; and

11 (c)(i) If it is a special fuel that, under contract of sale, is
12 shipped to a point outside this state by a supplier by means of any of
13 the following:

14 (A) Facilities operated by the supplier;

15 (B) Delivery by the supplier to a carrier, customs broker, or
16 forwarding agent, whether hired by the purchaser or not, for shipment
17 to the out-of-state point;

18 (C) Delivery by the supplier to a vessel clearing from port of this
19 state for a port outside this state and actually exported from this
20 state in the vessel.

21 (ii) For purposes of this subsection (2)(c):

22 (A) "Carrier" means a person or firm engaged in the business of
23 transporting for compensation property owned by other persons, and
24 includes both common and contract carriers; and

25 (B) "Forwarding agent" means a person or firm engaged in the
26 business of preparing property for shipment or arranging for its
27 shipment.

28 (3) Notwithstanding any provision of law to the contrary, every
29 urban passenger transportation system and carriers (~~as defined by~~
30 ~~chapters 81.68 and 81.70 RCW~~) shall be exempt from the provisions of
31 this chapter requiring the payment of special fuel taxes. For the
32 purposes of this section "urban passenger transportation system" means
33 every transportation system, publicly or privately owned, having as its
34 principal source of revenue the income from transporting persons for
35 compensation by means of motor vehicles and/or trackless trolleys, each
36 having a seating capacity for over fifteen persons over prescribed
37 routes in such a manner that the routes of such motor vehicles and/or
38 trackless trolleys, either alone or in conjunction with routes of other

1 such motor vehicles and/or trackless trolleys subject to routing by the
2 same transportation system, shall not extend for a distance exceeding
3 twenty-five road miles beyond the corporate limits of the county in
4 which the original starting points of such motor vehicles are located:
5 PROVIDED, That no refunds or credits shall be granted on special fuel
6 used by any urban transportation vehicle or vehicle (~~operated pursuant~~
7 ~~to chapters 81.68 and 81.70 RCW~~) on any trip where any portion of said
8 trip is more than twenty-five road miles beyond the corporate limits of
9 the county in which said trip originated.

10 **Sec. 256.** RCW 84.12.230 and 1998 c 311 s 12 are each amended to
11 read as follows:

12 Each company doing business in this state shall annually on or
13 before the 15th day of March, make and file with the department of
14 revenue an annual report, in such manner, upon such form, and giving
15 such information as the department may direct: PROVIDED, That the
16 department, upon written request filed on or before such date and for
17 good cause shown therein, may allow an extension of time for filing not
18 to exceed sixty days. At the time of making such report each company
19 shall also be required to furnish to the department the annual reports
20 of the board of directors, or other officers to the stockholders of the
21 company, duplicate copies of the annual reports made to any of the
22 following entities that regulate the company: The interstate commerce
23 commission or its successor agency (~~and to~~); the utilities (~~and~~)
24 commission; the transportation commission; the department of
25 transportation; or the department of licensing of this state; and
26 duplicate copies of such other reports as the department may direct:
27 PROVIDED, That the duplicate copies of these annual reports shall not
28 be due until such time as they are due to the stockholders or
29 commissioners.

30 **Sec. 257.** RCW 87.03.015 and 1999 c 153 s 74 are each amended to
31 read as follows:

32 Any irrigation district, operating and maintaining an irrigation
33 system, in addition to other powers conferred by law, shall have
34 authority:

35 (1) To purchase and sell electric power to the inhabitants of the
36 irrigation district for the purposes of irrigation and domestic use, to

1 acquire, construct, and lease dams, canals, plants, transmission lines,
2 and other power equipment and the necessary property and rights
3 therefor and to operate, improve, repair, and maintain the same, for
4 the generation and transmission of electrical energy for use in the
5 operation of pumping plants and irrigation systems of the district and
6 for sale to the inhabitants of the irrigation district for the purposes
7 of irrigation and domestic use; and, as a further and separate grant of
8 authority and in furtherance of a state purpose and policy of
9 developing hydroelectric capability in connection with irrigation
10 facilities, to construct, finance, acquire, own, operate, and maintain,
11 alone or jointly with other irrigation districts, boards of control,
12 other municipal or quasi-municipal corporations or cooperatives
13 authorized to engage in the business of distributing electricity, or
14 electrical companies subject to the jurisdiction of the utilities (~~and~~
15 ~~transportation~~) commission, hydroelectric facilities including but not
16 limited to dams, canals, plants, transmission lines, other power
17 equipment, and the necessary property and rights therefor, located
18 within or outside the district, for the purpose of utilizing for the
19 generation of electricity, water power made available by and as a part
20 of the irrigation water storage, conveyance, and distribution
21 facilities, waste ways, and drainage water facilities which serve
22 irrigation districts, and to sell any and all the electric energy
23 generated at any such hydroelectric facilities or the irrigation
24 district's share of such energy, to municipal or quasi-municipal
25 corporations and cooperatives authorized to engage in the business of
26 distributing electricity, and electrical companies subject to the
27 jurisdiction of the utilities (~~and transportation~~) commission, or to
28 other irrigation districts, and on such terms and conditions as the
29 board of directors shall determine, and to enter into contracts with
30 other irrigation districts, boards of control, other municipal or
31 quasi-municipal corporations and cooperatives authorized to engage in
32 the business of distributing electricity, and electrical companies
33 subject to the jurisdiction of the utilities (~~and transportation~~)
34 commission: PROVIDED, That no contract entered into by the board of
35 directors of any irrigation district for the sale of electrical energy
36 from such hydroelectric facility for a period longer than forty years
37 from the date of commercial operation of such hydroelectric facility
38 shall be binding on the district until ratified by a majority vote of

1 the electors of the district at an election therein, called, held, and
2 canvassed for that purpose in the same manner as that provided by law
3 for district bond elections.

4 (2) To construct, repair, purchase, maintain, or lease a system for
5 the sale or lease of water to the owners of irrigated lands within the
6 district for domestic purposes.

7 (3) To construct, repair, purchase, lease, acquire, operate, and
8 maintain a system of drains, sanitary sewers, and sewage disposal or
9 treatment plants as herein provided.

10 (4) To assume, as principal or guarantor, any indebtedness to the
11 United States under the federal reclamation laws, on account of
12 district lands.

13 (5) To maintain, repair, construct, and reconstruct ditches,
14 laterals, pipelines, and other water conduits used or to be used in
15 carrying water for irrigation of lands located within the boundaries of
16 a city or town or for the domestic use of the residents of a city or
17 town where the owners of land within such city or town shall use such
18 works to carry water to the boundaries of such city or town for
19 irrigation, domestic, or other purposes within such city or town, and
20 to charge to such city or town the pro rata proportion of the cost of
21 such maintenance, repair, construction, and reconstruction work in
22 proportion to the benefits received by the lands served and located
23 within the boundaries of such city or town, and if such cost is not
24 paid, then and in that event said irrigation district shall have the
25 right to prevent further water deliveries through such works to the
26 lands located within the boundaries of such city or town until such
27 charges have been paid.

28 (6) To acquire, install, and maintain as a part of the irrigation
29 district's water system the necessary water mains and fire hydrants to
30 make water available for fire fighting purposes; and in addition any
31 such irrigation district shall have the authority to repair, operate,
32 and maintain such hydrants and mains.

33 (7) To enter into contracts with other irrigation districts, boards
34 of control, municipal or quasi-municipal corporations and cooperatives
35 authorized to engage in the business of distributing electricity, and
36 electrical companies subject to the jurisdiction of the utilities (~~and~~
37 ~~transportation~~) commission to jointly acquire, construct, own,
38 operate, and maintain irrigation water, domestic water, drainage and

1 sewerage works, and electrical power works to the same extent as
2 authorized by subsection (1) of this section, or portions of such
3 works.

4 (8) To acquire from a water-sewer district wholly within the
5 irrigation district's boundaries, by a conveyance without cost, the
6 water-sewer district's water system and to operate the same to provide
7 water for the domestic use of the irrigation district residents. As a
8 part of its acceptance of the conveyance the irrigation district must
9 agree to relieve the water-sewer district of responsibility for
10 maintenance and repair of the system. Any such water-sewer district is
11 authorized to make such a conveyance if all indebtedness of the water-
12 sewer district, except local improvement district bonds, has been paid
13 and the conveyance has been approved by a majority of the water-sewer
14 district's voters voting at a general or special election.

15 This section shall not be construed as in any manner abridging any
16 other powers of an irrigation district conferred by law.

17 **Sec. 258.** RCW 87.03.115 and 1983 c 262 s 1 are each amended to
18 read as follows:

19 The directors of the district shall organize as a board and shall
20 elect a president from their number, and appoint a secretary, who shall
21 keep a record of their proceedings. The office of the directors and
22 principal place of business of the district shall be at some place in
23 the county in which the organization was effected, to be designated by
24 the directors. The directors serving districts of five thousand acres
25 or more shall hold a regular monthly meeting at their office on the
26 first Tuesday in every month, or on such other day in each month as the
27 board shall direct in its bylaws, and may adjourn any meeting from time
28 to time as may be required for the proper transaction of business.
29 Directors serving districts of less than five thousand acres shall hold
30 at least quarterly meetings on a day designated by the board's bylaws,
31 and may adjourn any meeting from time to time as may be required for
32 the proper transaction of business. Special meetings shall be called
33 and conducted in the manner required by chapter 42.30 RCW. All
34 meetings of the directors must be public. A majority of the directors
35 shall constitute a quorum for the transaction of business, and in all
36 matters requiring action by the board there shall be a concurrence of
37 at least a majority of the directors. All records of the board shall

1 be open to the inspection of any electors during business hours. The
2 board shall have the power, and it shall be its duty, to adopt a seal
3 of the district, to manage and conduct the business and affairs of the
4 district, to make and execute all necessary contracts, to employ and
5 appoint such agents, officers, and employees as may be necessary and
6 prescribe their duties, and to establish equitable bylaws, rules, and
7 regulations for the government and management of the district, and for
8 the equitable distribution of water to the lands within the district,
9 upon the basis of the beneficial use thereof, and generally to perform
10 all such acts as shall be necessary to fully carry out the provisions
11 of this chapter: PROVIDED, That all water, the right to the use of
12 which is acquired by the district under any contract with the United
13 States, shall be distributed and apportioned by the district in
14 accordance with the acts of congress, and rules and regulations of the
15 secretary of the interior until full reimbursement has been made to the
16 United States, and in accordance with the provisions of said contract
17 in relation thereto. The bylaws, rules, and regulations must be on
18 file and open to inspection of any elector during regular business
19 hours. All leases, contracts, or other form of holding any interest in
20 any state or other public lands shall be, and the same are hereby
21 declared to be title to and evidence of title to lands and for all
22 purposes within (~~this act~~) section 5, chapter 129, Laws of 1921,
23 shall be treated as the private property of the lessee or owner of the
24 contractual or possessory interest: PROVIDED, That nothing in this
25 section shall be construed to affect the title of the state or other
26 public ownership, nor shall any lien for such assessment attach to the
27 fee simple title of the state or other public ownership. The board of
28 directors shall have authority to develop and to sell, lease, or rent
29 the use of: (1) Water derived from the operation of the district water
30 facilities to such municipal and quasi municipal entities, the state of
31 Washington, and state entities and agencies, public and private
32 corporations, and individuals located within and outside the boundaries
33 of the district and on such terms and conditions as the board of
34 directors shall determine; and (2) power derived from hydroelectric
35 facilities authorized by RCW 87.03.015(1) as now or hereafter amended,
36 to such municipal or quasi municipal corporations and cooperatives
37 authorized to engage in the business of distributing electricity,
38 electrical companies subject to the jurisdiction of the utilities (~~and~~

1 ~~transportation~~) commission, and other irrigation districts and on such
2 terms and conditions as the board of directors shall determine:
3 PROVIDED, No water shall be furnished for use outside of said district
4 until all demands and requirements for water for use in said district
5 are furnished and supplied by said district: AND PROVIDED FURTHER,
6 That as soon as any public lands situated within the limits of the
7 district shall be acquired by any private person, or held under any
8 title of private ownership, the owner thereof shall be entitled to
9 receive his or her proportion of water as in case of other land owners,
10 upon payment by (~~him~~) the owner of such sums as shall be determined
11 by the board, and at the time to be fixed by the board, which sums
12 shall be such equitable amount as such lands should pay having regard
13 to placing said lands on the basis of equality with other lands in the
14 district as to benefits received, and giving credit if equitable for
15 any sums paid as water rent by the occupant of said lands prior to the
16 vesting of private ownership, and such lands shall also become subject
17 to all taxes and assessments of the district thereafter imposed.

18 **Sec. 259.** RCW 87.03.137 and 1979 ex.s. c 185 s 4 are each amended
19 to read as follows:

20 For the purpose of developing hydroelectric generation capabilities
21 in connection with irrigation facilities, the board of directors of an
22 irrigation district shall have the power, in accordance with procedures
23 provided in this chapter, to acquire, either by purchase or
24 condemnation, or other legal means, all lands, waters, water rights,
25 and other property located within or outside the boundaries of the
26 district necessary for the construction, use, supply, maintenance,
27 repair, or improvement of hydroelectric facilities to the extent
28 authorized by RCW 87.03.015(1), as now or hereafter amended.

29 Irrigation districts are prohibited from condemning: (1) Any
30 hydroelectric power plants, hydroelectric power sites, power lines or
31 other power facilities or any lands, water rights, or other property of
32 municipal and quasi municipal corporations, cooperatives authorized to
33 engage in the business of distributing electricity, and electrical
34 companies subject to the jurisdiction of the utilities (~~and~~
35 ~~transportation~~) commission; and (2) water rights held by private
36 individual landowners where such waters are being put to beneficial
37 use.

1 **Sec. 260.** RCW 87.03.828 and 1983 c 47 s 2 are each amended to read
2 as follows:

3 One or more irrigation districts and any combination of cities,
4 towns, or public utility districts may create a separate legal
5 authority to construct, finance, acquire, own, operate, and maintain
6 hydroelectric facilities including, but not limited to, dams, canals,
7 plants, transmission lines, other power equipment, and the necessary
8 property and property rights therefor, located within or outside the
9 boundaries of the entities creating the authority, for the purpose of
10 utilizing for the generation of electricity water power made available
11 by and as a part of the irrigation water storage, conveyance, and
12 distribution facilities, wasteways, and drainage water facilities which
13 serve or may in the future serve irrigation districts, and to sell by
14 contract on such terms and conditions as deemed appropriate by the
15 legislative body of the authority the electric power and energy created
16 by or generated at such hydroelectric facilities to municipal or quasi
17 municipal corporations or cooperatives authorized to engage in the
18 business of distributing electricity, electrical companies subject to
19 the jurisdiction of the utilities ((and transportation)) commission, or
20 irrigation districts. Any authority so created shall have the same
21 powers and only those powers granted to irrigation districts by chapter
22 185, Laws of 1979 ex. sess. and has such additional powers relating to
23 its organization, right to contract in its own name, and general
24 ability to exist and function as a separate legal authority as deemed
25 appropriate by the entities creating it. The authority shall be
26 created and organized by contract in the manner described in chapter
27 39.34 RCW and shall be a separate legal entity capable of exercising in
28 its own name the powers granted it. No provision of chapter 39.34 RCW
29 or any other provision of law may be interpreted to require the
30 entities creating the authority to submit the contract creating the
31 authority to any state, county, or municipal officer, entity, agency,
32 or board for approval or disapproval.

33 **Sec. 261.** RCW 87.03.840 and 1983 c 47 s 3 are each amended to read
34 as follows:

35 This chapter supplements and neither restricts nor limits any
36 powers which a city, town, public utility district, or irrigation
37 district might otherwise have under any laws of this state, except that

1 no such authority created by RCW 87.03.828 and no city, town, or public
2 utility district member of an authority may condemn for the benefit of
3 the authority any plant, works, dam, facility, right, or property owned
4 by any city, town, irrigation district, public utility district, or
5 electrical company subject to the jurisdiction of the utilities (~~and~~
6 ~~transportation~~)) commission.

7 **Sec. 262.** RCW 88.16.190 and 1994 c 52 s 1 are each amended to read
8 as follows:

9 (1) Any oil tanker, whether enrolled or registered, of greater than
10 one hundred and twenty-five thousand deadweight tons shall be
11 prohibited from proceeding beyond a point east of a line extending from
12 Discovery Island light south to New Dungeness light.

13 (2) An oil tanker, whether enrolled or registered, of forty to one
14 hundred and twenty-five thousand deadweight tons may proceed beyond the
15 points enumerated in subsection (1) if such tanker possesses all of the
16 following standard safety features:

17 (a) Shaft horsepower in the ratio of one horsepower to each two and
18 one-half deadweight tons; and

19 (b) Twin screws; and

20 (c) Double bottoms, underneath all oil and liquid cargo
21 compartments; and

22 (d) Two radars in working order and operating, one of which must be
23 collision avoidance radar; and

24 (e) Such other navigational position location systems as may be
25 prescribed from time to time by the board of pilotage commissioners:

26 PROVIDED, That, if such forty to one hundred and twenty-five
27 thousand deadweight ton tanker is in ballast or is under escort of a
28 tug or tugs with an aggregate shaft horsepower equivalent to five
29 percent of the deadweight tons of that tanker, subsection (2) of this
30 section shall not apply: PROVIDED FURTHER, That additional tug shaft
31 horsepower equivalencies may be required under certain conditions as
32 established by rule (~~and regulation of the Washington utilities and~~
33 ~~transportation commission pursuant to chapter 34.05 RCW~~) by a duly
34 authorized state agency: PROVIDED FURTHER, That a tanker assigned a
35 deadweight of less than forty thousand deadweight tons at the time of
36 construction or reconstruction as reported in Lloyd's Register of Ships
37 is not subject to the provisions of RCW 88.16.170 through 88.16.190.

1 NEW SECTION. **Sec. 263.** (1) All powers, duties, and functions of
2 the utilities and transportation commission pertaining to driver or
3 operator safety and insurance coverage requirements for motor carriers,
4 household goods carriers, solid waste companies, private ferries,
5 excursion charter and special needs transportation providers, and
6 airport shuttle and bus service providers are transferred to the
7 department of licensing.

8 (2)(a) All reports, documents, surveys, books, records, files,
9 papers, or written material in the possession of the utilities and
10 transportation commission pertaining to the powers, functions, and
11 duties transferred shall be delivered to the custody of the department
12 of licensing. All cabinets, furniture, office equipment, motor
13 vehicles, and other tangible property employed by the utilities and
14 transportation commission in carrying out the powers, functions, and
15 duties transferred shall be made available to the department of
16 licensing. All funds, credits, or other assets held in connection with
17 the powers, functions, and duties transferred shall be assigned to the
18 department of licensing.

19 (b) Any appropriations made to the utilities and transportation
20 commission for carrying out the powers, functions, and duties
21 transferred shall, on the effective date of this section, be
22 transferred and credited to the department of licensing.

23 (c) Whenever any question arises as to the transfer of any
24 personnel, funds, books, documents, records, papers, files, equipment,
25 or other tangible property used or held in the exercise of the powers
26 and the performance of the duties and functions transferred, the
27 director of financial management shall make a determination as to the
28 proper allocation and certify the same to the state agencies concerned.

29 (3) All rules and all pending business before the utilities and
30 transportation commission pertaining to the powers, functions, and
31 duties transferred shall be continued and acted upon by the department
32 of licensing. All existing contracts and obligations shall remain in
33 full force and shall be performed by the department of licensing.

34 (4) The transfer of the powers, duties, functions, and personnel of
35 the utilities and transportation commission shall not affect the
36 validity of any act performed before the effective date of this
37 section.

1 (5) If apportionments of budgeted funds are required because of the
2 transfers directed by this section, the director of financial
3 management shall certify the apportionments to the agencies affected,
4 the state auditor, and the state treasurer. Each of these shall make
5 the appropriate transfer and adjustments in funds and appropriation
6 accounts and equipment records in accordance with the certification.

7 (6) Nothing contained in this section may be construed to alter any
8 existing collective bargaining unit or the provisions of any existing
9 collective bargaining agreement until the agreement has expired or
10 until the bargaining unit has been modified by action of the personnel
11 resources board as provided by law.

12 NEW SECTION. **Sec. 264.** (1) All powers, duties, and functions of
13 the utilities and transportation commission pertaining to establishing
14 equipment standards, inspecting vehicles, and reporting violations of
15 equipment standards of motor carriers, household goods carriers, solid
16 waste companies, excursion charter and special needs transportation
17 providers, and airport shuttle and bus service providers are
18 transferred to the Washington state patrol.

19 (2)(a) All reports, documents, surveys, books, records, files,
20 papers, or written material in the possession of the utilities and
21 transportation commission pertaining to the powers, functions, and
22 duties transferred shall be delivered to the custody of the Washington
23 state patrol. All cabinets, furniture, office equipment, motor
24 vehicles, and other tangible property employed by the utilities and
25 transportation commission in carrying out the powers, functions, and
26 duties transferred shall be made available to the Washington state
27 patrol. All funds, credits, or other assets held in connection with
28 the powers, functions, and duties transferred shall be assigned to the
29 Washington state patrol.

30 (b) Any appropriations made to the utilities and transportation
31 commission for carrying out the powers, functions, and duties
32 transferred shall, on the effective date of this section, be
33 transferred and credited to the Washington state patrol.

34 (c) Whenever any question arises as to the transfer of any
35 personnel, funds, books, documents, records, papers, files, equipment,
36 or other tangible property used or held in the exercise of the powers

1 and the performance of the duties and functions transferred, the
2 director of financial management shall make a determination as to the
3 proper allocation and certify the same to the state agencies concerned.

4 (3) All rules and all pending business before the utilities and
5 transportation commission pertaining to the powers, functions, and
6 duties transferred shall be continued and acted upon by the Washington
7 state patrol. All existing contracts and obligations shall remain in
8 full force and shall be performed by the Washington state patrol.

9 (4) The transfer of the powers, duties, functions, and personnel of
10 the utilities and transportation commission shall not affect the
11 validity of any act performed before the effective date of this
12 section.

13 (5) If apportionments of budgeted funds are required because of the
14 transfers directed by this section, the director of financial
15 management shall certify the apportionments to the agencies affected,
16 the state auditor, and the state treasurer. Each of these shall make
17 the appropriate transfer and adjustments in funds and appropriation
18 accounts and equipment records in accordance with the certification.

19 (6) Nothing contained in this section may be construed to alter any
20 existing collective bargaining unit or the provisions of any existing
21 collective bargaining agreement until the agreement has expired or
22 until the bargaining unit has been modified by action of the personnel
23 resources board as provided by law.

24 NEW SECTION. **Sec. 265.** (1) All powers, duties, and functions of
25 the utilities and transportation commission pertaining to the safety
26 and economic regulation of railroads when not preempted by federal law
27 are transferred to the transportation commission.

28 (2)(a) All reports, documents, surveys, books, records, files,
29 papers, or written material in the possession of the utilities and
30 transportation commission pertaining to the powers, functions, and
31 duties transferred shall be delivered to the custody of the
32 transportation commission. All cabinets, furniture, office equipment,
33 motor vehicles, and other tangible property employed by the utilities
34 and transportation commission in carrying out the powers, functions,
35 and duties transferred shall be made available to the transportation
36 commission. All funds, credits, or other assets held in connection

1 with the powers, functions, and duties transferred shall be assigned to
2 the transportation commission.

3 (b) Any appropriations made to the utilities and transportation
4 commission for carrying out the powers, functions, and duties
5 transferred shall, on the effective date of this section, be
6 transferred and credited to the transportation commission.

7 (c) Whenever any question arises as to the transfer of any
8 personnel, funds, books, documents, records, papers, files, equipment,
9 or other tangible property used or held in the exercise of the powers
10 and the performance of the duties and functions transferred, the
11 director of financial management shall make a determination as to the
12 proper allocation and certify the same to the state agencies concerned.

13 (3) All rules and all pending business before the utilities and
14 transportation commission pertaining to the powers, functions, and
15 duties transferred shall be continued and acted upon by the
16 transportation commission. All existing contracts and obligations
17 shall remain in full force and shall be performed by the transportation
18 commission.

19 (4) The transfer of the powers, duties, functions, and personnel of
20 the utilities and transportation commission shall not affect the
21 validity of any act performed before the effective date of this
22 section.

23 (5) If apportionments of budgeted funds are required because of the
24 transfers directed by this section, the director of financial
25 management shall certify the apportionments to the agencies affected,
26 the state auditor, and the state treasurer. Each of these shall make
27 the appropriate transfer and adjustments in funds and appropriation
28 accounts and equipment records in accordance with the certification.

29 (6) Nothing contained in this section may be construed to alter any
30 existing collective bargaining unit or the provisions of any existing
31 collective bargaining agreement until the agreement has expired or
32 until the bargaining unit has been modified by action of the personnel
33 resources board as provided by law.

34 NEW SECTION. **Sec. 266.** (1) All powers, duties, and functions of
35 the utilities and transportation commission pertaining to the
36 regulation of supplying utility services or commodities to the public
37 for compensation, electrical companies, gas companies, irrigation

1 companies, telecommunications companies, water companies, solid waste
2 collection companies, household goods carriers, pipeline companies, gas
3 pipeline companies, and low-level radioactive waste sites are
4 transferred to the utilities commission.

5 (2)(a) All reports, documents, surveys, books, records, files,
6 papers, or written material in the possession of the utilities and
7 transportation commission pertaining to the powers, functions, and
8 duties transferred shall be delivered to the custody of the utilities
9 commission. All cabinets, furniture, office equipment, motor vehicles,
10 and other tangible property employed by the utilities and
11 transportation commission in carrying out the powers, functions, and
12 duties transferred shall be made available to the utilities commission.
13 All funds, credits, or other assets held in connection with the powers,
14 functions, and duties transferred shall be assigned to the utilities
15 commission.

16 (b) Any appropriations made to the utilities and transportation
17 commission for carrying out the powers, functions, and duties
18 transferred shall, on the effective date of this section, be
19 transferred and credited to the utilities commission.

20 (c) Whenever any question arises as to the transfer of any
21 personnel, funds, books, documents, records, papers, files, equipment,
22 or other tangible property used or held in the exercise of the powers
23 and the performance of the duties and functions transferred, the
24 director of financial management shall make a determination as to the
25 proper allocation and certify the same to the state agencies concerned.

26 (3) All rules and all pending business before the utilities and
27 transportation commission pertaining to the powers, functions, and
28 duties transferred shall be continued and acted upon by the utilities
29 commission. All existing contracts and obligations shall remain in
30 full force and shall be performed by the utilities commission.

31 (4) The transfer of the powers, duties, functions, and personnel of
32 the utilities and transportation commission shall not affect the
33 validity of any act performed before the effective date of this
34 section.

35 (5) If apportionments of budgeted funds are required because of the
36 transfers directed by this section, the director of financial
37 management shall certify the apportionments to the agencies affected,

1 the state auditor, and the state treasurer. Each of these shall make
2 the appropriate transfer and adjustments in funds and appropriation
3 accounts and equipment records in accordance with the certification.

4 (6) Nothing contained in this section may be construed to alter any
5 existing collective bargaining unit or the provisions of any existing
6 collective bargaining agreement until the agreement has expired or
7 until the bargaining unit has been modified by action of the personnel
8 resources board as provided by law.

9 NEW SECTION. **Sec. 267.** RCW 46.32.080, 46.32.100, 81.77.010,
10 81.77.015, 81.77.020, 81.77.0201, 81.77.030, 81.77.040, 81.77.050,
11 81.77.060, 81.77.070, 81.77.080, 81.77.090, 81.77.100, 81.77.110,
12 81.77.120, 81.77.130, 81.77.140, 81.77.160, 81.77.170, 81.77.180,
13 81.77.185, and 81.77.190 are each recodified as sections in a new
14 chapter in Title 80 RCW.

15 NEW SECTION. **Sec. 268.** RCW 81.88.005, 81.88.010, 81.88.020,
16 81.88.030, 81.88.040, 81.88.050, 81.88.060, 81.88.070, 81.88.080,
17 81.88.090, 81.88.100, 81.88.110, 81.88.140, 81.88.150, 81.88.900,
18 81.88.901, and 81.88.902 are each recodified as sections in a new
19 chapter in Title 80 RCW.

20 NEW SECTION. **Sec. 269.** RCW 81.108.010, 81.108.020, 81.108.030,
21 81.108.040, 81.108.050, 81.108.060, 81.108.070, 81.108.080, 81.108.090,
22 81.108.100, 81.108.110, 81.108.900, and 81.108.901 are each recodified
23 as sections in a new chapter in Title 80 RCW.

24 NEW SECTION. **Sec. 270.** The following acts or parts of acts are
25 each repealed:

26 (1) RCW 19.27A.035 (Payments by electric utilities to owners of
27 residential buildings--Recovery of expenses--Effect of Pacific
28 Northwest electric power planning and conservation act--Expiration of
29 subsections) and 1993 c 64 s 2 & 1990 c 2 s 4;

30 (2) RCW 36.54.180 (County ferry districts--Not subject to
31 Washington utilities and transportation commission) and 2003 c 83 s
32 308;

33 (3) RCW 49.17.350 (Flaggers) and 2000 c 239 s 2;

1 (4) RCW 70.95.900 (Authority and responsibility of utilities and
2 transportation commission not changed) and 1969 ex.s. c 134 s 27;
3 (5) RCW 81.01.010 (Adoption of provisions of chapter 80.01 RCW) and
4 1961 c 14 s 81.01.010;
5 (6) RCW 81.24.020 (Fees of auto transportation companies--Statement
6 filing) and 2003 c 296 s 3, 1997 c 215 s 1, & 1961 c 14 s 81.24.020;
7 (7) RCW 81.24.030 (Fees of every commercial ferry--Statement
8 filing) and 2003 c 296 s 4, 1993 c 427 s 10, 1981 c 13 s 5, & 1961 c 14
9 s 81.24.030;
10 (8) RCW 81.24.090 (Pipeline safety fee--Reports--Procedure to
11 contest fees--Regulatory incentive program) and 2001 c 238 s 3;
12 (9) RCW 81.40.010 (Full train crews--Passenger--Safety review--
13 Penalty--Enforcement) and 2003 c 53 s 386, 1992 c 102 s 1, & 1961 c 14
14 s 81.40.010;
15 (10) RCW 81.40.095 (Rules and regulations--Railroad employees--
16 Sanitation, shelter) and 1961 c 14 s 81.40.095;
17 (11) RCW 81.44.096 (Cabooses--Stanchions, grab handles, or bars,
18 installation--Edges and protrusions rounded--Seat backs, standard) and
19 1969 ex.s. c 116 s 6;
20 (12) RCW 81.44.098 (Cabooses--No violation when move in service if
21 correction made at first available point--Temporary exemption,
22 procedure, limitations) and 1969 ex.s. c 116 s 10;
23 (13) RCW 81.44.099 (Cabooses--Regulation and enforcement--
24 Regulations for) and 1969 ex.s. c 116 s 13;
25 (14) RCW 81.66.010 (Definitions) and 1996 c 244 s 1 & 1979 c 111 s
26 4;
27 (15) RCW 81.66.020 (Private, nonprofit transportation provider
28 required to operate in accordance with this chapter) and 1979 c 111 s
29 5;
30 (16) RCW 81.66.030 (Authority of commission) and 1998 c 173 s 4 &
31 1979 c 111 s 6;
32 (17) RCW 81.66.040 (Certificate required--Application--
33 Transferability--Carried in vehicle) and 1979 c 111 s 7;
34 (18) RCW 81.66.050 (Insurance or bond required) and 1979 c 111 s 8;
35 (19) RCW 81.66.060 (Suspension, revocation, or alteration of
36 certificate) and 2005 c 121 s 1 & 1979 c 111 s 9;
37 (20) RCW 81.68.010 (Definitions) and 1989 c 163 s 1, 1984 c 166 s

1 1, 1979 c 111 s 16, 1975-'76 2nd ex.s. c 121 s 1, 1969 ex.s. c 210 s
2 10, & 1961 c 14 s 81.68.010;

3 (21) RCW 81.68.015 (Application of chapter restricted) and 1989 c
4 163 s 2 & 1984 c 166 s 2;

5 (22) RCW 81.68.020 (Compliance with chapter required) and 1989 c
6 163 s 3, 1984 c 166 s 3, & 1961 c 14 s 81.68.020;

7 (23) RCW 81.68.030 (Regulation by commission) and 2005 c 121 s 2,
8 1989 c 163 s 4, 1984 c 166 s 4, & 1961 c 14 s 81.68.030;

9 (24) RCW 81.68.040 (Certificate of convenience and necessity) and
10 2005 c 121 s 3 & 1961 c 14 s 81.68.040;

11 (25) RCW 81.68.046 (Temporary certificates) and 2005 c 121 s 8;

12 (26) RCW 81.68.050 (Filing fees) and 1973 c 115 s 5 & 1961 c 14 s
13 81.68.050;

14 (27) RCW 81.68.060 (Liability and property damage insurance--Surety
15 bond) and 1989 c 163 s 5, 1984 c 166 s 6, 1977 ex.s. c 298 s 1, & 1961
16 c 14 s 81.68.060;

17 (28) RCW 81.68.065 (Self-insurers--Exemptions as to insurance or
18 bond) and 1961 c 14 s 81.68.065;

19 (29) RCW 81.68.070 (Public service law invoked) and 1971 c 81 s 146
20 & 1961 c 14 s 81.68.070;

21 (30) RCW 81.68.080 (Penalty) and 2003 c 53 s 398, 1979 ex.s. c 136
22 s 106, & 1961 c 14 s 81.68.080;

23 (31) RCW 81.68.090 (Scope of chapter) and 1961 c 14 s 81.68.090;

24 (32) RCW 81.70.010 (Business affected with the public interest--
25 Declaration of purpose) and 1965 c 150 s 2;

26 (33) RCW 81.70.020 (Definitions) and 1989 c 163 s 6, 1988 c 30 s 1,
27 1969 c 132 s 1, & 1965 c 150 s 3;

28 (34) RCW 81.70.030 (Exclusions) and 1989 c 283 s 17 & 1965 c 150 s
29 4;

30 (35) RCW 81.70.220 (Certificate or registration required) and 1989
31 c 163 s 7 & 1988 c 30 s 2;

32 (36) RCW 81.70.230 (Certificates--Application, issuance, safety
33 fitness, financial responsibility) and 1988 c 30 s 3;

34 (37) RCW 81.70.240 (Certificates--Transfer restricted) and 1988 c
35 30 s 4;

36 (38) RCW 81.70.250 (Certificates--Grounds for cancellation, etc.)
37 and 1989 c 163 s 8 & 1988 c 30 s 5;

1 (39) RCW 81.70.260 (Unlawful operation after certificate or
2 registration canceled, etc.) and 1989 c 163 s 9 & 1988 c 30 s 6;
3 (40) RCW 81.70.270 (Scope of regulation) and 1989 c 163 s 10 & 1988
4 c 30 s 7;
5 (41) RCW 81.70.280 (Insurance or bond for liability and property
6 damage) and 1989 c 163 s 11 & 1988 c 30 s 8;
7 (42) RCW 81.70.290 (Self-insurers) and 1989 c 163 s 12 & 1988 c 30
8 s 9;
9 (43) RCW 81.70.300 (Authority of commission and courts) and 1988 c
10 30 s 10;
11 (44) RCW 81.70.310 (Application of Title 81 RCW) and 1988 c 30 s
12 11;
13 (45) RCW 81.70.320 (Fees--Amounts, deposit) and 1989 c 163 s 13 &
14 1988 c 30 s 12;
15 (46) RCW 81.70.330 (Vehicle identification) and 1989 c 163 s 14 &
16 1988 c 30 s 13;
17 (47) RCW 81.70.340 (Interstate or foreign carriers) and 1989 c 163
18 s 15 & 1988 c 30 s 14;
19 (48) RCW 81.70.350 (Annual regulatory fee--Delinquent fee payments)
20 and 1994 c 83 s 3, 1989 c 163 s 16, & 1988 c 30 s 15;
21 (49) RCW 81.70.360 (Excursion service companies--Certificate) and
22 1984 c 166 s 5;
23 (50) RCW 81.80.010 (Definitions) and 1989 c 60 s 1, 1988 c 31 s 1,
24 1982 c 71 s 1, 1967 c 69 s 1, & 1961 c 14 s 81.80.010;
25 (51) RCW 81.80.020 (Declaration of policy) and 1961 c 14 s
26 81.80.020;
27 (52) RCW 81.80.030 (Hidden transportation charges) and 1961 c 14 s
28 81.80.030;
29 (53) RCW 81.80.040 (Exempt vehicles) and 1993 c 121 s 4, 1984 c 171
30 s 1, 1979 ex.s. c 6 s 1, 1963 c 59 s 7, & 1961 c 14 s 81.80.040;
31 (54) RCW 81.80.045 (Exemption--Freight consolidators) and 1979
32 ex.s. c 138 s 1;
33 (55) RCW 81.80.050 (Compliance required) and 1961 c 14 s 81.80.050;
34 (56) RCW 81.80.060 (Combination of services) and 1969 ex.s. c 210
35 s 17 & 1969 c 33 s 1;
36 (57) RCW 81.80.070 (Grant or denial of permit--Cease and desist
37 orders--Penalty) and 1999 c 79 s 1, 1963 c 242 s 1, & 1961 c 14 s
38 81.80.070;

1 (58) RCW 81.80.080 (Application for permit) and 1991 c 41 s 1 &
2 1961 c 14 s 81.80.080;
3 (59) RCW 81.80.090 (Form of application--Filing fees) and 1993 c 97
4 s 5, 1973 c 115 s 10, & 1961 c 14 s 81.80.090;
5 (60) RCW 81.80.100 (Form and contents of permit) and 1961 c 14 s
6 81.80.100;
7 (61) RCW 81.80.110 (Limitation on renewal of application) and 1961
8 c 14 s 81.80.110;
9 (62) RCW 81.80.115 (Fees imposed under this chapter--Procedure for
10 contesting--Rules) and 1993 c 97 s 6;
11 (63) RCW 81.80.120 (Classification of carriers) and 1961 c 14 s
12 81.80.120;
13 (64) RCW 81.80.130 (Regulatory power of commission over common
14 carriers) and 1961 c 14 s 81.80.130;
15 (65) RCW 81.80.132 (Common carriers--Estimate of charges for
16 household goods--Penalty) and 1993 c 392 s 1;
17 (66) RCW 81.80.140 (Regulatory power over contract carriers) and
18 1961 c 14 s 81.80.140;
19 (67) RCW 81.80.150 (Tariffs to be compiled and sold by commission)
20 and 1993 c 97 s 4, 1981 c 116 s 2, 1973 c 115 s 11, & 1961 c 14 s
21 81.80.150;
22 (68) RCW 81.80.170 (Temporary permits) and 1963 c 242 s 2 & 1961 c
23 14 s 81.80.170;
24 (69) RCW 81.80.175 (Permits for farm to market hauling) and 1963 c
25 242 s 5;
26 (70) RCW 81.80.190 (Insurance or deposit of security) and 1986 c
27 191 s 5 & 1961 c 14 s 81.80.190;
28 (71) RCW 81.80.195 (Liability insurance requirements exclusive) and
29 1989 c 264 s 2;
30 (72) RCW 81.80.200 (Conditions may be attached to permits) and 1961
31 c 14 s 81.80.200;
32 (73) RCW 81.80.211 (Hours of operators--Rules and regulations) and
33 1961 c 14 s 81.80.211;
34 (74) RCW 81.80.220 (Tariff rates must be charged) and 1961 c 14 s
35 81.80.220;
36 (75) RCW 81.80.230 (Penalty for rebating--Procedures for
37 collection) and 1980 c 132 s 2 & 1961 c 14 s 81.80.230;
38 (76) RCW 81.80.240 (Joint through rates) and 1961 c 14 s 81.80.240;

1 (77) RCW 81.80.250 (Bond to protect shippers and consignees) and
2 1961 c 14 s 81.80.250;

3 (78) RCW 81.80.260 (Operation in more than one class) and 1967 c 69
4 s 3 & 1961 c 14 s 81.80.260;

5 (79) RCW 81.80.270 (Permits--Transfer--Assignment--Acquisition of
6 carrier holding permit--Commission approval--Duties on cessation of
7 operation) and 1973 c 115 s 12, 1969 ex.s. c 210 s 12, 1965 ex.s. c 134
8 s 1, 1963 c 59 s 6, & 1961 c 14 s 81.80.270;

9 (80) RCW 81.80.272 (Transfer of decedent's interest--Temporary
10 continuance of operations) and 1973 c 115 s 13 & 1965 ex.s. c 134 s 2;

11 (81) RCW 81.80.280 (Cancellation of permits) and 1987 c 209 s 1 &
12 1961 c 14 s 81.80.280;

13 (82) RCW 81.80.290 (Rules and regulations) and 1961 c 14 s
14 81.80.290;

15 (83) RCW 81.80.301 (Registration of motor carriers doing business
16 in state--Identification number--Receipt carried in cab--Fees) and 1993
17 c 97 s 1;

18 (84) RCW 81.80.305 (Markings required--Exemptions) and 1991 c 241
19 s 1;

20 (85) RCW 81.80.312 (Interchange of trailers, semitrailers, or power
21 units--Interchange agreement, approval, restrictions--Procedure when no
22 agreement) and 1969 ex.s. c 210 s 16, 1967 c 170 s 2, & 1961 c 14 s
23 81.80.312;

24 (86) RCW 81.80.318 (Single trip transit permit) and 1993 c 97 s 2,
25 1985 c 7 s 153, 1967 c 170 s 3, 1963 c 59 s 8, & 1961 c 14 s 81.80.318;

26 (87) RCW 81.80.321 (Regulatory fee--Based on gross income--
27 Legislative intent--Delinquent fee payments--Public service revolving
28 fund) and 1994 c 83 s 4 & 1993 c 97 s 3;

29 (88) RCW 81.80.330 (Enforcement of chapter) and 1995 c 272 s 5,
30 1980 c 132 s 3, & 1961 c 14 s 81.80.330;

31 (89) RCW 81.80.340 (Public service law invoked) and 1971 c 81 s 147
32 & 1961 c 14 s 81.80.340;

33 (90) RCW 81.80.345 (Venue--Hearings on applications) and 1988 c 58
34 s 1 & 1963 c 242 s 3;

35 (91) RCW 81.80.346 (Venue--Appeals from rulings and orders) and
36 1963 c 242 s 4;

37 (92) RCW 81.80.355 (Unlawful advertising--Penalty) and 1961 c 14 s
38 81.80.355;

1 (93) RCW 81.80.357 (Advertising--Household goods--Permit number
2 required--Penalty) and 1994 c 168 s 1;
3 (94) RCW 81.80.360 (Procedure--Penalties--General statute invoked)
4 and 1961 c 14 s 81.80.360;
5 (95) RCW 81.80.370 (Application to interstate commerce) and 1961 c
6 14 s 81.80.370;
7 (96) RCW 81.80.371 (Carriers must register authority from
8 interstate commerce commission) and 1963 c 59 s 9;
9 (97) RCW 81.80.375 (Fee when federal requirements necessitate
10 uniform forms evidencing interstate operations) and 1971 ex.s. c 143 s
11 6;
12 (98) RCW 81.80.380 (Cooperation with federal government) and 1961
13 c 14 s 81.80.380;
14 (99) RCW 81.80.381 (Regulation pursuant to act of congress or
15 agreement with interstate commerce commission) and 1963 c 59 s 10;
16 (100) RCW 81.80.391 (Reciprocity--Apportionment of regulatory fees)
17 and 1961 c 14 s 81.80.391;
18 (101) RCW 81.80.395 (Idaho vehicles exempt--Reciprocity) and 2005
19 c 319 s 135 & 1988 c 138 s 1;
20 (102) RCW 81.80.400 (Commercial zones and terminal areas--Common
21 carriers with existing business within zone--Persons seeking to serve
22 as common carriers after designation) and 1982 c 71 s 2 & 1972 ex.s. c
23 22 s 1;
24 (103) RCW 81.80.410 (Commercial zones and terminal areas--Common
25 carriers with existing general freight authority) and 1982 c 71 s 3 &
26 1972 ex.s. c 22 s 2;
27 (104) RCW 81.80.420 (Commercial zones and terminal areas--Expansion
28 by commission) and 1982 c 71 s 4;
29 (105) RCW 81.80.430 (Brokers and forwarders) and 1991 c 146 s 1,
30 1990 c 109 s 1, 1989 c 60 s 2, & 1988 c 31 s 2;
31 (106) RCW 81.80.440 (Recovered materials transportation--When
32 permit required--Rate regulation exemption--Definitions) and 1991 c 148
33 s 1 & 1990 c 123 s 1;
34 (107) RCW 81.80.450 (Recovered materials transportation--Evaluation
35 of rate regulation exemption--Required information--Rules) and 1998 c
36 245 s 167, 1995 c 399 s 212, & 1990 c 123 s 2;
37 (108) RCW 81.80.460 (Recovered materials transportation--
38 Construction) and 1990 c 123 s 3;

1 (109) RCW 81.84.010 (Certificate of convenience and necessity
2 required--Progress reports) and 2003 c 373 s 4, 2003 c 83 s 211, 1993
3 c 427 s 2, & 1961 c 14 s 81.84.010;

4 (110) RCW 81.84.020 (Application--Hearing--Issuance of
5 certificate--Determining factors) and 2006 c 332 s 11;

6 (111) RCW 81.84.025 (Certificate--Insurance or bond required--
7 Amounts) and 1993 c 427 s 4;

8 (112) RCW 81.84.030 (Certificate--Transfer) and 1993 c 427 s 5 &
9 1961 c 14 s 81.84.030;

10 (113) RCW 81.84.040 (Filing fees) and 1973 c 115 s 14 & 1961 c 14
11 s 81.84.040;

12 (114) RCW 81.84.050 (Penalties--Remission, mitigation) and 1993 c
13 427 s 6 & 1961 c 14 s 81.84.050;

14 (115) RCW 81.84.060 (Certificate--Grounds for cancellation,
15 revocation, suspension, alteration, or amendment) and 2003 c 373 s 6,
16 2003 c 83 s 213, & 1993 c 427 s 7; and

17 (116) RCW 81.84.070 (Temporary certificate--Immediate and urgent
18 need) and 1993 c 427 s 8.

19 NEW SECTION. **Sec. 271.** Section 59 of this act expires July 1,
20 2013.

21 NEW SECTION. **Sec. 272.** Section 60 of this act takes effect July
22 1, 2013.

23 NEW SECTION. **Sec. 273.** Sections 72 through 80 of this act
24 constitute a new chapter in Title 46 RCW.

25 NEW SECTION. **Sec. 274.** Sections 151 through 154 of this act
26 constitute a new chapter in Title 80 RCW.

27 NEW SECTION. **Sec. 275.** Sections 155 through 157 of this act
28 constitute a new chapter in Title 80 RCW.

29 NEW SECTION. **Sec. 276.** Sections 188 through 191 of this act
30 constitute a new chapter in Title 81 RCW.

1 NEW SECTION. **Sec. 277.** Section 249 of this act expires on the
2 date that section 253 of this act takes effect.

3 NEW SECTION. **Sec. 278.** Section 250 of this act takes effect if
4 the contingency in chapter 67, Laws of 2002 occurs.

--- END ---