
SENATE BILL 5902

State of Washington **58th Legislature** **2003 Regular Session**

By Senators Kohl-Welles and Schmidt

Read first time 02/19/2003. Referred to Committee on Ways & Means.

1 AN ACT Relating to fiscal reform; amending RCW 82.03.130,
2 82.03.140, 2.10.180, 2.12.090, 6.13.030, 41.24.240, 41.35.100,
3 41.40.052, 41.44.240, and 43.43.310; reenacting and amending RCW
4 6.15.020, 41.32.052, and 41.26.053; adding a new title to the Revised
5 Code of Washington to be codified as Title 82A RCW; creating a new
6 section; repealing RCW 6.15.025; prescribing penalties; and providing
7 an effective date.

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

9 **PART I**

10 **GENERAL PROVISIONS**

11 NEW SECTION. **Sec. 101.** INTENT. It is the intent of the
12 legislature in adopting this title to provide the necessary revenues
13 for the support of vital state services on a more stable and equitable
14 basis.

15 **PART II**

16 **DEFINITIONS**

1 NEW SECTION. **Sec. 201.** INTRODUCTORY. Unless the context clearly
2 requires otherwise, the definitions in sections 202 through 212 of this
3 act apply throughout this title.

4 NEW SECTION. **Sec. 202.** ADJUSTED GROSS INCOME. "Adjusted gross
5 income" means adjusted gross income as determined under the internal
6 revenue code.

7 NEW SECTION. **Sec. 203.** DEPARTMENT. "Department" means the state
8 department of revenue.

9 NEW SECTION. **Sec. 204.** FEDERAL BASE INCOME. "Federal base
10 income" means:

- 11 (1) For individuals, adjusted gross income;
- 12 (2) For estates and trusts, taxable income as determined for
13 estates and trusts consistent with subtitle A, chapter I, subchapter J
14 of the internal revenue code.

15 NEW SECTION. **Sec. 205.** INDIVIDUAL. "Individual" means a natural
16 person.

17 NEW SECTION. **Sec. 206.** INTERNAL REVENUE CODE. "Internal revenue
18 code" means the United States internal revenue code of 1986 and
19 amendments thereto, as existing and in effect on January 1, 2004.

20 NEW SECTION. **Sec. 207.** PERSON. "Person" includes individuals,
21 partnerships, firms, companies, fiduciaries, estates, trusts, and any
22 other group or combination acting as a unit, but does not include
23 corporations.

24 NEW SECTION. **Sec. 208.** RESIDENT. (1) "Resident" includes an
25 individual who:

- 26 (a) Has resided in this state for the entire tax year; or
- 27 (b) Is domiciled in this state unless the individual:
 - 28 (i) Maintains no permanent place of abode in this state; and
 - 29 (ii) Does not maintain a permanent place of abode elsewhere; and
 - 30 (iii) Spends in the aggregate not more than thirty days in the tax
31 year in this state; or

1 (c) Is not domiciled in this state, but maintains a permanent place
2 of abode in this state and spends in the aggregate more than one
3 hundred eighty-three days of the tax year in this state unless the
4 individual establishes to the satisfaction of the director of revenue
5 that the individual is in the state only for temporary or transitory
6 purposes; or

7 (d) Claims the state of Washington as the individual's tax home for
8 federal income tax purposes.

9 (2) A resident estate means an estate of which a personal
10 representative was appointed by a Washington court or an estate
11 administration of which is carried on in this state.

12 (3) A resident trust means a trust whose situs as determined by RCW
13 11.96A.030 is within the state of Washington.

14 NEW SECTION. **Sec. 209.** S CORPORATION. "S corporation" means an
15 S corporation as defined in section 1361 of the internal revenue code.

16 NEW SECTION. **Sec. 210.** TAXABLE INCOME. "Taxable income" means
17 federal base income as modified under sections 401 through 503 of this
18 act.

19 NEW SECTION. **Sec. 211.** TAXABLE YEAR. "Taxable year" means the
20 taxpayer's taxable year as defined under the internal revenue code.

21 NEW SECTION. **Sec. 212.** TAXPAYER. "Taxpayer" means a person
22 receiving income subject to tax under this title.

23 NEW SECTION. **Sec. 213.** DEFINITION OF TERMS GENERALLY. Except as
24 provided in sections 201 through 212 of this act, any term used in this
25 title has the same meaning as when used in a comparable context in the
26 internal revenue code.

27 **PART III**

28 **DETERMINATION OF TAX**

29 NEW SECTION. **Sec. 301.** TAX IMPOSED--RATE. A tax is imposed at
30 the rate of two percent on all taxable income of resident individuals,
31 estates, and trusts and on all individuals, estates, and trusts

1 deriving income from sources in Washington for each taxable year.
2 Taxable income of a taxpayer exempt from taxation by internal revenue
3 code section 501 is exempt from taxation by this title.

4 NEW SECTION. **Sec. 302.** CREDIT FOR INCOME TAXES DUE ANOTHER
5 JURISDICTION. (1) A resident individual, estate, or trust is allowed
6 a credit against the tax imposed under this title for the amount of any
7 income tax imposed by another state or foreign country, or political
8 subdivision of the state or foreign country, on income taxed under this
9 title, subject to the following conditions, which shall be imposed
10 separately with respect to each taxing jurisdiction:

11 (a) The credit is allowed only for taxes imposed by the other
12 jurisdiction on net income from sources within that jurisdiction; and

13 (b) The amount of the credit shall not exceed the smaller of:

14 (i) The amount of tax paid to the other jurisdiction on net income
15 from sources within the other jurisdiction; or

16 (ii) The amount of tax due under this title before application of
17 credits allowable by this title, multiplied by a fraction. The
18 numerator of the fraction is the amount of the taxpayer's adjusted
19 gross income subject to tax in the other jurisdiction. The denominator
20 of the fraction is the taxpayer's total adjusted gross income as
21 modified by this title. The fraction shall never be greater than one.

22 (2) If, in lieu of a credit similar to the credit allowed under
23 subsection (1) of this section, the laws of the other taxing
24 jurisdiction contain a provision exempting a resident of this state
25 from liability for the payment of income taxes on income earned for
26 personal services performed in such jurisdiction, then the director is
27 authorized to enter into a reciprocal agreement with such jurisdiction
28 providing a similar tax exemption on income earned for personal
29 services performed in this state.

30 NEW SECTION. **Sec. 303.** DUAL RESIDENCE. If an individual is
31 regarded as a resident both of this state and another jurisdiction for
32 state personal income tax purposes, the department shall reduce the tax
33 on that portion of the taxpayer's income which is subjected to tax in
34 both jurisdictions solely by virtue of dual residence, if the other
35 taxing jurisdiction allows a similar reduction. The reduction shall
36 equal the lower of the two taxes applicable to the income taxed twice,

1 multiplied by a fraction. The numerator of the fraction is the tax
2 imposed by this state on the income taxed twice. The denominator of
3 the fraction is the tax imposed by both jurisdictions on the income
4 taxed twice. The fraction shall never be greater than one.

5 NEW SECTION. **Sec. 304.** BUSINESS AND OCCUPATION TAX CREDIT. (1)
6 There shall be allowed a credit against the tax imposed by this title
7 in the amount of the state of Washington business and occupation tax
8 paid by the taxpayer in the tax year subject to the limitation of
9 subsection (2) of this section.

10 (2) The credit shall not exceed the smaller of:

11 (a) The amount of business and occupation tax paid; or

12 (b) The amount of tax of the taxpayer imposed by this title before
13 the application of credits allowed by this title, multiplied by a
14 fraction:

15 (i) The numerator is the amount of the taxpayer's adjusted gross
16 income attributable to activities subject to business and occupation
17 tax; and

18 (ii) The denominator is the taxpayer's adjusted gross income as
19 modified by this title. The fraction shall never be greater than one.

20 NEW SECTION. **Sec. 305.** PUBLIC UTILITY TAX CREDIT. (1) There
21 shall be allowed a credit against the tax imposed by this title in the
22 amount of the state of Washington public utility tax paid by the
23 taxpayer in the tax year subject to the limitation of subsection (2) of
24 this section.

25 (2) The credit shall not exceed the smaller of:

26 (a) The amount of public utility tax paid; or

27 (b) The amount of tax of the taxpayer imposed by this title before
28 the application of credits allowed by this title, multiplied by a
29 fraction:

30 (i) The numerator is the amount of the taxpayer's adjusted gross
31 income attributable to activities subject to public utility tax; and

32 (ii) The denominator is the taxpayer's adjusted gross income as
33 modified by this title. The fraction shall never be greater than one.

34 NEW SECTION. **Sec. 306.** CARRYFORWARDS AND CARRYBACKS. The amount

1 of tax credits received by any taxpayer under sections 302, 304, and
2 305 of this act shall not exceed the total amount of tax due, and there
3 shall be no carryback or carryforward of any unused excess credits.

4 **PART IV**

5 **TAXABLE INCOME MODIFICATIONS**

6 NEW SECTION. **Sec. 401.** INTRODUCTORY. In computing taxable
7 income, modifications shall be made to the taxpayer's federal base
8 income as required under sections 301 through 410 of this act, unless
9 the modification has the effect of duplicating an item of income or
10 deduction.

11 NEW SECTION. **Sec. 402.** STATE AND LOCAL OBLIGATIONS. To federal
12 base income, add income which has been excluded under section 103 of
13 the internal revenue code in computing federal base income, except
14 interest on obligations of the state of Washington or political
15 subdivisions of the state of Washington.

16 NEW SECTION. **Sec. 403.** STATE AND LOCAL INCOME TAXES--BUSINESS AND
17 OCCUPATION, PUBLIC UTILITY TAXES. To federal base income, add:

18 (1) Taxes on or measured by net income which have been deducted
19 under the internal revenue code in computing federal base income;

20 (2) The amount of taxes paid or accrued which have been deducted
21 for federal purposes, but for which a business and occupation tax
22 credit or public utility tax credit, or both, is allowed.

23 NEW SECTION. **Sec. 404.** NET OPERATING LOSS. There shall be
24 allowed as a deduction from federal base income the amount of net
25 operating loss as allowed in section 172 of the internal revenue code.
26 The calculation of the loss amount shall reflect the modifications to
27 federal base income as provided in this title and a net operating loss
28 deduction may include a loss carried forward to the tax year but shall
29 not include a loss carried back from a future year.

30 NEW SECTION. **Sec. 405.** CARRYOVERS. To federal base income, add
31 amounts which have been deducted in computing federal base income to

1 the extent the amounts have been carried over from taxable years ending
2 before the effective date of this title.

3 NEW SECTION. **Sec. 406.** FEDERAL OBLIGATIONS. From federal base
4 income, deduct, to the extent included in federal base income, income
5 derived from obligations of the United States which this state is
6 prohibited by federal law from subjecting to a net income tax.
7 However, the amount deducted under this section shall be reduced by any
8 expense, including amortizable bond premiums, incurred in the
9 production of such income to the extent the expense has been deducted
10 in calculating federal base income.

11 NEW SECTION. **Sec. 407.** STANDARD DEDUCTION. There shall be
12 allowed from federal base income the following standard deductions.
13 The standard deduction for an individual shall be:

14 (1) In the case of a joint return or a surviving spouse, one
15 million dollars;

16 (2) In the case of the head of a household, seven hundred fifty
17 thousand dollars;

18 (3) In the case of an individual who is not married and who is not
19 a surviving spouse or head of a household and in the case of a married
20 individual filing a separate return, five hundred thousand dollars.

21 NEW SECTION. **Sec. 408.** ADJUSTMENT OF STANDARD DEDUCTIONS FOR
22 NONRESIDENTS. The deduction from federal base income allowed under
23 section 407 of this act for individual taxpayers who are not residents
24 of this state for the entire taxable year shall be reduced by
25 multiplying the amount of the deduction by a fraction. The numerator
26 of the fraction is the individual's adjusted gross income attributable
27 to sources within the state of Washington. The denominator of the
28 fraction is the individual's gross income from all sources. The
29 fraction shall never be greater than one.

30 NEW SECTION. **Sec. 409.** TAX RETURNS FOR FRACTIONAL YEAR. (1) If
31 the first taxable year of any taxpayer with respect to which a tax is
32 imposed by this title ends before December 31st of the calendar year in
33 which this title becomes effective, the taxable income for the

1 fractional taxable year shall be the taxpayer's taxable income for the
2 entire taxable year, adjusted by one of the following methods, at the
3 taxpayer's election:

4 (a) The taxable income shall be multiplied by a fraction. The
5 numerator of the fraction is the number of days in the fractional
6 taxable year. The denominator of the fraction is the number of days in
7 the entire taxable year.

8 (b) The taxable income shall be adjusted, in accordance with rules
9 of the department, so as to include only such income and be reduced
10 only by such deductions as can be clearly determined from the permanent
11 records of the taxpayer to be attributable to the fractional taxable
12 year.

13 (2) If an individual taxpayer's taxable income is adjusted under
14 subsection (1) of this section, the deduction amounts allowed under
15 section 407 of this act for the taxpayer shall be reduced by
16 multiplying the amount of the exemption by a fraction. The numerator
17 of the fraction is the number of days in the taxpayer's fractional
18 taxable year. The denominator of the fraction is the number of days in
19 the entire taxable year.

20 NEW SECTION. **Sec. 410.** INDEX FOR INFLATION. For each tax year
21 beginning after December 31, 2005, the standard deduction amounts under
22 section 407 of this act shall be adjusted by the department for
23 inflation by multiplying the standard deduction amounts of the previous
24 tax year by the cost-of-living adjustment as determined under internal
25 revenue code section 1(f) (3) through (5) for the calendar year in
26 which the tax year begins. No adjustment shall be made which decreases
27 the standard deduction amounts. If any adjustment increase is not a
28 multiple of ten dollars, the increase shall be rounded to the next
29 lowest multiple of ten dollars.

30 **PART V**

31 **DIVISION OF INCOME, MODIFICATIONS, AND CREDITS**

32 NEW SECTION. **Sec. 501.** APPORTIONMENT AND ALLOCATION OF INCOME.

33 (1) For resident individuals, estates, and trusts, all income shall be
34 apportioned and allocated to this state.

1 (2) For nonresident individuals, estates, and trusts, income
2 derived from sources within this state shall be apportioned and
3 allocated to this state. For purposes of this title:

4 (a) The adjusted gross income of a nonresident derived from sources
5 within this state is the net amount of items of income, gain, loss, and
6 deduction of the nonresident's federal adjusted gross income that are
7 derived from or connected with sources in this state including any
8 distributive share of partnership income and deductions, and any share
9 of estate or trust income and deductions, including any unrelated
10 business income of an otherwise exempt trust or organization.

11 (b) Items of income, gain, loss, and deduction derived from or
12 connected with sources within this state are those items attributable
13 to the ownership or disposition of any interest in real or tangible
14 personal property in this state, and a business, trade, profession, or
15 occupation carried on within this state. The department shall issue
16 rules to provide consistency of this section with the excise tax
17 provisions.

18 (c) Deduction with respect to expenses, capital losses, and net
19 operating losses shall be based solely on income, gains, losses, and
20 deductions derived from or connected with sources in this state but
21 shall otherwise be determined in the same manner as the corresponding
22 federal deduction except as provided in this title.

23 (d) Income from intangible personal property, including annuities,
24 dividends, interest, and gains from the disposition of intangible
25 personal property, constitutes income derived from sources within the
26 state of Washington only to the extent that such income is from
27 property employed in a business, trade, profession, or occupation
28 carried on within this state: PROVIDED, That distributed and
29 undistributed income of an electing S corporation for federal tax
30 purposes derived from or connected with sources within this state is
31 income derived from sources within this state for a nonresident
32 shareholder. A net operating loss of such corporation does constitute
33 a loss or deduction connected with sources within this state for a
34 nonresident shareholder.

35 (e) Compensation paid by the United States for service in the armed
36 forces of the United States performed in this state by a nonresident
37 does not constitute income derived from sources within this state.

1 (f) If a business, trade, profession, or occupation is carried on
2 partly within and partly without this state, the determination of net
3 income derived or connected with sources within this state as provided
4 in this section shall be made by apportionment and allocation of
5 chapter 82.56 RCW.

6 NEW SECTION. **Sec. 502.** PARTNERSHIPS AND S CORPORATIONS. (1)
7 Partnerships are not subject to tax under this title. Partners are
8 subject to tax in their separate or individual capacities.

9 (2) S corporations are not subject to tax under this title.
10 Shareholders of S corporations are subject to tax in their separate or
11 individual capacities.

12 (3) The taxable incomes of partners shall be computed by including
13 a pro rata share of the modifications under sections 401 through 503 of
14 this act and the credits allowed under sections 302, 304, and 305 of
15 this act, if the modification or credit relates to the income of the
16 partnership. Each partner's pro rata share of a modification or credit
17 is the amount of modification or credit multiplied by a fraction. The
18 numerator of the fraction is the partner's distributive share of
19 partnership income. The denominator of the fraction is the total
20 partnership income. The fraction shall never be greater than one.

21 (4) The taxable incomes of shareholders of S corporations shall be
22 computed by including a share of the modifications under sections 401
23 through 503 of this act and the credits allowed under sections 302,
24 304, and 305 of this act, if the modification or credit relates to the
25 income of the S corporation. Each shareholder's share of a
26 modification or credit is the amount of modification or credit
27 multiplied by a fraction. The numerator of the fraction is the
28 shareholder's pro rata share of S corporation income. The denominator
29 of the fraction is the total S corporation income. The fraction shall
30 never be greater than one.

31 (5) As used in this section:

32 (a) "S corporation income" includes both distributed and
33 undistributed federal taxable income of the S corporation.

34 (b) "Pro rata share" means pro rata share as determined under
35 section 1366(a) of the internal revenue code.

1 employer is not required to withhold any tax imposed by this title on
2 the income if the laws of the state in which the income is earned allow
3 a similar exemption for its residents who earn income in this state.

4 NEW SECTION. **Sec. 602.** LIABILITY OF EMPLOYER FOR TAX WITHHELD.
5 Any person required to deduct and withhold the tax imposed by this
6 title is liable to the department for the payment of the amount
7 deducted and withheld, and is not liable to any other person for the
8 amount of tax deducted and withheld under this title or for the act of
9 withholding. The amount of tax so deducted and withheld shall be held
10 to be a special fund in trust for this state.

11 NEW SECTION. **Sec. 603.** CREDIT FOR TAX WITHHELD--HOW CLAIMED. The
12 amount deducted and withheld as tax under sections 601 through 606 of
13 this act during any taxable year shall be allowed as a credit against
14 the tax imposed for the taxable year by this title. If the liability
15 of any individual for taxes, interest, penalties, or other amounts due
16 the state of Washington is less than the total amount of the credit
17 which the individual is entitled to claim under this section, the
18 individual is entitled to a refund from the department in the amount of
19 the excess of the credit over the tax otherwise due. If any individual
20 entitled to claim a credit under this section is not otherwise required
21 by this title to file a return, a refund may be obtained in the amount
22 of the credit by filing a return, with applicable sections completed,
23 to claim the refund. No credit or refund is allowed under this section
24 unless the credit or refund is claimed on a return filed for the
25 taxable year for which the amount was deducted and withheld.

26 NEW SECTION. **Sec. 604.** WITHHOLDING--EXEMPTION DECLARATIONS. An
27 employee shall be entitled to use and an employer shall use the
28 withholding exemption declaration on file with the employer for federal
29 income tax purposes. The department may redetermine the number of
30 withholding exemptions to which any employee is entitled, and the
31 department may require an additional withholding exemption declaration
32 to be filed on a form prescribed by the department where the department
33 finds that the exemption declaration filed for federal income tax
34 purposes does not properly reflect the number of withholding exemptions
35 to which the employee is entitled.

1 NEW SECTION. **Sec. 605.** WITHHOLDING--FAILURE TO PAY OR COLLECT--
2 PENALTIES. (1) The tax required by this title to be collected by the
3 employer shall be deemed to be held in trust by the employer until paid
4 to the department.

5 (2) In case any employer, or a responsible person within the
6 meaning of internal revenue code section 6672, fails to collect the tax
7 herein imposed or having collected the tax, fails to pay it to the
8 department, the employer or responsible person shall, nevertheless, be
9 personally liable to the state for the amount of the tax. The interest
10 and penalty provisions of chapter 82.32 RCW shall apply to this
11 section.

12 NEW SECTION. **Sec. 606.** ESTIMATED TAX IMPOSED--DUE DATE OF
13 ESTIMATED TAXES--AMOUNT OF ESTIMATED TAX--UNDERPAYMENT PENALTY. (1)
14 Each individual, estate, or trust subject to taxation by this title
15 which is required by the internal revenue code to make payment of
16 estimated taxes shall pay to the department on forms prescribed by the
17 department the estimated taxes due under this title.

18 (2) The provisions of the internal revenue code relating to the
19 determination of reporting periods and due dates of payments of
20 estimated tax applies to the estimated tax payments due under this
21 section.

22 (3) The amount of the estimated tax shall be the annualized tax
23 divided by the number of months in the reporting period. No estimated
24 tax shall be due if the annualized tax is less than five hundred
25 dollars. The provisions of RCW 82.32.050 and 82.32.090 shall apply to
26 underpayments of estimated tax but shall not apply to underpayments, as
27 defined by the internal revenue code, if the tax remitted to the
28 department is either ninety percent of the tax shown on the return or
29 one hundred percent of the tax shown on the previous year's tax return.

30 (4) For purposes of this section, the annualized tax is the
31 taxpayer's projected tax liability for the tax year as computed
32 pursuant to internal revenue code section 6654 and the regulations
33 thereunder.

34 **PART VII**
35 **CRIMES**

1 NEW SECTION. **Sec. 701.** CRIMES. (1) Any person who knowingly
2 attempts to evade the tax imposed under this title or payment thereof
3 is guilty of a class C felony as provided in chapter 9A.20 RCW.

4 (2) Any person required to collect tax imposed under this title who
5 knowingly fails to collect, truthfully account for, or pay over the tax
6 is guilty of a class C felony as provided in chapter 9A.20 RCW.

7 (3) Any person who knowingly fails to pay tax, pay estimated tax,
8 make returns, keep records, or supply information, as required under
9 this title, is guilty of a gross misdemeanor as provided in chapter
10 9A.20 RCW.

11 **PART VIII**

12 **ADMINISTRATIVE PROVISIONS**

13 NEW SECTION. **Sec. 801.** METHOD OF ACCOUNTING. (1) A taxpayer's
14 method of accounting for purposes of the tax imposed under this title
15 shall be the same as the taxpayer's method of accounting for federal
16 income tax purposes. If no method of accounting has been regularly
17 used by a taxpayer for federal income tax purposes or if the method
18 used does not clearly reflect income, tax due under this title shall be
19 computed by a method of accounting which in the opinion of the
20 department fairly reflects income.

21 (2) If a person's method of accounting is changed for federal
22 income tax purposes, it shall be similarly changed for purposes of this
23 title.

24 NEW SECTION. **Sec. 802.** PERSONS REQUIRED TO FILE RETURNS. (1) All
25 taxpayers shall file with the department, on forms prescribed by the
26 department, an income tax return for each tax year. Each person
27 required to file a return under this title shall, without assessment,
28 notice, or demand, pay any tax due thereon to the department on or
29 before the date fixed for the filing of the return.

30 (2) The department may by rule require that certain taxpayers file,
31 on forms prescribed by the department, informational returns for any
32 period. Each person required by rule to file an informational return
33 shall, without assessment, notice, or demand, pay any tax due thereon
34 to the department on or before the date fixed for the filing of the
35 informational return.

1 (3) If an adjustment to a taxpayer's federal return is made by the
2 taxpayer or the internal revenue service, the taxpayer shall, within
3 ninety days of the final determination of the adjustment by the
4 internal revenue service or within thirty days of the filing of a
5 federal return adjusted by the taxpayer, file with the department on
6 forms prescribed by the department a corrected return reflecting the
7 adjustments as finally determined. The taxpayer shall pay any
8 additional tax due resulting from the finally determined internal
9 revenue service adjustment or a taxpayer adjustment without notice and
10 assessment. Notwithstanding any provision of this title or any other
11 title to the contrary, the period of limitation for the collection of
12 the additional tax, interest, and penalty due as a result of an
13 adjustment by the taxpayer or a finally determined internal revenue
14 service adjustment shall begin at the later of thirty days following
15 the final determination of the adjustment or the date of the filing of
16 the corrected return.

17 NEW SECTION. **Sec. 803.** DUE DATE FOR FILING A RETURN--EXTENSIONS--
18 INTEREST AND PENALTIES. The due date of a return required to be filed
19 with the department shall be the due date of the federal income tax
20 return or informational return for federal income tax purposes. The
21 department shall have the authority to grant extensions of times by
22 which returns required to be filed by this title may be submitted. The
23 department shall also have the authority to grant extensions of time to
24 pay tax with regard to taxes imposed by this title. Interest at the
25 rate as specified in RCW 82.32.050 shall accrue during any extension
26 period and the interest and penalty provisions of chapter 82.32 RCW
27 shall apply to late payments and deficiencies. Notwithstanding the
28 limitation of RCW 82.32.090, in the case of the late filing of an
29 informational return, there shall be imposed a penalty the amount of
30 which shall be established by the department by rule. The penalty
31 shall not exceed fifty dollars per month for a maximum of ten months.
32 RCW 82.32.105 shall apply to this section.

33 NEW SECTION. **Sec. 804.** JOINT RETURN. (1) If the federal income
34 tax liabilities of both spouses are determined on a joint federal
35 return for the taxable year, they shall file a joint return under this
36 title unless one spouse is a resident and the other is a nonresident.

1 (2) If neither spouse is required to file a federal income tax
2 return for the taxable year, a joint return may be filed under this
3 title under the same conditions under which a joint return may be filed
4 for purposes of the federal income tax.

5 (3) If the federal income tax liability of either spouse is
6 determined on a separate federal return for the taxable year, they
7 shall file separate returns under this title.

8 (4) If one spouse is a resident and the other is a nonresident,
9 they shall file separate returns under this title, unless they elect to
10 determine their tax liabilities under this title on a joint return as
11 if they were both residents, and:

12 (a) Their federal tax liability for the taxable year was determined
13 on a joint federal return; or

14 (b) Neither spouse has filed a federal income tax return for the
15 taxable year and they would be permitted to file a joint federal return
16 for the taxable year.

17 (5) In any case in which a joint return is filed under this
18 section, the liability of the husband and wife is joint and several,
19 unless the spouse is relieved of liability under section 6013 of the
20 internal revenue code.

21 NEW SECTION. **Sec. 805.** RECORDS--RETURNS. (1) Every taxpayer and
22 every person required to deduct and withhold the tax imposed under this
23 title shall keep records, render statements, make returns, file
24 reports, and perform other acts as the department requires by rule.
25 Each return shall be made under penalty of perjury and on forms
26 prescribed by the department. The department may require other
27 statements and reports be made under penalty of perjury and on forms
28 prescribed by the department. The department may require any taxpayer
29 and any person required to deduct and withhold the tax imposed under
30 this title to furnish to the department a correct copy of any return or
31 document which the taxpayer has filed with the internal revenue service
32 or received from the internal revenue service.

33 (2) All books and records and other papers and documents required
34 to be kept under this title are subject to inspection by the department
35 at all times during business hours of the day.

1 NEW SECTION. **Sec. 806.** ESTIMATION AGREEMENTS. The department may
2 reasonably estimate the items of business or nonbusiness income of a
3 taxpayer having an office within the state and one or more other states
4 or foreign countries which may be apportioned or allocated to the state
5 and may enter into estimation agreements with such taxpayers for the
6 determination of their liability for the tax imposed by this title.

7 NEW SECTION. **Sec. 807.** PROVISIONS OF INTERNAL REVENUE CODE
8 CONTROL. (1) To the extent possible without being inconsistent with
9 this title, all of the provisions of the internal revenue code relating
10 to the following subjects apply to the taxes imposed under this title:

11 (a) Time of payment of tax deducted and withheld under sections 301
12 through 306 of this act;

13 (b) Liability of transferees;

14 (c) Time and manner of making returns, extensions of time for
15 filing returns, verification of returns, and the time when a return is
16 deemed filed.

17 (2) The department by rule may provide modifications and exceptions
18 to the provisions listed in subsection (1) of this section, if
19 reasonably necessary to facilitate the prompt, efficient, and equitable
20 collection of tax under this title.

21 NEW SECTION. **Sec. 808.** REFUNDS OF OVERPAYMENTS--OTHER
22 ADMINISTRATIVE PROVISIONS. (1) The department shall refund all taxes
23 improperly paid or collected.

24 (2) The following sections shall apply to the administration of
25 taxes imposed under this title: 82.32.020, 82.32.050, 82.32.060,
26 82.32.070, 82.32.090, 82.32.100, 82.32.105, 82.32.110, 82.32.120,
27 82.32.130, 82.32.140, 82.32.150, 82.32.160, 82.32.170, 82.32.180,
28 82.32.190, 82.32.200, 82.32.210, 82.32.220, 82.32.230, 82.32.235,
29 82.32.237, 82.32.240, 82.32.245, 82.32.265, 82.32.300, 82.32.310,
30 82.32.320, 82.32.330, 82.32.340, 82.32.350, and 82.32.360.

31 NEW SECTION. **Sec. 809.** The education enrichment account is
32 created in the state treasury. All receipts from the tax imposed under
33 this title shall be deposited in the account. Moneys in the account
34 may be spent only after appropriation. Expenditures from the account
35 may be used for the support of the common schools and for the support

1 of the state's institutions of higher education. Revenues provided
2 under this section shall not be used to supplant levels of funding
3 existing on the effective date of this act.

4 NEW SECTION. **Sec. 810.** RULES. The department may adopt rules
5 under chapter 34.05 RCW for the administration and enforcement of this
6 title. The rules, to the extent possible without being inconsistent
7 with this title, shall follow the internal revenue code and the
8 regulations and rulings of the United States treasury department with
9 respect to the federal income tax. The department may adopt as a part
10 of these rules any portions of the internal revenue code and treasury
11 department regulations and rulings, in whole or in part.

12 **PART IX**
13 **APPEALS**

14 **Sec. 901.** RCW 82.03.130 and 1998 c 54 s 1 are each amended to read
15 as follows:

16 BOARD OF TAX APPEALS--JURISDICTION. (1) The board shall have
17 jurisdiction to decide the following types of appeals:

18 (a) Appeals taken pursuant to RCW 82.03.190.

19 (b) Appeals from a county board of equalization pursuant to RCW
20 84.08.130.

21 (c) Appeals by an assessor or landowner from an order of the
22 director of revenue made pursuant to RCW 84.08.010 and 84.08.060, if
23 filed with the board of tax appeals within thirty days after the
24 mailing of the order, the right to such an appeal being hereby
25 established.

26 (d) Appeals by an assessor or owner of an intercounty public
27 utility or private car company from determinations by the director of
28 revenue of equalized assessed valuation of property and the
29 apportionment thereof to a county made pursuant to chapter 84.12 and
30 84.16 RCW, if filed with the board of tax appeals within thirty days
31 after mailing of the determination, the right to such appeal being
32 hereby established.

33 (e) Appeals by an assessor, landowner, or owner of an intercounty
34 public utility or private car company from a determination of any

1 county indicated ratio for such county compiled by the department of
2 revenue pursuant to RCW 84.48.075: PROVIDED, That

3 (i) Said appeal be filed after review of the ratio under RCW
4 84.48.075(3) and not later than fifteen days after the mailing of the
5 certification; and

6 (ii) The hearing before the board shall be expeditiously held in
7 accordance with rules prescribed by the board and shall take precedence
8 over all matters of the same character.

9 (f) Appeals from the decisions of sale price of second class
10 shorelands on navigable lakes by the department of natural resources
11 pursuant to RCW 79.94.210.

12 (g) Appeals from urban redevelopment property tax apportionment
13 district proposals established by governmental ordinances pursuant to
14 RCW 39.88.060.

15 (h) Appeals from interest rates as determined by the department of
16 revenue for use in valuing farmland under current use assessment
17 pursuant to RCW 84.34.065.

18 (i) Appeals from revisions to stumpage value tables used to
19 determine value by the department of revenue pursuant to RCW 84.33.091.

20 (j) Appeals from denial of tax exemption application by the
21 department of revenue pursuant to RCW 84.36.850.

22 (k) Appeals pursuant to RCW 84.40.038(3).

23 (l) Appeals relating to income tax deficiencies and refunds,
24 including penalties and interest, under Title 82A RCW (sections 101
25 through 810 of this act).

26 (2) Except as otherwise specifically provided by law hereafter, the
27 provisions of RCW 1.12.070 shall apply to all notices of appeal filed
28 with the board of tax appeals.

29 **Sec. 902.** RCW 82.03.140 and 2000 c 103 s 1 are each amended to
30 read as follows:

31 ELECTION OF FORMAL OR INFORMAL HEARING. In all appeals over which
32 the board has jurisdiction under RCW 82.03.130, a party taking an
33 appeal may elect either a formal or an informal hearing, such election
34 to be made according to rules of practice and procedure to be
35 promulgated by the board: PROVIDED, That nothing shall prevent the
36 assessor or taxpayer, as a party to an appeal pursuant to RCW
37 84.08.130, within twenty days from the date of the receipt of the

1 notice of appeal, from filing with the clerk of the board notice of
2 intention that the hearing be a formal one: PROVIDED, HOWEVER, That
3 nothing herein shall be construed to modify the provisions of RCW
4 82.03.190: AND PROVIDED FURTHER, That upon an appeal under RCW
5 82.03.130(1) (e) or (1), the director of revenue may, within ten days
6 from the date of its receipt of the notice of appeal, file with the
7 clerk of the board notice of its (~~intention that the hearing be held~~
8 ~~pursuant to chapter 34.05 RCW~~) election of a formal hearing. In the
9 event that appeals are taken from the same decision, order, or
10 determination, as the case may be, by different parties and only one of
11 such parties elects a formal hearing, a formal hearing shall be
12 granted.

13 **PART X**

14 **APPLICATION OF TAX TO PUBLIC PENSIONS**

15 **Sec. 1001.** RCW 2.10.180 and 1991 c 365 s 18 are each amended to
16 read as follows:

17 JUDICIAL RETIREMENT SYSTEM. (1) Except as provided in subsections
18 (2), (3), (~~and~~) (4), and (5) of this section, the right of a person
19 to a retirement allowance, disability allowance, or death benefit, the
20 retirement, disability or death allowance itself, any optional benefit,
21 any other right accrued or accruing to any person under the provisions
22 of this chapter, and the moneys in the fund created under this chapter,
23 are hereby exempt from any state, county, municipal, or other local tax
24 and shall not be subject to execution, garnishment, or any other
25 process of law whatsoever.

26 (2) Subsection (1) of this section shall not be deemed to prohibit
27 a beneficiary of a retirement allowance from authorizing deductions
28 therefrom for payment of premiums due on any group insurance policy or
29 plan issued for the benefit of a group comprised of public employees of
30 the state of Washington.

31 (3) Deductions made in the past from retirement benefits are hereby
32 expressly recognized, ratified, and affirmed. Future deductions may
33 only be made in accordance with this section.

34 (4) Subsection (1) of this section shall not prohibit the
35 department of retirement systems from complying with (a) a wage
36 assignment order for child support issued pursuant to chapter 26.18

1 RCW, (b) a notice of payroll deduction issued under chapter 26.23 RCW,
2 (c) an order to withhold and deliver issued pursuant to chapter 74.20A
3 RCW, (d) a mandatory benefits assignment order issued pursuant to
4 chapter 41.50 RCW, (e) a court order directing the department of
5 retirement systems to pay benefits directly to an obligee under a
6 dissolution order as defined in RCW 41.50.500(3) which fully complies
7 with RCW 41.50.670 and 41.50.700, or (f) any administrative or court
8 order expressly authorized by federal law.

9 (5) Subsection (1) of this section does not exempt any pension or
10 other benefit received under this chapter from tax under Title 82A RCW
11 (sections 101 through 810 of this act), nor does it prohibit the
12 department of retirement systems from complying with the tax
13 withholding requirements of that title.

14 **Sec. 1002.** RCW 2.12.090 and 1991 c 365 s 19 are each amended to
15 read as follows:

16 JUDGES' RETIREMENT. (1) Except as provided in subsections (2),
17 (3), (~~and~~) (4), and (5) of this section, the right of any person to
18 a retirement allowance or optional retirement allowance under the
19 provisions of this chapter and all moneys and investments and income
20 thereof are exempt from any state, county, municipal, or other local
21 tax and shall not be subject to execution, garnishment, attachment, the
22 operation of bankruptcy or the insolvency laws, or other processes of
23 law whatsoever and shall be unassignable except as herein specifically
24 provided.

25 (2) Subsection (1) of this section shall not prohibit the
26 department of retirement systems from complying with (a) a wage
27 assignment order for child support issued pursuant to chapter 26.18
28 RCW, (b) a notice of payroll deduction issued under chapter 26.23 RCW,
29 (c) an order to withhold and deliver issued pursuant to chapter 74.20A
30 RCW, (d) a mandatory benefits assignment order issued pursuant to
31 chapter 41.50 RCW, (e) a court order directing the department of
32 retirement systems to pay benefits directly to an obligee under a
33 dissolution order as defined in RCW 41.50.500(3) which fully complies
34 with RCW 41.50.670 and 41.50.700, or (f) any administrative or court
35 order expressly authorized by federal law.

36 (3) Subsection (1) of this section shall not be deemed to prohibit
37 a beneficiary of a retirement allowance from authorizing deductions

1 therefrom for payment of premiums due on any group insurance policy or
2 plan issued for the benefit of a group comprised of public employees of
3 the state of Washington.

4 (4) Deductions made in the past from retirement benefits are hereby
5 expressly recognized, ratified, and affirmed. Future deductions may
6 only be made in accordance with this section.

7 (5) Subsection (1) of this section does not exempt any pension or
8 other benefit received under this chapter from tax under Title 82A RCW
9 (sections 101 through 810 of this act), nor does it prohibit the
10 department of retirement systems from complying with the tax
11 withholding requirements of that title.

12 **Sec. 1003.** RCW 6.13.030 and 1999 c 403 s 4 are each amended to
13 read as follows:

14 HOMESTEADS. A homestead may consist of lands, as described in RCW
15 6.13.010, regardless of area, but the homestead exemption amount shall
16 not exceed the lesser of (1) the total net value of the lands, mobile
17 home, improvements, and other personal property, as described in RCW
18 6.13.010, or (2) the sum of forty thousand dollars in the case of
19 lands, mobile home, and improvements, or the sum of fifteen thousand
20 dollars in the case of other personal property described in RCW
21 6.13.010(~~(, except where the homestead is subject to execution,~~
22 ~~attachment, or seizure by or under any legal process whatever to~~
23 ~~satisfy a judgment in favor of any state for failure to pay that~~
24 ~~state's income tax on benefits received while a resident of the state~~
25 ~~of Washington from a pension or other retirement plan, in which event~~
26 ~~there shall be no dollar limit on the value of the exemption)).~~

27 **Sec. 1004.** RCW 6.15.020 and 1999 c 81 s 1 and 1999 c 42 s 603 are
28 each reenacted and amended to read as follows:

29 EXECUTION OF JUDGMENTS. (1) It is the policy of the state of
30 Washington to ensure the well-being of its citizens by protecting
31 retirement income to which they are or may become entitled. For that
32 purpose generally and pursuant to the authority granted to the state of
33 Washington under 11 U.S.C. Sec. 522(b)(2), the exemptions in this
34 section relating to retirement benefits are provided.

35 (2) Unless otherwise provided by federal law, any money received by
36 any citizen of the state of Washington as a pension from the government

1 of the United States, whether the same be in the actual possession of
2 such person or be deposited or loaned, shall be exempt from execution,
3 attachment, garnishment, or seizure by or under any legal process
4 whatever, and when a debtor dies, or absconds, and leaves his or her
5 family any money exempted by this subsection, the same shall be exempt
6 to the family as provided in this subsection. This subsection shall
7 not apply to child support collection actions issued under chapter
8 26.18, 26.23, or 74.20A RCW, if otherwise permitted by federal law, or
9 to collection actions for taxes imposed under Title 82A RCW (sections
10 101 through 810 of this act).

11 (3) The right of a person to a pension, annuity, or retirement
12 allowance or disability allowance, or death benefits, or any optional
13 benefit, or any other right accrued or accruing to any citizen of the
14 state of Washington under any employee benefit plan, and any fund
15 created by such a plan or arrangement, shall be exempt from execution,
16 attachment, garnishment, or seizure by or under any legal process
17 whatever. This subsection shall not apply to child support collection
18 actions issued under chapter 26.18, 26.23, or 74.20A RCW if otherwise
19 permitted by federal law, or to collection actions for taxes imposed
20 under Title 82A RCW (sections 101 through 810 of this act). This
21 subsection shall permit benefits under any such plan or arrangement to
22 be payable to a spouse, former spouse, child, or other dependent of a
23 participant in such plan to the extent expressly provided for in a
24 qualified domestic relations order that meets the requirements for such
25 orders under the plan, or, in the case of benefits payable under a plan
26 described in sections 403(b) or 408 of the internal revenue code of
27 1986, as amended, or section 409 of such code as in effect before
28 January 1, 1984, to the extent provided in any order issued by a court
29 of competent jurisdiction that provides for maintenance or support.
30 This subsection shall not prohibit actions against an employee benefit
31 plan, or fund for valid obligations incurred by the plan or fund for
32 the benefit of the plan or fund.

33 (4) For the purposes of this section, the term "employee benefit
34 plan" means any plan or arrangement that is described in RCW 49.64.020,
35 including any Keogh plan, whether funded by a trust or by an annuity
36 contract, and in sections 401(a) or 403(a) of the internal revenue code
37 of 1986, as amended; or that is a tax-sheltered annuity described in
38 section 403(b) of such code or an individual retirement account

1 described in section 408 of such code; or a Roth individual retirement
2 account described in section 408A of such code; or a medical savings
3 account described in section 220 of such code; or an education
4 individual retirement account described in section 530 of such code; or
5 a retirement bond described in section 409 of such code as in effect
6 before January 1, 1984. The term "employee benefit plan" also means
7 any rights accruing on account of money paid currently or in advance
8 for purchase of tuition units under the advanced college tuition
9 payment program in chapter 28B.95 RCW. The term "employee benefit
10 plan" shall not include any employee benefit plan that is established
11 or maintained for its employees by the government of the United States,
12 by the state of Washington under chapter 2.10, 2.12, 41.26, 41.32,
13 41.34, 41.35, 41.40 or 43.43 RCW or RCW 41.50.770, or by any agency or
14 instrumentality of the government of the United States.

15 (5) An employee benefit plan shall be deemed to be a spendthrift
16 trust, regardless of the source of funds, the relationship between the
17 trustee or custodian of the plan and the beneficiary, or the ability of
18 the debtor to withdraw or borrow or otherwise become entitled to
19 benefits from the plan before retirement. This subsection shall not
20 apply to child support collection actions issued under chapter 26.18,
21 26.23, or 74.20A RCW, if otherwise permitted by federal law, or to
22 collection actions for taxes imposed under Title 82A RCW (sections 101
23 through 810 of this act). This subsection shall permit benefits under
24 any such plan or arrangement to be payable to a spouse, former spouse,
25 child, or other dependent of a participant in such plan to the extent
26 expressly provided for in a qualified domestic relations order that
27 meets the requirements for such orders under the plan, or, in the case
28 of benefits payable under a plan described in sections 403(b) or 408 of
29 the internal revenue code of 1986, as amended, or section 409 of such
30 code as in effect before January 1, 1984, to the extent provided in any
31 order issued by a court of competent jurisdiction that provides for
32 maintenance or support.

33 (6) Unless contrary to applicable federal law, nothing contained in
34 subsection (3), (4), or (5) of this section shall be construed as a
35 termination or limitation of a spouse's community property interest in
36 an individual retirement account held in the name of or on account of
37 the other spouse, the account holder spouse. At the death of the
38 nonaccount holder spouse, the nonaccount holder spouse may transfer or

1 distribute the community property interest of the nonaccount holder
2 spouse in the account holder spouse's individual retirement account to
3 the nonaccount holder spouse's estate, testamentary trust, inter vivos
4 trust, or other successor or successors pursuant to the last will of
5 the nonaccount holder spouse or the law of intestate succession, and
6 that distributee may, but shall not be required to, obtain an order of
7 a court of competent jurisdiction, including a nonjudicial dispute
8 resolution agreement entered into pursuant to RCW 11.96.170 or other
9 order entered under chapter 11.96A RCW, to confirm the distribution.
10 For purposes of subsection (3) of this section, the distributee of the
11 nonaccount holder spouse's community property interest in an individual
12 retirement account shall be considered a person entitled to the full
13 protection of subsection (3) of this section. The nonaccount holder
14 spouse's consent to a beneficiary designation by the account holder
15 spouse with respect to an individual retirement account shall not,
16 absent clear and convincing evidence to the contrary, be deemed a
17 release, gift, relinquishment, termination, limitation, or transfer of
18 the nonaccount holder spouse's community property interest in an
19 individual retirement account. For purposes of this subsection, the
20 term "nonaccount holder spouse" means the spouse of the person in whose
21 name the individual retirement account is maintained. The term
22 "individual retirement account" includes an individual retirement
23 account and an individual retirement annuity both as described in
24 section 408 of the internal revenue code of 1986, as amended, a Roth
25 individual retirement account as described in section 408A of the
26 internal revenue code of 1986, as amended, and an individual retirement
27 bond as described in section 409 of the internal revenue code as in
28 effect before January 1, 1984. As used in this subsection, an order of
29 a court of competent jurisdiction includes an agreement, as that term
30 is used under RCW 11.96A.220.

31 **Sec. 1005.** RCW 41.24.240 and 1995 c 11 s 13 are each amended to
32 read as follows:

33 FIRE FIGHTERS' PENSIONS. (1) The right of any person to any future
34 payment under the provisions of this chapter shall not be transferable
35 or assignable at law or in equity, and none of the moneys paid or
36 payable or the rights existing under this chapter, shall be subject to
37 execution, levy, attachment, garnishment, or other legal process, or to

1 the operation of any bankruptcy or insolvency law. This section shall
2 not be applicable to any child support collection action taken under
3 chapter 26.18, 26.23, or 74.20A RCW. Benefits under this chapter shall
4 be payable to a spouse or ex-spouse to the extent expressly provided
5 for in any court decree of dissolution or legal separation or in any
6 court order or court-approved property settlement agreement incident to
7 any court decree of dissolution or legal separation.

8 (2) Nothing in this chapter shall be construed to deprive any
9 participant, eligible to receive a pension hereunder, from receiving a
10 pension under any other act to which that participant may become
11 eligible by reason of services other than or in addition to his or her
12 services under this chapter.

13 (3) Subsection (1) of this section does not exempt any pension or
14 other benefit received under this chapter from tax under Title 82A RCW
15 (sections 101 through 810 of this act), nor does it prohibit the
16 department of retirement systems from complying with the tax
17 withholding requirements of that title.

18 **Sec. 1006.** RCW 41.32.052 and 1991 c 365 s 21 and 1991 c 35 s 63
19 are each reenacted and amended to read as follows:

20 TEACHERS' RETIREMENT SYSTEM. (1) Subject to subsections (2)
21 (~~and~~), (3), and (4) of this section, the right of a person to a
22 pension, an annuity, a retirement allowance, or disability allowance,
23 to the return of contributions, any optional benefit or death benefit,
24 any other right accrued or accruing to any person under the provisions
25 of this chapter and the moneys in the various funds created by this
26 chapter shall be unassignable, and are hereby exempt from any state,
27 county, municipal or other local tax, and shall not be subject to
28 execution, garnishment, attachment, the operation of bankruptcy or
29 insolvency laws, or other process of law whatsoever.

30 (2) This section shall not be deemed to prohibit a beneficiary of
31 a retirement allowance who is eligible:

32 (a) Under RCW 41.05.080 from authorizing monthly deductions
33 therefrom for payment of premiums due on any group insurance policy or
34 plan issued for the benefit of a group comprised of public employees of
35 the state of Washington or its political subdivisions;

36 (b) Under a group health care benefit plan approved pursuant to RCW
37 28A.400.350 or 41.05.065 from authorizing monthly deductions therefrom,

1 of the amount or amounts of subscription payments, premiums, or
2 contributions to any person, firm, or corporation furnishing or
3 providing medical, surgical, and hospital care or other health care
4 insurance; or

5 (c) Under this system from authorizing monthly deductions therefrom
6 for payment of dues and other membership fees to any retirement
7 association composed of retired teachers and/or public employees
8 pursuant to a written agreement between the director and the retirement
9 association.

10 Deductions under (a) and (b) of this subsection shall be made in
11 accordance with rules that may be adopted by the director.

12 (3) Subsection (1) of this section shall not prohibit the
13 department from complying with (a) a wage assignment order for child
14 support issued pursuant to chapter 26.18 RCW, (b) an order to withhold
15 and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of
16 payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory
17 benefits assignment order issued by the department, (e) a court order
18 directing the department of retirement systems to pay benefits directly
19 to an obligee under a dissolution order as defined in RCW 41.50.500(3)
20 which fully complies with RCW 41.50.670 and 41.50.700, or (f) any
21 administrative or court order expressly authorized by federal law.

22 (4) Subsection (1) of this section does not exempt any pension or
23 other benefit received under this chapter from tax under Title 82A RCW
24 (sections 101 through 810 of this act), nor does it prohibit the
25 department of retirement systems from complying with the tax
26 withholding requirements of that title.

27 **Sec. 1007.** RCW 41.35.100 and 1998 c 341 s 11 are each amended to
28 read as follows:

29 SCHOOL EMPLOYEES' RETIREMENT SYSTEM. (1) Subject to subsections
30 (2) (~~and~~), (3), and (4) of this section, the right of a person to a
31 pension, an annuity, or retirement allowance, any optional benefit, any
32 other right accrued or accruing to any person under the provisions of
33 this chapter, the various funds created by this chapter, and all moneys
34 and investments and income thereof, are hereby exempt from any state,
35 county, municipal, or other local tax, and shall not be subject to
36 execution, garnishment, attachment, the operation of bankruptcy or

1 insolvency laws, or other process of law whatsoever, and shall be
2 unassignable.

3 (2) This section does not prohibit a beneficiary of a retirement
4 allowance from authorizing deductions therefrom for payment of premiums
5 due on any group insurance policy or plan issued for the benefit of a
6 group comprised of public employees of the state of Washington or its
7 political subdivisions and which has been approved for deduction in
8 accordance with rules that may be adopted by the state health care
9 authority and/or the department. This section also does not prohibit
10 a beneficiary of a retirement allowance from authorizing deductions
11 therefrom for payment of dues and other membership fees to any
12 retirement association or organization the membership of which is
13 composed of retired public employees, if a total of three hundred or
14 more of such retired employees have authorized such deduction for
15 payment to the same retirement association or organization.

16 (3) Subsection (1) of this section does not prohibit the department
17 from complying with (a) a wage assignment order for child support
18 issued pursuant to chapter 26.18 RCW, (b) an order to withhold and
19 deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll
20 deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits
21 assignment order issued by the department, (e) a court order directing
22 the department of retirement systems to pay benefits directly to an
23 obligee under a dissolution order as defined in RCW 41.50.500(3) which
24 fully complies with RCW 41.50.670 and 41.50.700, or (f) any
25 administrative or court order expressly authorized by federal law.

26 (4) Subsection (1) of this section does not exempt any pension or
27 other benefit received under this chapter from tax under Title 82A RCW
28 (sections 101 through 810 of this act), nor does it prohibit the
29 department of retirement systems from complying with the tax
30 withholding requirements of that title.

31 **Sec. 1008.** RCW 41.40.052 and 1999 c 83 s 1 are each amended to
32 read as follows:

33 PUBLIC EMPLOYEES' RETIREMENT SYSTEM. (1) Subject to subsections
34 (2) (~~and~~), (3), and (4) of this section, the right of a person to a
35 pension, an annuity, or retirement allowance, any optional benefit, any
36 other right accrued or accruing to any person under the provisions of
37 this chapter, the various funds created by this chapter, and all moneys

1 and investments and income thereof, are hereby exempt from any state,
2 county, municipal, or other local tax, and shall not be subject to
3 execution, garnishment, attachment, the operation of bankruptcy or
4 insolvency laws, or other process of law whatsoever, and shall be
5 unassignable.

6 (2)(a) This section shall not be deemed to prohibit a beneficiary
7 of a retirement allowance from authorizing deductions therefrom for
8 payment of premiums due on any group insurance policy or plan issued
9 for the benefit of a group comprised of public employees of the state
10 of Washington or its political subdivisions and which has been approved
11 for deduction in accordance with rules that may be adopted by the state
12 health care authority and/or the department, and this section shall not
13 be deemed to prohibit a beneficiary of a retirement allowance from
14 authorizing deductions therefrom for payment of dues and other
15 membership fees to any retirement association or organization the
16 membership of which is composed of retired public employees, if a total
17 of three hundred or more of such retired employees have authorized such
18 deduction for payment to the same retirement association or
19 organization.

20 (b) This section does not prohibit a beneficiary of a retirement
21 allowance from authorizing deductions from that allowance for
22 charitable purposes on the same terms as employees and public officers
23 under RCW 41.04.035 and 41.04.036.

24 (3) Subsection (1) of this section shall not prohibit the
25 department from complying with (a) a wage assignment order for child
26 support issued pursuant to chapter 26.18 RCW, (b) an order to withhold
27 and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of
28 payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory
29 benefits assignment order issued by the department, (e) a court order
30 directing the department of retirement systems to pay benefits directly
31 to an obligee under a dissolution order as defined in RCW 41.50.500(3)
32 which fully complies with RCW 41.50.670 and 41.50.700, or (f) any
33 administrative or court order expressly authorized by federal law.

34 (4) Subsection (1) of this section does not exempt any pension or
35 other benefit received under this chapter from tax under Title 82A RCW
36 (sections 101 through 810 of this act), nor does it prohibit the
37 department of retirement systems from complying with the tax
38 withholding requirements of that title.

1 **Sec. 1009.** RCW 41.44.240 and 1989 c 360 s 28 are each amended to
2 read as follows:

3 STATEWIDE CITY EMPLOYEES' RETIREMENT. (1) The right of a person to
4 a pension, annuity or a retirement allowance, to the return of
5 contribution, the pension, annuity or retirement allowance itself, any
6 optional benefit, any other right accrued or accruing to any person
7 under the provisions of this chapter, and the moneys in the fund
8 created under this chapter shall not be subject to execution,
9 garnishment, or any other process whatsoever.

10 (2) This section shall not apply to child support collection
11 actions taken under chapter 26.18, 26.23, or 74.20A RCW against
12 benefits payable under any such plan or arrangement. Benefits under
13 this chapter shall be payable to a spouse or ex-spouse to the extent
14 expressly provided for in any court decree of dissolution or legal
15 separation or in any court order or court-approved property settlement
16 agreement incident to any court decree of dissolution or legal
17 separation.

18 (3) Subsection (1) of this section does not exempt any pension or
19 other benefit received under this chapter from tax under Title 82A RCW
20 (sections 101 through 810 of this act), nor does it prohibit the
21 department of retirement systems from complying with the tax
22 withholding requirements of that title.

23 **Sec. 1010.** RCW 41.26.053 and 1991 c 365 s 20 and 1991 c 35 s 25
24 are each reenacted and amended to read as follows:

25 LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM.

26 (1) Subject to subsections (2) (~~and~~), (3), and (4) of this section,
27 the right of a person to a retirement allowance, disability allowance,
28 or death benefit, to the return of accumulated contributions, the
29 retirement, disability or death allowance itself, any optional benefit,
30 any other right accrued or accruing to any person under the provisions
31 of this chapter, and the moneys in the fund created under this chapter,
32 are hereby exempt from any state, county, municipal, or other local tax
33 and shall not be subject to execution, garnishment, attachment, the
34 operation of bankruptcy or insolvency laws, or any other process of law
35 whatsoever, and shall be unassignable.

36 (2) On the written request of any person eligible to receive
37 benefits under this section, the department may deduct from such

1 payments the premiums for life, health, or other insurance. The
2 request on behalf of any child or children shall be made by the legal
3 guardian of such child or children. The department may provide for
4 such persons one or more plans of group insurance, through contracts
5 with regularly constituted insurance carriers or health care service
6 contractors.

7 (3) Subsection (1) of this section shall not prohibit the
8 department from complying with (a) a wage assignment order for child
9 support issued pursuant to chapter 26.18 RCW, (b) an order to withhold
10 and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of
11 payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory
12 benefits assignment order issued by the department, (e) a court order
13 directing the department of retirement systems to pay benefits directly
14 to an obligee under a dissolution order as defined in RCW 41.50.500(3)
15 which fully complies with RCW 41.50.670 and 41.50.700, or (f) any
16 administrative or court order expressly authorized by federal law.

17 (4) Subsection (1) of this section does not exempt any pension or
18 other benefit received under this chapter from tax under Title 82A RCW
19 (sections 101 through 810 of this act), nor does it prohibit the
20 department of retirement systems from complying with the tax
21 withholding requirements of that title.

22 **Sec. 1011.** RCW 43.43.310 and 1991 c 365 s 23 are each amended to
23 read as follows:

24 WASHINGTON STATE PATROL RETIREMENT. (1) Except as provided in
25 subsections (2) (~~and~~), (3), and (4) of this section, the right of any
26 person to a retirement allowance or optional retirement allowance under
27 the provisions hereof and all moneys and investments and income thereof
28 are exempt from any state, county, municipal, or other local tax and
29 shall not be subject to execution, garnishment, attachment, the
30 operation of bankruptcy or the insolvency laws, or other processes of
31 law whatsoever and shall be unassignable except as herein specifically
32 provided.

33 (2) Subsection (1) of this section shall not prohibit the
34 department of retirement systems from complying with (a) a wage
35 assignment order for child support issued pursuant to chapter 26.18
36 RCW, (b) an order to withhold and deliver issued pursuant to chapter
37 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW

1 26.23.060, (d) a mandatory benefits assignment order issued pursuant to
2 chapter 41.50 RCW, (e) a court order directing the department of
3 retirement systems to pay benefits directly to an obligee under a
4 dissolution order as defined in RCW 41.50.500(3) which fully complies
5 with RCW 41.50.670 and 41.50.700, or (f) any administrative or court
6 order expressly authorized by federal law.

7 (3) Subsection (1) of this section shall not be deemed to prohibit
8 a beneficiary of a retirement allowance from authorizing deductions
9 therefrom for payment of premiums due on any group insurance policy or
10 plan issued for the benefit of a group comprised of members of the
11 Washington state patrol or other public employees of the state of
12 Washington, or for contributions to the Washington state patrol
13 memorial foundation.

14 (4) Subsection (1) of this section does not exempt any pension or
15 other benefit received under this chapter from tax under Title 82A RCW
16 (sections 101 through 810 of this act), nor does it prohibit the
17 department of retirement systems from complying with the tax
18 withholding requirements of that title.

19 NEW SECTION. Sec. 1012. RCW 6.15.025 (Exemption of pension or
20 retirement plan benefits from execution for judgment for out-of-state
21 income tax) and 1991 c 123 s 3 are each repealed.

22 **PART XI**
23 **MISCELLANEOUS**

24 NEW SECTION. Sec. 1101. SEVERABILITY. If any provision of this
25 act or its application to any person or circumstance is held invalid,
26 the remainder of the act or the application of the provision to other
27 persons or circumstances is not affected.

28 NEW SECTION. Sec. 1102. CAPTIONS AND PART HEADINGS. Captions and
29 part headings as used in this act constitute no part of the law.

30 NEW SECTION. Sec. 1103. CODIFICATION. Sections 101 through 810
31 of this act constitute a new title in the Revised Code of Washington,

1 to be codified as Title 82A RCW.

2 NEW SECTION. **Sec. 1104.** This act takes effect January 1, 2004.

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