

**ESB 5063** - H COMM AMD

By Committee on State Government & Tribal Affairs

ADOPTED AS AMENDED 04/05/2007

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** It is the intent of the legislature to make  
4 technical changes throughout chapters 41.08, 41.12, 41.16, and 41.18  
5 RCW with regard to gender-specific terminology. The legislature finds  
6 that gender-neutral terms must be used in accordance with RCW  
7 44.04.210. This act is technical in nature and no substantive legal  
8 changes are intended or implied.

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

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

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

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

22 The members of such commission shall be appointed by the person or  
23 group of persons who, acting singly or in conjunction, as a mayor, city  
24 manager, council, common council, commission, or otherwise, is or are  
25 vested by law with power and authority to select, appoint, or employ  
26 the chief of a fire department in any such city, prior to the enactment  
27 of this chapter. The members of such commission shall serve without  
28 compensation. No person shall be appointed a member of such commission

1 who is not a citizen of the United States, a resident of such city for  
2 at least three years immediately preceding such appointment, and an  
3 elector of the county wherein he or she resides. The term of office of  
4 such commissioners shall be for six years, except that the first three  
5 members of such commission shall be appointed for different terms, as  
6 follows: One to serve for a period of two years, one to serve for a  
7 period of four years, and one to serve for a period of six years. Any  
8 member of such commission may be removed from office for incompetency,  
9 incompatibility or dereliction of duty, or malfeasance in office, or  
10 other good cause: PROVIDED, HOWEVER, That no member of the commission  
11 shall be removed until charges have been preferred, in writing, due  
12 notice and a full hearing had. The members of such commission shall  
13 devote due time and attention to the performance of the duties  
14 hereinafter specified and imposed upon them by this chapter. Two  
15 members of such commission shall constitute a quorum and the votes of  
16 any two members of such commission concurring shall be sufficient for  
17 the decision of all matters and the transaction of all business to be  
18 decided or transacted by the commission under or by virtue of the  
19 provisions of this chapter. Confirmation of said appointment or  
20 appointments of commissioners by any legislative body shall not be  
21 required. At the time of any appointment not more than two  
22 commissioners shall be adherents of the same political party.

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

25 No city, town, or municipality shall require any person applying  
26 for or holding an office, place, position, or employment under the  
27 provisions of this chapter or under any local charter or other  
28 regulations described in RCW 41.08.010 to reside within the limits of  
29 such municipal corporation as a condition of employment, or to  
30 discriminate in any manner against any such person because of his or  
31 her residence outside of the limits of such city, town, or  
32 municipality.

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

35 The tenure of every one holding an office, place, position or  
36 employment under the provisions of this chapter shall be only during

1 good behavior, and any such person may be removed or discharged,  
2 suspended without pay, demoted, or reduced in rank, or deprived of  
3 vacation privileges or other special privileges for any of the  
4 following reasons:

5 (1) Incompetency, inefficiency or inattention to or dereliction of  
6 duty;

7 (2) Dishonesty, intemperance, immoral conduct, insubordination,  
8 discourteous treatment of the public, or a fellow employee, or any  
9 other act of omission or commission tending to injure the public  
10 service; or any other willful failure on the part of the employee to  
11 properly conduct himself or herself; or any willful violation of the  
12 provisions of this chapter or the rules and regulations to be adopted  
13 hereunder;

14 (3) Mental or physical unfitness for the position which the  
15 employee holds;

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

17 (5) Drunkenness or use of intoxicating liquors, narcotics, or any  
18 other habit forming drug, liquid or preparation to such extent that the  
19 use thereof interferes with the efficiency or mental or physical  
20 fitness of the employee, or which precludes the employee from properly  
21 performing the functions and duties of any position under civil  
22 service;

23 (6) Conviction of a felony, or a misdemeanor, involving moral  
24 turpitude;

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

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

30 No person in the classified civil service who shall have been  
31 permanently appointed or inducted into civil service under provisions  
32 of this chapter, shall be removed, suspended, demoted or discharged  
33 except for cause, and only upon the written accusation of the  
34 appointing power, or any citizen or taxpayer, a written statement of  
35 which accusation, in general terms, shall be served upon the accused,  
36 and a duplicate filed with the commission. Any person so removed,  
37 suspended, demoted or discharged may within ten days from the time of

1 his or her removal, suspension, demotion or discharge, file with the  
2 commission a written demand for an investigation, whereupon the  
3 commission shall conduct such investigation. The investigation shall  
4 be confined to the determination of the question of whether such  
5 removal, suspension, demotion or discharge was or was not made for  
6 political or religious reasons and was or was not made in good faith  
7 (~~(+for)~~) for cause. After such investigation the commission may  
8 affirm the removal, or if it shall find that the removal, suspension,  
9 or demotion was made for political or religious reasons, or was not  
10 made in good faith for cause, shall order the immediate reinstatement  
11 or reemployment of such person in the office, place, position or  
12 employment from which such person was removed, suspended, demoted or  
13 discharged, which reinstatement shall, if the commission so provides in  
14 its discretion, be retroactive, and entitle such person to pay or  
15 compensation from the time of such removal, suspension, demotion or  
16 discharge. The commission upon such investigation, in lieu of  
17 affirming the removal, suspension, demotion or discharge may modify the  
18 order of removal, suspension, demotion or discharge by directing a  
19 suspension, without pay, for a given period, and subsequent restoration  
20 to duty, or demotion in classification, grade, or pay; the findings of  
21 the commission shall be certified, in writing to the appointing power,  
22 and shall be forthwith enforced by such officer.

23 All investigations made by the commission pursuant to the  
24 provisions of this section shall be by public hearing, after reasonable  
25 notice to the accused of the time and place of such hearing, at which  
26 hearing the accused shall be afforded an opportunity of appearing in  
27 person and by counsel, and presenting his or her defense. If such  
28 judgment or order be concurred in by the commission or a majority  
29 thereof, the accused may appeal therefrom to the court of original and  
30 unlimited jurisdiction in civil suits of the county wherein he or she  
31 resides. Such appeal shall be taken by serving the commission, within  
32 thirty days after the entry of such judgment or order, a written notice  
33 of appeal, stating the grounds thereof, and demanding that a certified  
34 transcript of the record and of all papers on file in the office of the  
35 commission affecting or relating to such judgment or order, be filed by  
36 the commission with such court. The commission shall, within ten days  
37 after the filing of such notice, make, certify and file such transcript  
38 with such court. The court of original and unlimited jurisdiction in

1 civil suits shall thereupon proceed to hear and determine such appeal  
2 in a summary manner: PROVIDED, HOWEVER, That such hearing shall be  
3 confined to the determination of whether the judgment or order of  
4 removal, discharge, demotion or suspension made by the commission, was  
5 or was not made in good faith for cause, and no appeal to such court  
6 shall be taken except upon such ground or grounds.

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

9 Whenever a position in the classified service becomes vacant, the  
10 appointing power, if it desires to fill the vacancy, shall make  
11 requisition upon the commission for the name and address of a person  
12 eligible for appointment thereto. The commission shall certify the  
13 name of the person highest on the eligible list for the class to which  
14 the vacant position has been allocated, who is willing to accept  
15 employment. If there is no appropriate eligible list for the class,  
16 the commission shall certify the name of the person standing highest on  
17 said list held appropriate for such class. If more than one vacancy is  
18 to be filled an additional name shall be certified for each additional  
19 vacancy. The appointing power shall forthwith appoint such person to  
20 such vacant position.

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

31 To enable the appointing power to exercise a choice in the filling  
32 of positions, no appointment, employment or promotion in any position  
33 in the classified service shall be deemed complete until after the  
34 expiration of a period of three to six months' probationary service, as  
35 may be provided in the rules of the civil service commission during  
36 which the appointing power may terminate the employment of the person  
37 certified to him or her, or it, if during the performance test thus

1 afforded, upon observation or consideration of the performance of duty,  
2 the appointing power deems him or her unfit or unsatisfactory for  
3 service in the department. Whereupon the appointing power shall  
4 designate the person certified as standing next highest on any such  
5 list and such person shall likewise enter upon said duties until some  
6 person is found who is deemed fit for appointment, employment or  
7 promotion for the probationary period provided therefor, whereupon the  
8 appointment, employment or promotion shall be deemed to be complete.

9 **Sec. 8.** RCW 41.08.150 and 1935 c 31 s 16 are each amended to read  
10 as follows:

11 No commissioner or any other person((~~7~~)) shall, by himself or  
12 herself, or in cooperation with one or more persons, defeat, deceive,  
13 or obstruct any person in respect of his or her right of examination or  
14 registration according to the rules and regulations of this chapter, or  
15 falsely mark, grade, estimate or report upon the examination or proper  
16 standing of any person examined, registered or certified pursuant to  
17 the provisions of this chapter, or aid in so doing, or make any false  
18 representation concerning the same, or concerning the person examined,  
19 or furnish any person any special or secret information for the purpose  
20 of improving or injuring the prospects or chances of any person so  
21 examined, registered or certified, or to be examined, registered or  
22 certified or persuade any other person, or permit or aid in any manner  
23 any other person to personate him or her, in connection with any  
24 examination or registration or application or request to be examined or  
25 registered.

26 **Sec. 9.** RCW 41.08.220 and 1935 c 31 s 24 are each amended to read  
27 as follows:

28 As used in this chapter, the following mentioned terms shall have  
29 the following described meanings:

30 The term "commission" means the civil service commission herein  
31 created, and the term "commissioner" means any one of the three  
32 commissioners of that commission.

33 The term "appointing power" includes every person or group of  
34 persons who, acting singly or in conjunction, as a mayor, city manager,  
35 council, common council, commission, or otherwise, is or are, vested by

1 law with power and authority to select, appoint, or employ any person  
2 to hold any office, place, position or employment subject to civil  
3 service.

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

7 The term "city" includes all cities, towns and municipalities  
8 having a full paid fire department.

9 The term "full paid fire department" means that the officers and  
10 (~~firemen~~) firefighters employed in such are paid regularly by the  
11 city and devote their whole time to firefighting.

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

14 If any of the cities or towns referred to in RCW 41.12.010 shall at  
15 any time repeal the charter provisions or other local acts of said  
16 cities or towns providing for civil service for (~~police~~) police  
17 officers as referred to in RCW 41.12.010, in that event this chapter  
18 shall apply to all of such cities and towns which have at any time  
19 abolished civil service for members of the police department.

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

22 There is hereby created in every city, town or municipality except  
23 those referred to in RCW 41.12.010, having fully paid (~~police~~)  
24 police officers a civil service commission which shall be composed of  
25 three persons.

26 The members of such commission shall be appointed by the person or  
27 group of persons who, acting singly or in conjunction, as a mayor, city  
28 manager, council, common council, commission, or otherwise, is or are  
29 vested by law with the power and authority to select, appoint, or  
30 employ the chief of a police department in any such city, prior to the  
31 enactment of this chapter. The members of such commission shall serve  
32 without compensation. No person shall be appointed a member of such  
33 commission who is not a citizen of the United States, a resident of  
34 such city for at least three years immediately preceding such  
35 appointment, and an elector of the county wherein he or she resides.  
36 The term of office of such commissioners shall be for six years, except

1 that the first three members of such commission shall be appointed for  
2 different terms, as follows: One to serve for a period of two years,  
3 one to serve for a period of four years, and one to serve for a period  
4 of six years. Any member of such commission may be removed from office  
5 for incompetency, incompatibility or dereliction of duty, or  
6 malfeasance in office, or other good cause: PROVIDED, HOWEVER, That no  
7 member of the commission shall be removed until charges have been  
8 preferred, in writing, due notice and a full hearing had. The members  
9 of such commission shall devote due time and attention to the  
10 performance of the duties hereinafter specified and imposed upon them  
11 by this chapter. Two members of such commission shall constitute a  
12 quorum and the votes of any two members of such commission concurring  
13 shall be sufficient for the decision of all matters and the transaction  
14 of all business to be decided or transacted by the commission under or  
15 by virtue of the provisions of this chapter. Confirmation of said  
16 appointment or appointments of commissioners by any legislative body  
17 shall not be required. At the time of any appointment not more than  
18 two commissioners shall be adherents of the same political party.

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

21 No city, town, or municipality shall require any person applying  
22 for or holding an office, place, position, or employment under the  
23 provisions of this chapter or under any local charter or other  
24 regulations described in RCW 41.12.010 to reside within the limits of  
25 such municipal corporation as a condition of employment or to  
26 discriminate in any manner against any such person because of his or  
27 her residence outside of the limits of such city, town, or  
28 municipality.

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

31 The tenure of everyone holding an office, place, position or  
32 employment under the provisions of this chapter shall be only during  
33 good behavior, and any such person may be removed or discharged,  
34 suspended without pay, demoted, or reduced in rank, or deprived of  
35 vacation privileges or other special privileges for any of the  
36 following reasons:



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

3 (2) Dishonesty, intemperance, immoral conduct, insubordination,  
4 discourteous treatment of the public, or a fellow employee, or any  
5 other act of omission or commission tending to injure the public  
6 service; or any other willful failure on the part of the employee to  
7 properly conduct himself or herself; or any willful violation of the  
8 provisions of this chapter or the rules and regulation to be adopted  
9 hereunder;

10 (3) Mental or physical unfitness for the position which the  
11 employee holds;

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

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

18 (6) Conviction of a felony, or a misdemeanor, involving moral  
19 turpitude;

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

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

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

1 reasons and was or was not made in good faith (~~(f)or~~) for cause.  
2 After such investigation the commission may affirm the removal, or if  
3 it shall find that the removal, suspension, or demotion was made for  
4 political or religious reasons, or was not made in good faith for  
5 cause, shall order the immediate reinstatement (~~(of—[or])~~) or  
6 reemployment of such person in the office, place, position or  
7 employment from which such person was removed, suspended, demoted or  
8 discharged, which reinstatement shall, if the commission so provides in  
9 its discretion, be retroactive, and entitle such person to pay or  
10 compensation from the time of such removal, suspension, demotion or  
11 discharge. The commission upon such investigation, (~~(in)~~) in lieu of  
12 affirming the removal, suspension, demotion or discharge may modify the  
13 order of removal, suspension, demotion or discharge by directing a  
14 suspension, without pay, for a given period, and subsequent restoration  
15 to duty, or demotion in classification, grade, or pay; the findings of  
16 the commission shall be certified, in writing to the appointing power,  
17 and shall be forthwith enforced by such officer.

18 All investigations made by the commission pursuant to the  
19 provisions of this section shall be had by public hearing, after  
20 reasonable notice to the accused of the time and place of such hearing,  
21 at which hearing the accused shall be afforded an opportunity of  
22 appearing in person and by counsel, and presenting his or her defense.  
23 If such judgment or order be concurred in by the commission or a  
24 majority thereof, the accused may appeal therefrom to the court of  
25 original and unlimited jurisdiction in civil suits of the county  
26 wherein he or she resides. Such appeal shall be taken by serving the  
27 commission, within thirty days after the entry of such judgment or  
28 order, a written notice of appeal, stating the grounds thereof, and  
29 demanding that a certified transcript of the record and of all papers  
30 on file in the office of the commission affecting or relating to such  
31 judgment or order, be filed by the commission with such court. The  
32 commission shall, within ten days after the filing of such notice,  
33 make, certify and file such transcript with such court. The court of  
34 original and unlimited jurisdiction in civil suits shall thereupon  
35 proceed to hear and determine such appeal in a summary manner:  
36 PROVIDED, HOWEVER, That such hearing shall be confined to the  
37 determination of whether the judgment or order of removal, discharge,

1 demotion or suspension made by the commission, was or was not made in  
2 good faith for cause, and no appeal to such court shall be taken except  
3 upon such ground or grounds.

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

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

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

28 To enable the appointing power to exercise a choice in the filling  
29 of positions, no appointment, employment or promotion in any position  
30 in the classified service shall be deemed complete until after the  
31 expiration of a period of three to six months' probationary service, as  
32 may be provided in the rules of the civil service commission during  
33 which the appointing power may terminate the employment of the person  
34 certified to him or her, or it, if during the performance test thus  
35 afforded, upon observation or consideration of the performance of duty,  
36 the appointing power deems him or her unfit or unsatisfactory for  
37 service in the department, whereupon the appointing power shall

1 designate the person certified as standing next highest on any such  
2 list and such person shall likewise enter upon said duties until some  
3 person is found who is deemed fit for appointment, employment or  
4 promotion for the probationary period provided therefor, whereupon the  
5 appointment, employment or promotion shall be deemed to be complete.

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

8 No commissioner or any other person((7)) shall, by himself or  
9 herself, or in cooperation with one or more persons, defeat, deceive,  
10 or obstruct any person in respect of his or her right of examination or  
11 registration according to the rules and regulations of this chapter, or  
12 falsely mark, grade, estimate or report upon the examination or proper  
13 standing of any person examined, registered or certified pursuant to  
14 the provisions of this chapter, or aid in so doing, or make any false  
15 representation concerning the same, or concerning the person examined,  
16 or furnish any person any special or secret information for the purpose  
17 of improving or injuring the prospects or chances of any person so  
18 examined, registered or certified, or to be examined, registered or  
19 certified or persuade any other person, or permit or aid in any manner  
20 any other person to personate him or her, in connection with any  
21 examination or registration of application or request to be examined or  
22 registered.

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

25 As used in this chapter, the following mentioned terms shall have  
26 the following described meanings:

27 The term "commission" means the civil service commission herein  
28 created, and the term "commissioner" means any one of the three  
29 commissioners of that commission.

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

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

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

6 The term "full paid police department" means that the officers and  
7 (~~(police)~~) police officers employed in such are paid regularly by  
8 the city and devote their whole time to police duty: PROVIDED, "full  
9 paid police department" whenever used in this chapter shall also mean  
10 "full paid (~~(police)~~) police officers."

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

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

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

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

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

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

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

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

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

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

1 (9) "Municipality" shall mean every city and town having a  
2 regularly organized full time, paid, fire department employing  
3 ((firemen)) firefighters.

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

9 (11) "Prior ((fireman)) firefighter" shall mean a ((fireman))  
10 firefighter who was actively employed as a ((fireman)) firefighter of  
11 a fire department prior to the first day of January, 1947, and who  
12 continues such employment thereafter.

13 (12) "Retired ((fireman)) firefighter" shall mean and include a  
14 person employed as a ((fireman)) firefighter and retired under the  
15 provisions of chapter 50, Laws of 1909, as amended.

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

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

31 There is hereby created in each city and town a municipal  
32 ((firemen's)) firefighters' pension board to consist of the following  
33 five members, ex officio, the mayor, or in a city of the first class,  
34 the mayor or a designated representative who shall be an elected  
35 official of the city, who shall be ((chairman)) chairperson of the  
36 board, the city comptroller or clerk, the ((chairman)) chairperson of  
37 finance of the city council, or if there is no ((chairman)) chairperson

1 of finance, the city treasurer, and in addition, two regularly employed  
2 or retired firefighters elected by secret ballot of those employed and  
3 retired firefighters who are subject to the jurisdiction of the board.  
4 The members to be elected by the firefighters shall be elected annually  
5 for a two year term. The two firefighters elected as members shall, in  
6 turn, select a third eligible member who shall serve as an alternate in  
7 the event of an absence of one of the regularly elected members. In  
8 case a vacancy occurs in the membership of the firefighters or retired  
9 members, the members shall in the same manner elect a successor to  
10 serve the unexpired term. The board may select and appoint a secretary  
11 who may, but need not be a member of the board. In case of absence or  
12 inability of the ((~~chairman~~)) chairperson to act, the board may select  
13 a ((~~chairman~~)) chairperson pro tempore who shall during such absence or  
14 inability perform the duties and exercise the powers of the  
15 ((~~chairman~~)) chairperson. A majority of the members of the board shall  
16 constitute a quorum and have power to transact business.

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

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

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

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

28 (1) Generally supervise and control the administration of this  
29 chapter and the ((~~firemen's~~)) firefighters' pension fund created  
30 hereby.

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

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

35 (4) Invest the moneys of the fund in a manner consistent with the  
36 investment policies outlined in RCW 35.39.060. Authorized investments

1 shall include investment grade securities issued by the United States,  
2 state, municipal corporations, other public bodies, corporate bonds,  
3 and other investments authorized by RCW 35.39.030, 35.58.510,  
4 35.81.070, 35.82.070, 36.29.020, 39.58.020, 39.58.080, 39.58.130,  
5 39.60.010, 39.60.020, 68.52.060, 68.52.065, and 72.19.120.

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

8 (6) Compel witnesses to appear and testify before it, in the same  
9 manner as is or may be provided by law for the taking of depositions in  
10 the superior court. Any member of the board may administer oaths to  
11 witnesses who testify before the board of a nature and in a similar  
12 manner to oaths administered by superior courts of the state of  
13 Washington.

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

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

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

26 (10) Appoint one or more duly licensed and practicing physicians  
27 who shall examine and report to the board upon all applications for  
28 relief and pension under this chapter. Such physicians shall visit and  
29 examine all sick firefighters and ((~~disabled firemen~~)) firefighters who  
30 are disabled when, in their judgment, the best interests of the relief  
31 and pension fund require it or when ordered by the board. They shall  
32 perform all operations on such sick and injured ((~~firemen~~))  
33 firefighters and render all medical aid and care necessary for the  
34 recovery of such ((~~firemen~~)) firefighters on account of sickness or  
35 disability received while in the performance of duty as defined in this  
36 chapter. Such physicians shall be paid from said fund, the amount of  
37 said fees or salary to be set and agreed upon by the board and the  
38 physicians. No physician not regularly appointed or specially



1 appointed and employed, as hereinafter provided, shall receive or be  
2 entitled to any fees or compensation from said fund as attending  
3 physician to a sick or injured (~~(fireman)~~) firefighter. If any sick or  
4 injured (~~(fireman)~~) firefighter refuses the services of the appointed  
5 physicians, or the specially appointed and employed physician, he or  
6 she shall be personally liable for the fees of any other physician  
7 employed by him or her. No person shall have a right of action against  
8 the board or the municipality for negligence of any physician employed  
9 by it. The board shall have the power and authority to select and  
10 employ, besides the regularly appointed physician, such other  
11 physician, surgeon or specialist for consultation with, or assistance  
12 to the regularly appointed physician, or for the purpose of performing  
13 operations or rendering services and treatment in particular cases, as  
14 it shall deem advisable, and to pay fees for such services from said  
15 fund. Said board shall hear and decide all applications for such  
16 relief or pensions under this chapter, and its decisions on such  
17 applications shall be final and conclusive and not subject to revision  
18 or reversal except by the board.

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

21 There is hereby created and established in the treasury of each  
22 municipality a fund which shall be known and designated as the  
23 (~~(firemen's)~~) firefighters' pension fund, which shall consist of: (1)  
24 All bequests, fees, gifts, emoluments, or donations given or paid  
25 thereto; (2) twenty-five percent of all moneys received by the state  
26 from taxes on fire insurance premiums; (3) taxes paid pursuant to the  
27 provisions of RCW 41.16.060; (4) interest on the investments of the  
28 fund; and (5) contributions by firefighters as provided for herein.  
29 The moneys received from the tax on fire insurance premiums under the  
30 provisions of this chapter shall be distributed in the proportion that  
31 the number of paid firefighters in the city, town, or fire protection  
32 district bears to the total number of paid firefighters throughout the  
33 state to be ascertained in the following manner: The secretary of the  
34 (~~(firemen's)~~) firefighters' pension board of each city, town, and fire  
35 protection district now or hereafter coming under the provisions of  
36 this chapter shall within thirty days after June 7, 1961, and on or  
37 before the fifteenth day of January thereafter, certify to the state

1 treasurer the number of paid firefighters in the fire department in  
 2 such city, town, or fire protection district. For any city or town  
 3 annexed by a fire protection district at any time before, on, or after  
 4 June 9, 1994, the city or town shall continue to certify to the state  
 5 treasurer the number of paid firefighters in the city or town fire  
 6 department immediately before annexation until all obligations against  
 7 the ((firemen's)) firefighters' pension fund in the city or town have  
 8 been satisfied. For the purposes of the calculation in this section,  
 9 the state treasurer shall subtract the number certified by the annexed  
 10 city or town from the number of paid firefighters certified by an  
 11 annexing fire protection district. The state treasurer shall on or  
 12 before the first day of June of each year deliver to the treasurer of  
 13 each city, town, and fire protection district coming under the  
 14 provisions of this chapter his or her warrant, payable to each city,  
 15 town, or fire protection district for the amount due such city, town or  
 16 fire protection district ascertained as herein provided and the  
 17 treasurer of each such city, town, or fire protection district shall  
 18 place the amount thereof to the credit of the ((firemen's))  
 19 firefighters' pension fund of such city, town, or fire protection  
 20 district.

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

23 (1) Every ((fireman)) firefighter employed on and after January 1,  
 24 1947, shall contribute to the fund and there shall be deducted from his  
 25 or her pay and placed in the fund an amount in accordance with the  
 26 following table:

27	((Fireman))	
28	<u>Firefighter</u> whose	
29	age at last birthday	Contributions and
30	at time of entry	deductions from
31	of service was:	salary
32	21 and under .....	5.00%
33	22 .....	5.24%
34	23 .....	5.50%
35	24 .....	5.77%

1	25	.....	6.07%
2	26	.....	6.38%
3	27	.....	6.72%
4	28	.....	7.09%
5	29	.....	7.49%
6	30	and over.....	7.92%

7 (2) Every ((fireman)) firefighter employed prior to January 1,  
8 1947, and continuing active employment shall contribute to the fund and  
9 there shall be deducted from his or her salary and placed in the fund,  
10 five percent of his or her salary.

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

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

17 Any ((fireman)) firefighter employed in a fire department on and  
18 before the first day of January, 1947, hereinafter in this section and  
19 RCW 41.16.090 to 41.16.190 inclusive, referred to as (("fireman",))  
20 "firefighter," and who shall have served twenty-five or more years and  
21 having attained the age of fifty-five years, as a member of the fire  
22 department, shall be eligible for retirement and shall be retired by  
23 the board upon his or her written request. Upon his or her retirement  
24 any ((fireman)) firefighter shall be paid a pension based upon the  
25 average monthly salary drawn for the five calendar years before  
26 retirement, the number of years of his or her service and a percentage  
27 factor based upon his or her age on entering service, as follows:

28	Entrance age at	Salary
29	last birthday	percentage factor
30	20 and under.....	1.50%
31	21 .....	1.55%
32	22 .....	1.60%
33	23 .....	1.65%
34	24 .....	1.70%

1	25	.....	1.75%
2	26	.....	1.80%
3	27	.....	1.85%
4	28	.....	1.90%
5	29	.....	1.95%
6	30	and over.....	2.00%

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

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

12 The widow or widower, child, children or beneficiary of any  
13 (~~fireman~~) firefighter retired under this chapter shall receive an  
14 amount equal to his or her accumulated contributions to the fund, plus  
15 earned interest thereon compounded semiannually: PROVIDED, That there  
16 shall be deducted from said sum the amount paid to decedent in pensions  
17 and the remainder shall be paid to his or her widow or widower, child,  
18 children or beneficiary: PROVIDED FURTHER, That the amount paid shall  
19 not be less than one thousand dollars.

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

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

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

27 Whenever any active (~~fireman~~) firefighter or (~~fireman~~)  
28 firefighter retired for disability shall die as the result of an  
29 accident or other fortuitous event occurring while in the performance  
30 of his or her duty, his widow or her widower may elect to accept a  
31 monthly pension equal to one-half the deceased (~~fireman's~~)  
32 firefighter's salary but in no case in excess of one hundred fifty  
33 dollars per month, or the sum of five thousand dollars cash. The right  
34 of election must be exercised within sixty days of the (~~fireman's~~)  
35 firefighter's death. If not so exercised, the pension benefits shall

1 become fixed and shall be paid from the date of death. Such pension  
2 shall cease if, and when, he or she remarries. If there is no widow or  
3 widower, then such pension benefits shall be paid to his or her child  
4 or children.

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

7 (1) Any ((~~fireman~~)) firefighter who shall become disabled as a  
8 result of the performance of his or her duty or duties as defined in  
9 this chapter, may be retired at the expiration of six months from the  
10 date of his or her disability, upon his or her written request filed  
11 with his or her retirement board. The board may upon such request  
12 being filed, consult such medical advice as it sees fit, and may have  
13 the applicant examined by such physicians as it deems desirable. If  
14 from the reports of such physicians the board finds the applicant  
15 capable of performing his or her duties in the fire department, the  
16 board may refuse to recommend his or her retirement.

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

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

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

30 Any ((~~fireman~~)) firefighter who has served more than fifteen years  
31 and sustains a disability not in the performance of his or her duty  
32 which renders him or her unable to continue his or her service, shall  
33 within sixty days exercise his or her choice either to receive his or  
34 her contribution to the fund, plus earned interest compounded  
35 semiannually, or be retired and paid a monthly pension based on the  
36 factor of his or her age shown in RCW 41.16.080, times his or her

1 average monthly salary as a member of the fire department of his or her  
2 municipality at the date of his or her retirement, times the number of  
3 years of service rendered at the time he or she sustained such  
4 disability. If such (~~fireman~~) firefighter shall die leaving  
5 surviving him a wife or surviving her a husband, or child or children,  
6 then such wife or husband, or if he leaves no wife or she leaves no  
7 husband, then his or her child or children shall receive the sum of his  
8 or her contributions, plus accumulated compound interest, and such  
9 payment shall be reduced in the amount of the payments made to  
10 deceased.

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

13 The amount of all benefits payable under the provisions of RCW  
14 41.16.080, 41.16.120, 41.16.130, 41.16.140 and 41.16.230 (~~as now or~~  
15 ~~hereafter amended,~~) shall be increased annually as hereafter in this  
16 section provided. The local pension board shall meet subsequent to  
17 March 31st but prior to June 30th of each year for the purposes of  
18 adjusting benefit allowances payable pursuant to the aforementioned  
19 sections. The local board shall determine the increase in the consumer  
20 price index between January 1st and December 31st of the previous year  
21 and increase in dollar amount the benefits payable subsequent to July  
22 1st of the year in which said board makes such determination by a  
23 dollar amount proportionate to the increase in the consumer price  
24 index: PROVIDED, That regardless of the change in the consumer price  
25 index, such increase shall be at least two percent each year such  
26 adjustment is made.

27 Each year effective with the July payment all benefits specified  
28 herein, shall be increased by this section. This benefit increase  
29 shall be paid monthly as part of the regular pension payment and shall  
30 be cumulative. The increased benefits authorized by this section shall  
31 not affect any benefit payable under the provisions of chapter 41.16  
32 RCW in which the benefit payment is attached to a current salary of the  
33 rank held at time of retirement. A beneficiary of benefit increases  
34 provided for pursuant to this section is hereby authorized to appeal a  
35 decision on such increases or the failure of the local pension board to  
36 order such increased benefits or the amount of such benefits to the

1 Washington law enforcement officers' and firefighters' system  
2 retirement board provided for in RCW 41.26.050.

3 For the purpose of this section the term  
4 "Consumer price index" shall mean, for any calendar year, the  
5 consumer price index for the Seattle, Washington area as compiled by  
6 the bureau of labor statistics of the United States department of  
7 labor.

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

10 (1) Any ((~~fireman~~)) firefighter who has served twenty years or more  
11 and who shall resign or be dismissed, shall have the option of  
12 receiving all his or her contributions plus earned interest compounded  
13 semiannually, or a monthly pension in the amount of his or her average  
14 monthly salary times the number of years of service rendered, times one  
15 and one-half percent. Payment of such pension shall commence at the  
16 time of severance from the fire department, or at the age of fifty-five  
17 years, whichever shall be later. The ((~~fireman~~)) firefighter shall  
18 have sixty days from the severance date to elect which option he or she  
19 will take. In the event he or she fails to exercise his or her right  
20 of election then he or she shall receive the amount of his or her  
21 contributions plus accrued compounded interest. In the event he or she  
22 elects such pension, but dies before attaining the age of fifty-five,  
23 his widow or her widower, or if he leaves no widow or she leaves no  
24 widower, then his or her child or children shall receive only his or  
25 her contribution, plus accrued compounded interest. In the event he or  
26 she elects to take a pension and dies after attaining the age of fifty-  
27 five, his widow or her widower, or if he leaves no widow or she leaves  
28 no widower, then child or children shall receive his or her  
29 contributions, plus accrued compounded interest, less the amount of  
30 pension payments made to such ((~~fireman~~)) firefighter during his or her  
31 lifetime.

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

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

3       Whenever any ((~~fireman~~)) firefighter, after four years of service,  
4 shall die from natural causes, or from an injury not sustained in the  
5 performance of his or her duty and for which no pension is provided in  
6 this chapter, and who has not been retired on account of disability,  
7 his widow or her widower, if he or she was his wife or her husband at  
8 the time he or she was stricken with his or her last illness, or at the  
9 time he or she received the injuries from which he or she died; or if  
10 there is no such widow, then his or her child or children shall be  
11 entitled to the amount of his or her contributions, plus accrued  
12 compounded interest, or the sum of one thousand dollars, whichever sum  
13 shall be the greater. In case of death as above stated, before the end  
14 of four years of service, an amount based on the proportion of the time  
15 of service to four years shall be paid such beneficiaries.

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

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

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

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

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

29       No ((~~fireman~~)) firefighter disabled in the performance of duty  
30 shall receive a pension until six months has elapsed after such  
31 disability was sustained. Therefore, whenever the retirement board,  
32 pursuant to examination by the board's physician and such other  
33 evidence as it may require, shall find a ((~~fireman~~)) firefighter has  
34 been disabled while in the performance of his or her duties, it shall  
35 declare him or her inactive. For a period of six months from the time



1 he or she became disabled, he or she shall continue to draw full pay  
2 from his or her municipality and in addition thereto he or she shall,  
3 at the expense of the municipality, be provided with such medical,  
4 hospital and nursing care as the retirement board deems proper. If the  
5 board finds at the expiration of six months that the ((fireman))  
6 firefighter is unable to return to and perform his or her duties, then  
7 he or she shall be retired as herein provided.

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

10 The board shall require all ((firemen)) firefighters receiving  
11 disability pensions to be examined every six months. All such  
12 examinations shall be made by physicians duly appointed by the board.  
13 If a ((fireman)) firefighter shall fail to submit to such examination  
14 within ten days of having been so ordered in writing by said retirement  
15 board all pensions or benefits paid to said ((fireman)) firefighter  
16 under this chapter, shall immediately cease and the disbursing officer  
17 in charge of such payments shall issue no further payments to such  
18 ((fireman)) firefighter. If such ((fireman)) firefighter fails to  
19 present himself or herself for examination within thirty days after  
20 being ordered so to do, he or she shall forfeit all rights under this  
21 chapter. If such ((fireman)) firefighter, upon examination as  
22 aforesaid, shall be found fit for service, he or she shall be restored  
23 to duty in the same rank held at the time of his or her retirement, or  
24 if unable to perform the duties of said rank, then, at his or her  
25 request, in such other rank, the duties of which he or she is then able  
26 to perform. The board shall thereupon so notify the ((fireman))  
27 firefighter and shall require him or her to resume his or her duties as  
28 a member of the fire department. If, upon being so notified, such  
29 member shall fail to report for employment within ten days, he or she  
30 shall forfeit all rights to any benefits under this chapter.

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

33 (1) Funds or assets on hand in the ((firemen's)) firefighters'  
34 relief and pension fund of any municipality established under the  
35 provisions of chapter 50, Laws of 1909, as amended, after payment of  
36 warrants drawn upon and payable therefrom, shall, by the city

1 treasurer, be transferred to and placed in the ((firemen's))  
2 firefighters' pension fund created by this chapter; and the  
3 ((firemen's)) firefighters' pension fund created by this chapter shall  
4 be liable for and there shall be paid therefrom in the order of their  
5 issuance any and all unpaid warrants drawn upon said ((firemen's))  
6 firefighters' relief and pension fund.

7 (2) Any moneys loaned or advanced by a municipality from the  
8 general or any other fund of such municipality to the ((firemen's))  
9 firefighters' relief and pension fund created under the provisions of  
10 chapter 50, Laws of 1909, as amended, and not repaid shall be an  
11 obligation of the ((firemen's)) firefighters' pension fund created  
12 under this chapter, and shall at such times and in such amounts as is  
13 directed by the board be repaid.

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

16 Any person who was a member of the fire department and within the  
17 provisions of chapter 50, Laws of 1909, as amended, at the time he or  
18 she entered, and who is a veteran, as defined in RCW 41.04.005, shall  
19 have added and accredited to his or her period of employment as a  
20 ((fireman)) firefighter as computed under this chapter his or her  
21 period of war service in such armed forces upon payment by him or her  
22 of his or her contribution for the period of his or her absence, at the  
23 rate provided by chapter 50, Laws of 1909, as amended, for other  
24 members: PROVIDED, HOWEVER, Such accredited service shall not in any  
25 case exceed five years.

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

28 Chapter 50, Laws of 1909; chapter 196, Laws of 1919; chapter 86,  
29 Laws of 1929, and chapter 39, Laws of 1935 (secs. 9559 to 9578, incl.,  
30 Rem. Rev. Stat.; secs. 396-1 to 396-43, incl., PPC) and all other acts  
31 or parts of acts in conflict herewith are hereby repealed: PROVIDED,  
32 That the repeal of said laws shall not affect any (("prior fireman",))  
33 "prior firefighter," his widow, her widower, child or children, any  
34 ((fireman)) firefighter eligible for retirement but not retired, his  
35 widow, her widower, child or children, or the rights of any retired  
36 ((fireman)) firefighter, his widow, her widower, child or children, to

1 receive payments and benefits from the (~~firemen's~~) firefighters'  
2 pension fund created under this chapter, in the amount, and in the  
3 manner provided by said laws which are hereby repealed and as if said  
4 laws had not been repealed.

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

7 If all or any portion of a fire protection district is annexed to  
8 or incorporated into a city or town, or is succeeded by a metropolitan  
9 municipal corporation or county fire department, no full time paid  
10 (~~fireman~~) firefighter affected by such annexation, incorporation or  
11 succession shall receive a reduction in his or her retirement and job  
12 security rights: PROVIDED, That this section shall not apply to any  
13 retirement and job security rights authorized under chapter 41.24 RCW.

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

16 For the purpose of this chapter, unless clearly indicated otherwise  
17 by the context, words and phrases shall have the meaning hereinafter  
18 ascribed.

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

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

1 of this chapter in accordance with RCW 41.18.170 and who is actively  
2 engaged as a ((fireman)) firefighter or as a member of the fire  
3 department as a ((fireman)) firefighter or fire dispatcher.

4 (3) "Retired ((fireman)) firefighter" means and includes a person  
5 employed as a ((fireman)) firefighter and retired under the provisions  
6 of this chapter.

7 (4) "Basic salary" means the basic monthly salary, including  
8 longevity pay, attached to the rank held by the retired ((fireman))  
9 firefighter at the date of his or her retirement, without regard to  
10 extra compensation which such ((fireman)) firefighter may have received  
11 for special duties assignments not acquired through civil service  
12 examination: PROVIDED, That such basic salary shall not be deemed to  
13 exceed the salary of a battalion chief.

14 (5) "Widow or widower" means the surviving spouse of a ((fireman))  
15 firefighter and shall include the surviving wife or husband of a  
16 ((fireman)) firefighter, retired on account of length of service, who  
17 was lawfully married to him or to her for a period of five years prior  
18 to the time of his or her retirement; and the surviving wife or husband  
19 of a ((fireman)) firefighter, retired on account of disability, who was  
20 lawfully married to him or her at and prior to the time he or she  
21 sustained the injury or contracted the illness resulting in his or her  
22 disability. The word shall not mean the divorced wife or husband of an  
23 active or retired ((fireman)) firefighter.

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

28 (7) "Earned interest" means and includes all annual increments to  
29 the ((firemen's)) firefighters' pension fund from income earned by  
30 investment of the fund. The earned interest payable to any ((fireman))  
31 firefighter when he or she leaves the service and accepts his or her  
32 contributions, shall be that portion of the total earned income of the  
33 fund which is directly attributable to each individual ((fireman's))  
34 firefighter's contributions. Earnings of the fund for the preceding  
35 year attributable to individual contributions shall be allocated to  
36 individual ((firemen's)) firefighters' accounts as of January 1st of  
37 each year.

- 1 (8) "Board" shall mean the municipal (~~(firemen's)~~) firefighters'  
2 pension board.
- 3 (9) "Contributions" shall mean and include all sums deducted from  
4 the salary of (~~(firemen)~~) firefighters and paid into the fund as  
5 hereinafter provided.
- 6 (10) "Disability" shall mean and include injuries or sickness  
7 sustained by a (~~(fireman)~~) firefighter.
- 8 (11) "Fire department" shall mean the regularly organized, full  
9 time, paid, and employed force of (~~(firemen)~~) firefighters of the  
10 municipality.
- 11 (12) "Fund" shall have the same meaning as in RCW 41.16.010 as now  
12 or hereafter amended. Such fund shall be created in the manner and be  
13 subject to the provisions specified in chapter 41.16 RCW as now or  
14 hereafter amended.
- 15 (13) "Municipality" shall mean every city, town and fire protection  
16 district having a regularly organized full time, paid, fire department  
17 employing (~~(firemen)~~) firefighters.
- 18 (14) "Performance of duty" shall mean the performance of work or  
19 labor regularly required of (~~(firemen)~~) firefighters and shall include  
20 services of an emergency nature normally rendered while off regular  
21 duty.

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

24 There is hereby created in each fire protection district which  
25 qualifies under this chapter, a (~~(firemen's)~~) firefighters' pension  
26 board to consist of the following five members, the (~~(chairman)~~)  
27 chairperson of the fire commissioners for said district who shall be  
28 (~~(chairman)~~) chairperson of the board, the county auditor, county  
29 treasurer, and in addition, two regularly employed or retired  
30 firefighters elected by secret ballot of the employed and retired  
31 firefighters. Retired members who are subject to the jurisdiction of  
32 the pension board have both the right to elect and the right to be  
33 elected under this section. The first members to be elected by the  
34 firefighters shall be elected annually for a two-year term. The two  
35 firefighter elected members shall, in turn, select a third eligible  
36 member who shall serve in the event of an absence of one of the  
37 regularly elected members. In case a vacancy occurs in the membership

1 of the firefighter or retired members, the members shall in the same  
2 manner elect a successor to serve the unexpired term. The board may  
3 select and appoint a secretary who may, but need not be a member of the  
4 board. In case of absence or inability of the ((~~chairman~~)) chairperson  
5 to act, the board may select a ((~~chairman~~)) chairperson pro tempore who  
6 shall during such absence or inability perform the duties and exercise  
7 the powers of the ((~~chairman~~)) chairperson. A majority of the members  
8 of said board shall constitute a quorum and have power to transact  
9 business.

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

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

15 (1) Generally supervise and control the administration of this  
16 chapter;

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

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

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

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

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

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

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

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

3       Whenever any ((~~fireman~~)) firefighter, at the time of taking effect  
4 of this act or thereafter, shall have been appointed under civil  
5 service rules and have served for a period of twenty-five years or more  
6 as a member in any capacity of the regularly constituted fire  
7 department of any city, town or fire protection district which may be  
8 subject to the provisions of this chapter, and shall have attained the  
9 age of fifty years, he or she shall be eligible for retirement and  
10 shall be retired by the board upon his or her written request. Upon  
11 his or her retirement such ((~~fireman~~)) firefighter shall be paid a  
12 monthly pension which shall be equal to fifty percent of the basic  
13 salary now or hereafter attached to the same rank and status held by  
14 the said ((~~fireman~~)) firefighter at the date of his or her retirement:  
15 PROVIDED, That a ((~~fireman~~)) firefighter hereafter retiring who has  
16 served as a member for more than twenty-five years, shall have his or  
17 her pension payable under this section increased by two percent of the  
18 basic salary per year for each full year of such additional service to  
19 a maximum of five additional years.

20       Upon the death of any such retired ((~~fireman~~)) firefighter, his or  
21 her pension shall be paid to his widow or her widower, at the same  
22 monthly rate that the retired ((~~fireman~~)) firefighter would have  
23 received had he or she lived, if such widow or widower was his wife or  
24 her husband for a period of five years prior to the time of his or her  
25 retirement. If there be no widow or widower, then such monthly  
26 payments shall be distributed to and divided among his or her children,  
27 share and share alike, until they reach the age of eighteen or are  
28 married, whichever occurs first.

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

31       Upon the death of a ((~~fireman~~)) firefighter who is eligible to  
32 retire under RCW 41.18.040 as now or hereafter amended, but who has not  
33 retired, a pension shall be paid to his widow or her widower at the  
34 same monthly rate that he or she was eligible to receive at the time of  
35 his or her death, if such widow or widower was his wife or her husband  
36 for a period of five years prior to his or her death. If there be no

1 widow or widower, then such monthly payments shall be distributed to  
2 and divided among his or her children, share and share alike, until  
3 they reach the age of eighteen or are married, whichever comes first.

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

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

10 Every ((fireman)) firefighter who shall become disabled as a result  
11 of the performance of duty may be retired at the expiration of six  
12 months from the date of his or her disability, upon his or her written  
13 request filed with his or her retirement board. The board may, upon  
14 such request being filed, consult such medical advice as it sees fit,  
15 and may have the applicant examined by such physicians as it deems  
16 desirable. If from the reports of such physicians the board finds the  
17 applicant capable of performing his or her duties in the fire  
18 department, the board may refuse to recommend his or her retirement.  
19 If, after the expiration of six months from the date of his or her  
20 disability, the board deems it for the good of the fire department or  
21 the pension fund it may recommend the retirement of a ((fireman))  
22 firefighter disabled as a result of the performance of duty without any  
23 request for the same by him or her, and after having been given by the  
24 board a thirty days' written notice of such recommendation he or she  
25 shall be retired.

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

28 Whenever the retirement board, pursuant to examination by the  
29 board's physician and such other evidence as it may require, shall find  
30 a firefighter has been disabled while in the performance of his or her  
31 duties it shall declare the firefighter inactive. For a period of six  
32 months from the time of the disability the firefighter shall draw from  
33 the pension fund a disability allowance equal to his or her basic  
34 monthly salary and, in addition, shall be provided with medical,  
35 hospital and nursing care as long as the disability exists. The board  
36 may, at its discretion, elect to reimburse the ((disabled)) firefighter



1 who is disabled for premiums the firefighter has paid for medical  
2 insurance that supplements medicare, including premiums the firefighter  
3 has paid for medicare part B coverage. If the board finds at the  
4 expiration of six months that the firefighter is unable to return to  
5 and perform his or her duties, the firefighter shall be retired at a  
6 monthly sum equal to fifty percent of the amount of his or her basic  
7 salary at any time thereafter attached to the rank which he or she held  
8 at the date of retirement: PROVIDED, That where, at the time of  
9 retirement hereafter for disability under this section, the firefighter  
10 has served honorably for a period of more than twenty-five years as a  
11 member, in any capacity of the regularly constituted fire department of  
12 a municipality, the firefighter shall have his or her pension payable  
13 under this section increased by two percent of his or her basic salary  
14 per year for each full year of additional service to a maximum of five  
15 additional years.

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

18 Any ((~~fireman~~)) firefighter who has completed his or her  
19 probationary period and has been permanently appointed, and sustains a  
20 disability not in the performance of his or her duty which renders him  
21 or her unable to continue his or her service, may request to be retired  
22 by filing a written request with his or her retirement board within  
23 sixty days from the date of his or her disability. The board may, upon  
24 such request being filed, consult such medical advice as it deems fit  
25 and proper. If the board finds the ((~~fireman~~)) firefighter capable of  
26 performing his or her duties, it may refuse to recommend retirement and  
27 order the ((~~fireman~~)) firefighter back to duty. If no request for  
28 retirement has been received after the expiration of sixty days from  
29 the date of his or her disability, the board may recommend retirement  
30 of the ((~~fireman~~)) firefighter. The board shall give the ((~~fireman~~))  
31 firefighter a thirty-day written notice of its recommendation, and he  
32 or she shall be retired upon expiration of said notice. Upon  
33 retirement he or she shall receive a pension equal to fifty percent of  
34 his or her basic salary. For a period of ninety days following such  
35 disability the ((~~fireman~~)) firefighter shall receive an allowance from  
36 the fund equal to his or her basic salary. He or she shall during said  
37 ninety days be provided with such medical, hospital, and nursing care

1 as the board deems proper. No funds shall be expended for such  
2 disability if the board determines that the ((fireman)) firefighter was  
3 gainfully employed or engaged for compensation in other than fire  
4 department duty when the disability occurred, or if such disability was  
5 the result of dissipation or abuse. Whenever any ((fireman))  
6 firefighter shall die as a result of a disability sustained not in the  
7 line of duty, his widow or her widower shall receive a monthly pension  
8 equal to one-third of his or her basic salary until remarried; if such  
9 widow or widower has dependent upon her or him for support a child or  
10 children of such deceased ((fireman)) firefighter, he or she shall  
11 receive an additional pension as follows: One child, one-eighth of the  
12 deceased's basic salary; two children, one-seventh; three or more  
13 children, one-sixth. If there be no widow or widower, monthly payments  
14 equal to one-third of the deceased ((fireman's)) firefighter's basic  
15 salary shall be made to his or her child or children. The widow or  
16 widower may elect at any time in writing to receive a cash settlement,  
17 and if the board after hearing finds it financially beneficial to the  
18 pension fund, he or she may receive the sum of five thousand dollars  
19 cash in lieu of all future monthly pension payments, and other  
20 benefits, including benefits to any child and/or children.

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

23 The board shall require all ((firemen)) firefighters receiving  
24 disability pensions to be examined every six months: PROVIDED, That no  
25 such examinations shall be required if upon certification by physicians  
26 the board shall formally enter upon its records a finding of fact that  
27 the disability is and will continue to be of such a nature that return  
28 to active duty can never reasonably be expected. All examinations  
29 shall be made by physicians duly appointed by the board. If a  
30 ((fireman)) firefighter shall willfully fail to present himself or  
31 herself for examination, within thirty days after being ordered so to  
32 do, he or she shall forfeit all rights under this chapter. If such  
33 ((fireman)) firefighter, upon examination as aforesaid, shall be found  
34 fit for service, he or she shall be restored to duty in the same rank  
35 held at the time of his or her retirement, or if unable to perform the  
36 duties of said rank then, at his or her request, in such other like or  
37 lesser rank as may be or become open and available, the duties of which

1 he or she is then able to perform. The board shall thereupon so notify  
2 the ((~~fireman~~)) firefighter and shall require him or her to resume his  
3 or her duties as a member of the fire department. If, upon being so  
4 notified, such member shall willfully fail to report for employment  
5 within ten days, he or she shall forfeit all rights to any benefit  
6 under this chapter.

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

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

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

36 The provisions of RCW 41.18.040 and 41.18.100 shall be applicable

1 to all ((firemen)) firefighters employed prior to March 1, 1970, but  
2 shall not apply to any former ((fireman)) firefighter who has  
3 terminated his or her employment prior to July 1, 1969.

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

6 Any ((fireman)) firefighter who shall have served for a period of  
7 less than twenty-five years, or who shall be less than fifty years of  
8 age, and shall resign, or be dismissed from the fire department for a  
9 reason other than conviction for a felony, shall be paid the amount of  
10 his or her contributions to the fund plus earned interest: PROVIDED,  
11 That in the case of any ((fireman)) firefighter who has completed  
12 twenty years of service, such ((fireman)) firefighter, upon termination  
13 for any cause except for a conviction of a felony, shall have the  
14 option of electing, in lieu of recovery of his or her contributions as  
15 herein provided, to be classified as a vested ((fireman)) firefighter  
16 in accordance with the following provisions:

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

20 (2) During the period between the date of his or her termination  
21 and the date upon which he or she becomes a retired ((fireman))  
22 firefighter as hereinafter provided, such vested ((fireman))  
23 firefighter and his or her spouse or dependent children shall be  
24 entitled to all benefits available under chapter 41.18 RCW to a retired  
25 ((fireman)) firefighter and his or her spouse or dependent children  
26 with the exception of the service retirement allowance as herein  
27 provided for: PROVIDED, That any claim for medical coverage under RCW  
28 41.18.060 shall be attributable to service connected illness or injury;

29 (3) Any ((fireman)) firefighter electing to become a vested  
30 ((fireman)) firefighter shall be entitled at such time as he or she  
31 otherwise would have completed twenty-five years of service had he or  
32 she not terminated, to receive a service retirement allowance computed  
33 on the following basis: Two percent of the amount of salary attached  
34 to the position held by the vested ((fireman)) firefighter for the year  
35 preceding the date of his or her termination, for each year of service  
36 rendered prior to the date of his or her termination.

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

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

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

9       Every person who was a member of the fire department at the time he  
10 or she entered and served in the armed forces of the United States in  
11 time of war, whether as a draftee, or inductee, and who shall have been  
12 discharged from such armed forces under conditions other than  
13 dishonorable, shall have added and accredited to his or her period of  
14 employment as a ((~~fireman~~)) firefighter his or her period of war or  
15 peacetime service in the armed forces: PROVIDED, That such added and  
16 accredited service shall not as to any individual exceed five years.

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

19       Every ((~~fireman~~)) firefighter as defined in this chapter heretofore  
20 employed as a member of a fire department, whether or not as a prior  
21 ((~~fireman~~)) firefighter as defined in chapter 41.16 RCW, who desires to  
22 make the contributions and avail himself or herself of the pension and  
23 other benefits of said chapter 41.16 RCW, can do so by handing to and  
24 leaving with the ((~~firemen's~~)) firefighters' pension board of his or  
25 her municipality a written notice of such intention within sixty days  
26 of the effective date of this chapter, or if he or she was on  
27 disability retirement under chapter 41.16 RCW, at the effective date of  
28 this chapter and has been recalled to active duty by the retirement  
29 board, shall give such notice within sixty days of his or her return to  
30 active duty, and not otherwise.

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

33       Every person who was a member of a fire-fighting organization  
34 operated by a private enterprise, which fire-fighting organization  
35 shall be hereafter acquired before September 1, 1959, by a municipality

1 as its fire department as a matter of public convenience or necessity,  
2 where it is in the public interest to retain the trained personnel of  
3 such fire-fighting organization, shall have added and accredited to his  
4 or her period of employment as a (~~fireman~~) firefighter his or her  
5 period of service with said private enterprise, except that this shall  
6 apply only to those persons who are in the service of such fire-  
7 fighting organization at the time of its acquisition by the  
8 municipality and who remain in the service of that municipality until  
9 this chapter shall become applicable to such persons.

10 No such person shall have added and accredited to his or her period  
11 of employment as a (~~fireman~~) firefighter his or her period of service  
12 with said private enterprise unless he, she, or a third party shall pay  
13 to the municipality his or her contribution for the period of such  
14 service with the private enterprise at the rate provided in RCW  
15 41.18.030, or, if he or she shall be entitled to any private pension or  
16 retirement benefits as a result of such service with the private  
17 enterprise, unless he or she agrees at the time of his or her  
18 employment by the municipality to accept a reduction in the payment of  
19 any benefits payable under this chapter that are based in whole or in  
20 part on such added and accredited service by the amount of those  
21 private pension or retirement benefits received. For the purposes of  
22 RCW 41.18.030, the date of entry of service shall be deemed the date of  
23 entry into service with the private enterprise, which service is  
24 accredited by this section, and the amount of contributions for the  
25 period of accredited service shall be based on the wages or salary of  
26 such person during that added and accredited period of service with the  
27 private enterprise.

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

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

34 The provisions of this chapter governing contributions, pensions,  
35 and benefits shall have exclusive application (1) to (~~firemen~~)  
36 firefighters as defined in this chapter hereafter becoming members of  
37 a fire department, (2) to (~~firemen~~) firefighters as defined in this

1 chapter heretofore employed in a department who have not otherwise  
2 elected as provided for in RCW 41.18.160, and (3) to ((firemen))  
3 firefighters on disability retirement under chapter 41.16 RCW, at the  
4 effective date of this chapter, who thereafter shall have been returned  
5 to active duty by the retirement board, and who have not otherwise  
6 elected as provided for in RCW 41.18.160 within sixty days after return  
7 to active duty.

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

10 Any ((fireman)) firefighter who has made contributions under any  
11 prior act may elect to avail himself or herself of the benefits  
12 provided by this chapter or under such prior act by filing written  
13 notice with the board within sixty days from the effective date of this  
14 1961 amendatory act: PROVIDED, That any ((fireman)) firefighter who  
15 has received refunds by reason of selecting the benefits of prior acts  
16 shall return the amount of such refunds as a condition to coverage  
17 under this 1961 amendatory act.

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

20 Any ((fireman)) firefighter as defined in RCW 41.18.010 who has  
21 prior to July 1, 1969 been employed as a member of a fire department  
22 and who desires to make contributions and avail himself or herself of  
23 the pension and other benefits of chapter 41.18 RCW as now law or  
24 hereafter amended, may transfer his or her membership from any other  
25 pension fund, except the Washington law enforcement officers' and  
26 firefighters' retirement system, to the pension fund provided in  
27 chapter 41.18 RCW: PROVIDED, That such ((fireman)) firefighter  
28 transmits written notice of his or her intent to transfer to the  
29 pension board of his or her municipality prior to September 1, 1969.

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

32 Any former employee of a department of a city of the first class,  
33 who (1) was a member of the employees' retirement system of such city,  
34 and (2) is now employed within the fire department of such city, may  
35 transfer his or her former membership credit from the city employees'

1 retirement system to the ((~~fireman's~~)) firefighter's pension system  
2 created by chapters 41.16 and 41.18 RCW by filing a written request  
3 with the board of administration and the municipal ((~~fireman's~~))  
4 firefighters' pension board, respectively.

5 Upon the receipt of such request, the transfer of membership to the  
6 city's ((~~fireman's~~)) firefighter's pension system shall be made,  
7 together with a transfer of all accumulated contributions credited to  
8 such member. The board of administration shall transmit to the  
9 municipal ((~~fireman's~~)) firefighters' pension board a record of service  
10 credited to such member which shall be computed and credited to such  
11 member as a part of his or her period of employment in the city's  
12 ((~~fireman's~~)) firefighter's pension system. For the purpose of the  
13 transfer contemplated by this section, those affected individuals who  
14 have formerly withdrawn funds from the city employees' retirement  
15 system shall be allowed to restore contributions withdrawn from that  
16 retirement system directly to the ((~~fireman's~~)) firefighter's pension  
17 system and receive credit in the ((~~fireman's~~)) firefighter's pension  
18 system for their former membership service in the prior system.

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

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

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

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

30 RCW 9.40.120, as now or hereafter amended, shall not prohibit the  
31 authorized use or possession of any material, substance, or device  
32 described therein by a member of the armed forces of the United States  
33 or by ((~~firemen~~)) firefighters, or peace officers, nor shall these  
34 sections prohibit the use or possession of any material, substance, or  
35 device described therein when used solely for scientific research or  
36 educational purposes or for any lawful purpose. RCW 9.40.120, as now



1 or hereafter amended, shall not prohibit the manufacture or disposal of  
2 an incendiary device for the parties or purposes described in this  
3 section.

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

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

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

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

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

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

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

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

18 The following conditions apply to solicitations as defined by RCW  
19 19.09.020:

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

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

25 (b) The identity of the charitable organization and the city of the  
26 principal place of business of the charitable organization;

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

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

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

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

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

6 (3) A person or organization soliciting charitable contributions by  
7 telephone shall make the disclosures required under subsection (1) or  
8 (2) of this section in the course of the solicitation but prior to  
9 asking for a commitment for a contribution from the solicitee, and in  
10 writing to any solicitee that makes a pledge within five working days  
11 of making the pledge. If the person or organization sends any  
12 materials to the person or organization solicited before the receipt of  
13 any contribution, those materials shall include the disclosures  
14 required in subsection (1) or (2) of this section, whichever is  
15 applicable.

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

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

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

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

26 (5) A container or vending machine displaying a solicitation must  
27 also display in a clear and conspicuous manner the name of the  
28 charitable organization for which funds are solicited, the name,  
29 business address, and telephone number of the individual and any  
30 commercial fund raiser responsible for collecting funds placed in the  
31 containers or vending machines, and the following statement: "This  
32 charity is currently registered with the secretary's office under the  
33 charitable solicitation act, registration number . . . ."

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

37 (a) The commercial fund raiser prior to conducting a solicitation

1 has written commitments from persons stating that they will accept  
2 donated tickets and specifying the number of tickets they will accept;

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

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

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

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

15 (a) The charitable contribution is tax deductible unless the  
16 charitable organization for which charitable contributions are being  
17 solicited or to which tickets for fund raising events or other services  
18 or goods will be donated, has applied for and received from the  
19 internal revenue service a letter of determination granting tax  
20 deductible status to the charitable organization;

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

25 (c) The person soliciting the charitable contribution is a member,  
26 staffer, helper, or employee of the charitable organization or words of  
27 similar meaning or effect that create the impression that the person  
28 soliciting is not a paid solicitor if the person soliciting is  
29 employed, contracted, or paid by a commercial fund raiser.

30 (8) If the charitable organization is associated with, or has a  
31 name that is similar to, any unit of government each person or  
32 organization soliciting contributions shall disclose to each person  
33 solicited whether the charitable organization is or is not part of any  
34 unit of government and the true nature of its relationship to the unit  
35 of government. This subsection does not apply to a foundation or other  
36 charitable organization that is organized, operated, or controlled by  
37 or in connection with a registered public charity, including any  
38 governmental agency or unit, from which it derives its name.

1 (9) No person may, in conducting any solicitation, use the name  
2 "police," "sheriff," "fire fighter," (~~"firemen,"~~) "firefighters," or  
3 a similar name unless properly authorized by a bona fide police,  
4 sheriff, or fire fighter organization or police, sheriff, or fire  
5 department. A proper authorization shall be in writing and signed by  
6 two authorized officials of the organization or department and shall be  
7 filed with the secretary.

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

13 (11) A charitable organization shall comply with all local  
14 governmental regulations that apply to soliciting for or on behalf of  
15 charitable organizations.

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

19 (13) Solicitations shall not be conducted by a charitable  
20 organization or commercial fund raiser that has, or if a corporation,  
21 its officers, directors, or principals have, been convicted of a crime  
22 involving solicitations for or on behalf of a charitable organization  
23 in this state, the United States, or any other state or foreign country  
24 within the past ten years or has been subject to any permanent  
25 injunction or administrative order or judgment under RCW 19.86.080 or  
26 19.86.090, involving a violation or violations of RCW 19.86.020, within  
27 the past ten years, or of restraining a false or misleading promotional  
28 plan involving solicitations for charitable organizations.

29 (14) No charitable organization or commercial fund raiser subject  
30 to this chapter may use or exploit the fact of registration under this  
31 chapter so as to lead the public to believe that registration  
32 constitutes an endorsement or approval by the state, but the use of the  
33 following is not deemed prohibited: "Currently registered with the  
34 Washington state secretary of state as required by law. Registration  
35 number . . . ."

36 (15) No entity may engage in any solicitation for contributions for  
37 or on behalf of any charitable organization or commercial fund raiser

1 unless the charitable organization or commercial fund raiser is  
2 currently registered with the secretary.

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

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

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

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

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

16 Every member of the city commission, before qualifying, shall give  
17 a good and sufficient bond to the city in a sum equivalent to five  
18 times the amount of his or her annual salary, conditioned for the  
19 faithful performance of the duties of his or her office. The bonds  
20 must be approved by a judge of the superior court for the county in  
21 which the city is located and filed with the clerk thereof. The  
22 commission, by resolution, may require any of its appointees to give  
23 bond to be fixed and approved by the commission and filed with the  
24 mayor.

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

27 The legislative body of each code city shall have power to organize  
28 and regulate its internal affairs within the provisions of this title  
29 and its charter, if any; and to define the functions, powers, and  
30 duties of its officers and employees; within the limitations imposed by  
31 vested rights, to fix the compensation and working conditions of such  
32 officers and employees and establish and maintain civil service, or  
33 merit systems, retirement and pension systems not in conflict with the  
34 provisions of this title or of existing charter provisions until  
35 changed by the people: PROVIDED, That nothing in this section or in  
36 this title shall permit any city, whether a code city or otherwise, to

1 enact any provisions establishing or respecting a merit system or  
2 system of civil service for (~~(firemen)~~) firefighters and (~~(policemen)~~)  
3 police officers which does not substantially accomplish the same  
4 purpose as provided by general law in chapter 41.08 RCW for (~~(firemen)~~)  
5 firefighters and chapter 41.12 RCW for (~~(policemen)~~) police officers  
6 now or as hereafter amended, or enact any provision establishing or  
7 respecting a pension or retirement system for (~~(firemen)~~) firefighters  
8 or (~~(policemen)~~) police officers which provides different pensions or  
9 retirement benefits than are provided by general law for such classes.

10 Such body may adopt and enforce ordinances of all kinds relating to  
11 and regulating its local or municipal affairs and appropriate to the  
12 good government of the city, and may impose penalties of fine not  
13 exceeding five thousand dollars or imprisonment for any term not  
14 exceeding one year, or both, for the violation of such ordinances,  
15 constituting a misdemeanor or gross misdemeanor as provided therein.  
16 However, the punishment for any criminal ordinance shall be the same as  
17 the punishment provided in state law for the same crime. Such a body  
18 alternatively may provide that violation of such ordinances constitutes  
19 a civil violation subject to monetary penalty, but no act which is a  
20 state crime may be made a civil violation.

21 The legislative body of each code city shall have all powers  
22 possible for a city or town to have under the Constitution of this  
23 state, and not specifically denied to code cities by law. By way of  
24 illustration and not in limitation, such powers may be exercised in  
25 regard to the acquisition, sale, ownership, improvement, maintenance,  
26 protection, restoration, regulation, use, leasing, disposition,  
27 vacation, abandonment or beautification of public ways, real property  
28 of all kinds, waterways, structures, or any other improvement or use of  
29 real or personal property, in regard to all aspects of collective  
30 bargaining as provided for and subject to the provisions of chapter  
31 41.56 RCW, as now or hereafter amended, and in the rendering of local  
32 social, cultural, recreational, educational, governmental, or corporate  
33 services, including operating and supplying of utilities and municipal  
34 services commonly or conveniently rendered by cities or towns.

35 In addition and not in limitation, the legislative body of each  
36 code city shall have any authority ever given to any class of  
37 municipality or to all municipalities of this state before or after the  
38 enactment of this title, such authority to be exercised in the manner

1 provided, if any, by the granting statute, when not in conflict with  
2 this title. Within constitutional limitations, legislative bodies of  
3 code cities shall have within their territorial limits all powers of  
4 taxation for local purposes except those which are expressly preempted  
5 by the state as provided in RCW 66.08.120, 82.36.440, 48.14.020, and  
6 48.14.080.

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

9 The department of police in a town shall be under the direction and  
10 control of the marshal subject to the direction of the mayor. He or  
11 she may pursue and arrest violators of town ordinances beyond the town  
12 limits.

13 ((His)) The marshal's lawful orders shall be promptly executed by  
14 deputies, police officers and ((watchmen)) watchpersons. Every citizen  
15 shall lend him or her aid, when required, for the arrest of offenders  
16 and maintenance of public order. He or she may appoint, subject to the  
17 approval of the mayor, one or more deputies, for whose acts he and his  
18 ((bondsmen)) or her bondspersons shall be responsible, whose  
19 compensation shall be fixed by the council. With the concurrence of  
20 the mayor, ((he)) the marshal may appoint additional ((policemen))  
21 police officers for one day only when necessary for the preservation of  
22 public order.

23 ((He)) The marshal shall have the same authority as that conferred  
24 upon sheriffs for the suppression of any riot, public tumult,  
25 disturbance of the peace, or resistance against the laws or public  
26 authorities in the lawful exercise of their functions and shall be  
27 entitled to the same protection.

28 ((He)) The marshal shall execute and return all process issued and  
29 directed to him or her by any legal authority and for his or her  
30 services shall receive the same fees as are paid to constables. ((He))  
31 The marshal shall perform such other services as the council by  
32 ordinance may require.

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

35 A police matron must be paid such compensation for her services as

1 shall be fixed by the city council and at such time as may be appointed  
2 for the payment of ((~~police~~men)) police officers.

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

5 The city or town council shall by ordinance provide that the whole  
6 amount or any amount not less than seventy-five percent of all license  
7 fees, penalties or other moneys collected under the authority of this  
8 chapter shall be paid into and placed to the credit of a special fund  
9 to be known as the "bicycle road fund." The moneys in the bicycle road  
10 fund shall not be transferred to any other fund and shall be paid out  
11 for the sole purpose of building and maintaining bicycle paths and  
12 roadways authorized to be constructed and maintained by this chapter or  
13 for special ((~~police~~men)) police officers, bicycle tags, stationery and  
14 other expenses growing out of the regulating and licensing of the  
15 riding of bicycles and other vehicles and the construction, maintenance  
16 and regulation of the use of bicycle paths and roadways.

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

19 Every city and town may by ordinance prescribe what acts shall  
20 constitute offenses against the purity of its water supply and the  
21 punishment or penalties therefor and enforce them. The mayor of each  
22 city and town may appoint special ((~~police~~men)) police officers, with  
23 such compensation as the city or town may fix, who shall, after taking  
24 oath, have the powers of constables, and who may arrest with or without  
25 warrant any person committing, within the territory over which any city  
26 or town is given jurisdiction by this chapter, any offense declared by  
27 law or by ordinance, against the purity of the water supply, or which  
28 violate any rule or regulation lawfully promulgated by the state board  
29 of health for the protection of the purity of such water supply. Every  
30 special ((~~police~~man)) police officer whose appointment is authorized  
31 herein may take any person arrested for any such offense or violation  
32 before any court having jurisdiction thereof to be proceeded with  
33 according to law. Every such special ((~~police~~man)) police officer  
34 shall, when on duty wear in plain view a badge or shield bearing the  
35 words "special police" and the name of the city or town by which he or  
36 she has been appointed.



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

3       (~~Police~~) Police officers in first class cities and all city  
4 (~~firemen~~) firefighters shall be excluded from the provisions of this  
5 chapter, except those employees of the fire department who are not  
6 eligible to the benefits of any (~~firemen's~~) firefighters' pension  
7 system established by or pursuant to state law, and who shall be  
8 included in the miscellaneous personnel.

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

11       (1) The governor is hereby authorized to enter on behalf of the  
12 state into an agreement with the secretary of health, education, and  
13 welfare consistent with the terms and provisions of this chapter, for  
14 the purpose of extending the benefits of the federal old-age and  
15 survivors insurance system to employees of the state or any political  
16 subdivision not members of an existing retirement system, or to members  
17 of a retirement system established by the state or by a political  
18 subdivision thereof or by an institution of higher learning with  
19 respect to services specified in such agreement which constitute  
20 "employment" as defined in RCW 41.48.020. Such agreement may contain  
21 such provisions relating to coverage, benefits, contributions,  
22 effective date, modification and termination of the agreement,  
23 administration, and other appropriate provisions as the governor and  
24 secretary of health, education, and welfare shall agree upon, but,  
25 except as may be otherwise required by or under the social security act  
26 as to the services to be covered, such agreement shall provide in  
27 effect that--

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

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

1 (c) Such agreement shall be effective with respect to services in  
2 employment covered by the agreement or modification thereof performed  
3 after a date specified therein but in no event may it be effective with  
4 respect to any such services performed prior to the first day of the  
5 calendar year immediately preceding the calendar year in which such  
6 agreement or modification of the agreement is accepted by the secretary  
7 of health, education and welfare.

8 (d) All services which constitute employment as defined in RCW  
9 41.48.020 and are performed in the employ of the state by employees of  
10 the state, shall be covered by the agreement;

11 (e) All services which (i) constitute employment as defined in RCW  
12 41.48.020, (ii) are performed in the employ of a political subdivision  
13 of the state, and (iii) are covered by a plan which is in conformity  
14 with the terms of the agreement and has been approved by the governor  
15 under RCW 41.48.050, shall be covered by the agreement; and

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

23 (g) As modified, the agreement shall include all services described  
24 in either paragraph (d) or paragraph (e) of this subsection and  
25 performed by individuals in positions covered by a retirement system  
26 with respect to which the governor has issued a certificate to the  
27 secretary of health, education, and welfare pursuant to subsection (5)  
28 of this section.

29 (h) Law enforcement officers and (~~firemen~~) firefighters of each  
30 political subdivision of this state who are covered by the Washington  
31 Law Enforcement Officers' and Fire Fighters' Retirement System Act  
32 (chapter 209, Laws of 1969 ex. sess.) as now in existence or hereafter  
33 amended shall constitute a separate "coverage group" for purposes of  
34 the agreement entered into under this section and for purposes of  
35 section 218 of the social security act. To the extent that the  
36 agreement between this state and the federal secretary of health,  
37 education, and welfare in existence on the date of adoption of this

1 subsection is inconsistent with this subsection, the governor shall  
2 seek to modify the inconsistency.

3 (2) Any instrumentality jointly created by this state and any other  
4 state or states is hereby authorized, upon the granting of like  
5 authority by such other state or states, (a) to enter into an agreement  
6 with the secretary of health, education, and welfare whereby the  
7 benefits of the federal old-age and survivors insurance system shall be  
8 extended to employees of such instrumentality, (b) to require its  
9 employees to pay (and for that purpose to deduct from their wages)  
10 contributions equal to the amounts which they would be required to pay  
11 under RCW 41.48.040(1) if they were covered by an agreement made  
12 pursuant to subsection (1) of this section, and (c) to make payments to  
13 the secretary of the treasury in accordance with such agreement,  
14 including payments from its own funds, and otherwise to comply with  
15 such agreements. Such agreement shall, to the extent practicable, be  
16 consistent with the terms and provisions of subsection (1) and other  
17 provisions of this chapter.

18 (3) The governor is empowered to authorize a referendum, and to  
19 designate an agency or individual to supervise its conduct, in  
20 accordance with the requirements of section 218(d)(3) of the social  
21 security act, and subsection (4) of this section on the question of  
22 whether service in all positions covered by a retirement system  
23 established by the state or by a political subdivision thereof should  
24 be excluded from or included under an agreement under this chapter. If  
25 a retirement system covers positions of employees of the state of  
26 Washington, of the institutions of higher learning, and positions of  
27 employees of one or more of the political subdivisions of the state,  
28 then for the purpose of the referendum as provided herein, there may be  
29 deemed to be a separate retirement system with respect to employees of  
30 the state, or any one or more of the political subdivisions, or  
31 institutions of higher learning and the governor shall authorize a  
32 referendum upon request of the subdivisions' or institutions' of higher  
33 learning governing body: PROVIDED HOWEVER, That if a referendum of  
34 state employees generally fails to produce a favorable majority vote  
35 then the governor may authorize a referendum covering positions of  
36 employees in any state department who are compensated in whole or in  
37 part from grants made to this state under title III of the federal  
38 social security act: PROVIDED, That any city or town affiliated with

1 the statewide city employees retirement system organized under chapter  
2 41.44 RCW may at its option agree to a plan submitted by the board of  
3 trustees of said statewide city employees retirement system for  
4 inclusion under an agreement under this chapter if the referendum to be  
5 held as provided herein indicates a favorable result: PROVIDED  
6 FURTHER, That the teachers' retirement system be considered one system  
7 for the purpose of the referendum except as applied to the several  
8 colleges of education. The notice of referendum required by section  
9 218(d)(3)(C) of the social security act to be given to employees shall  
10 contain or shall be accompanied by a statement, in such form and such  
11 detail as the agency or individual designated to supervise the  
12 referendum shall deem necessary and sufficient, to inform the employees  
13 of the rights which will accrue to them and their dependents and  
14 survivors, and the liabilities to which they will be subject, if their  
15 services are included under an agreement under this chapter.

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

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

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

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

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

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

32 (f) The state legislature, in the case of a referendum affecting  
33 the rights and liabilities of state employees covered under the state  
34 employees' retirement system and employees under the teachers'  
35 retirement system, and in all other cases the local legislative  
36 authority or governing body, shall have specifically approved the  
37 proposed plan and approved any necessary structural adjustment to the  
38 existing system to conform with the proposed plan.

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

6 (6) If the legislative body of any political subdivision of this  
7 state certifies to the governor that a referendum has been held under  
8 the terms of RCW 41.48.050(1)(i) and gives notice to the governor of  
9 termination of social security for any coverage group of the political  
10 subdivision, the governor shall give two years advance notice in  
11 writing to the federal department of health, education, and welfare of  
12 such termination of the agreement entered into under this section with  
13 respect to said coverage group.

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

16 ((Firemen)) Firefighters, when approved by the chief of their  
17 respective service, shall be authorized to use a green light on the  
18 front of their private cars when on emergency duty only. Such green  
19 light shall be visible for a distance of two hundred feet under normal  
20 atmospheric conditions and shall be of a type and mounting approved by  
21 the Washington state patrol. The use of the green light shall only be  
22 for the purpose of identification and the operator of a vehicle so  
23 equipped shall not be entitled to any of the privileges provided in RCW  
24 46.61.035 for the operators of authorized emergency vehicles.

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

27 No common carrier shall charge, demand, collect or receive a  
28 greater or less or different compensation for transportation of persons  
29 or property, or for any service in connection therewith, than the  
30 rates, fares and charges applicable to such transportation as specified  
31 in its schedules filed and in effect at the time; nor shall any such  
32 carrier refund or remit in any manner or by any device any portion of  
33 the rates, fares, or charges so specified excepting upon order of the  
34 commission as hereinafter provided, nor extend to any shipper or person  
35 any privileges or facilities in the transportation of passengers or  
36 property except such as are regularly and uniformly extended to all

1 persons and corporations under like circumstances. No common carrier  
2 shall, directly or indirectly, issue or give any free ticket, free pass  
3 or free or reduced transportation for passengers between points within  
4 this state, except its employees and their families, surgeons and  
5 physicians and their families, its officers, agents and attorneys at  
6 law; to ministers of religion, traveling secretaries of railroad Young  
7 Men's Christian Associations, inmates of hospitals, charitable and  
8 eleemosynary institutions and persons exclusively engaged in charitable  
9 and eleemosynary work; to indigent, destitute and homeless persons and  
10 to such persons when transported by charitable societies or hospitals,  
11 and the necessary agents employed in such transportation; to inmates of  
12 the national homes or state homes for disabled volunteer soldiers and  
13 of soldiers' and sailors' homes, including those about to enter and  
14 those returning home after discharge; to necessary caretakers of  
15 livestock, poultry, milk and fruit; to employees of sleeping car  
16 companies, express companies, and to (~~linemen~~) lineworkers of  
17 telegraph and telephone companies; to railway mail service employees,  
18 post office inspectors, customs inspectors and immigration inspectors;  
19 to (~~newsboys~~) newspaper delivery persons on trains; baggage agents,  
20 witnesses attending any legal investigation in which the common carrier  
21 is interested; to persons injured in accidents or wrecks and physicians  
22 and nurses attending such persons; to the National Guard of Washington  
23 when on official duty, and students going to and returning from state  
24 institutions of learning: PROVIDED, That this provision shall not be  
25 construed to prohibit the interchange of passes for the officers,  
26 attorneys, agents and employees and their families, of railroad  
27 companies, steamboat companies, express companies and sleeping car  
28 companies with other railroad companies, steamboat companies, express  
29 companies and sleeping car companies, nor to prohibit any common  
30 carrier from carrying passengers free with the object of providing  
31 relief in cases of general epidemic, pestilence, or other calamitous  
32 visitation: AND PROVIDED, FURTHER, That this provision shall not be  
33 construed to prohibit the exchange of passes or franks for the  
34 officers, attorneys, agents, employees, and their families of such  
35 telegraph, telephone and cable lines, and the officers, attorneys,  
36 agents, employees, and their families of other telegraph, telephone or  
37 cable lines, or with railroad companies, express companies or sleeping  
38 car companies: PROVIDED, FURTHER, That the term "employee" as used in

1 this section shall include furloughed, pensioned, and superannuated  
2 employees, persons who have become disabled or infirm in the service of  
3 any such common carrier, and the remains of a person killed or dying in  
4 the employment of a carrier, those entering or leaving its service and  
5 ex-employees traveling for the purpose of entering the service of any  
6 such common carrier; and the term "families" as used in this section  
7 shall include the families of those persons named in this proviso, also  
8 the families of persons killed and the surviving spouses prior to  
9 remarriage and minor children during minority, of persons who died  
10 while in the service of any such common carrier: AND PROVIDED,  
11 FURTHER, That nothing herein contained shall prevent the issuance of  
12 mileage, commutation tickets or excursion passenger tickets: AND  
13 PROVIDED, FURTHER, That nothing in this section shall be construed to  
14 prevent the issuance of free or reduced transportation by any street  
15 railroad company for mail carriers, or (~~police men~~) police officers or  
16 members of fire departments, city officers, and employees when engaged  
17 in the performance of their duties as such city employees.

18 Common carriers subject to the provisions of this title may carry,  
19 store or handle, free or at reduced rates, property for the United  
20 States, state, county or municipal governments, or for charitable  
21 purposes, or to or from fairs and exhibitions for exhibition thereat,  
22 and may carry, store or handle, free or at reduced rates, the household  
23 goods and personal effects of its employees and those entering or  
24 leaving its service and those killed or dying while in its service.

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

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

32 The city clerk shall keep a full and true record of every act and  
33 proceeding of the city council and keep such books, accounts and make  
34 such reports as may be required by the state auditor. The city clerk  
35 shall record all ordinances, annexing thereto his or her certificate  
36 giving the number and title of the ordinance, stating that the  
37 ordinance was published and posted according to law and that the record

1 is a true and correct copy thereof. The record copy with the clerk's  
2 certificate shall be prima facie evidence of the contents of the  
3 ordinance and of its passage and publication and shall be admissible as  
4 such evidence in any court or proceeding.

5 The city clerk shall be custodian of the seal of the city and shall  
6 have authority to acknowledge the execution of all instruments by the  
7 city which require acknowledgment.

8 The city clerk may appoint a deputy for whose acts he or she and  
9 his or her (~~bondsmen~~) bondspersons shall be responsible, and he or  
10 she and his or her deputy shall have authority to take all necessary  
11 affidavits to claims against the city and certify them without charge.

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

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

16 The town clerk shall be custodian of the seal of the town. ((He))  
17 The town clerk may appoint a deputy for whose acts he or she and his  
18 (~~bondsmen~~) or her bondspersons shall be responsible(~~(+he)~~). The  
19 town clerk and his or her deputy may administer oaths or affirmations  
20 and certify to them, and may take affidavits and depositions to be used  
21 in any court or proceeding in the state.

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

25 At the end of every fiscal year ((he)) the town clerk shall make a  
26 full and detailed statement of receipts and expenditures of the  
27 preceding year and a full statement of the financial condition of the  
28 town which shall be published.

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

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

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

35 The plaintiff or defendant at any time, upon two days' notice to  
36 the adverse party, may apply to the court or any judge thereof for an



1 order raising or lowering the amount of any bond in this chapter  
2 provided for. Either party may, upon like notice, apply to the court  
3 or any judge thereof for an order requiring additional or other surety  
4 or sureties upon any such bond. Upon the hearing or any application  
5 made under the provisions of this section evidence may be given. The  
6 judge after hearing any such application shall make such an order as  
7 shall be just in the premises. The ((bondsmen)) bondspersons may be  
8 required to be present at such hearing if so required in the notice  
9 thereof, and shall answer under oath all questions that may be asked  
10 them touching their qualifications as ((bondsmen)) bondspersons, and in  
11 the event the ((bondsmen)) bondspersons shall fail or refuse to appear  
12 at such hearing and so answer such questions the bond shall be  
13 stricken. In the event the court shall order a new or additional bond  
14 to be furnished by defendant, and the same shall not be given within  
15 twenty-four hours, the court shall order the sheriff to forthwith  
16 execute the writ. In the event the defendant shall file a second or  
17 additional bond and it shall also be found insufficient after hearing,  
18 as above provided, the right to retain the premises by bond shall be  
19 lost and the sheriff shall forthwith put the plaintiff in possession of  
20 the premises.

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

23 Whenever any licensee is delinquent in the payment of any  
24 obligation imposed hereunder, and such delinquency continues after  
25 notice and demand for payment by the department, the department shall  
26 proceed to collect the amount due from the licensee in the following  
27 manner: The department shall seize any property subject to the lien of  
28 said excise tax, penalty, and interest and thereafter sell it at public  
29 auction to pay said obligation and any and all costs that may have been  
30 incurred on account of the seizure and sale. Notice of such intended  
31 sale and the time and place thereof shall be given to such delinquent  
32 licensee and to all persons appearing of record to have an interest in  
33 such property. The notice shall be given in writing at least ten days  
34 before the date set for the sale by enclosing it in an envelope  
35 addressed to the licensee at the licensee's address as the same appears  
36 in the records of the department and, in the case of any person  
37 appearing of record to have an interest in such property, addressed to

1 such person at his or her last known residence or place of business,  
2 and depositing such envelope in the United States mail, postage  
3 prepaid. In addition, the notice shall be published for at least ten  
4 days before the date set for the sale in a newspaper of general  
5 circulation published in the county in which the property seized is to  
6 be sold. If there is no newspaper of general circulation in such  
7 county, the notice shall be posted in three public places in the county  
8 for a period of ten days. The notice shall contain a description of  
9 the property to be sold, together with a statement of the amount due  
10 under this chapter, the name of the licensee and the further statement  
11 that unless such amount is paid on or before the time fixed in the  
12 notice the property will be sold in accordance with law.

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

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

33 For the purpose of organizing an irrigation district, a petition,  
34 signed by the required number of holders of title or evidence of title  
35 to land within the proposed district, shall be presented to the board  
36 of county commissioners of the county in which the lands, or the

1 greater portion thereof, are situated, which petition shall contain the  
2 following:

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

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

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

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

15 (5) Any other matter deemed material.

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

18 The petition must be accompanied by a good and sufficient bond, to  
19 be approved by the board of county commissioners, in double the amount  
20 of the probable cost of organizing the district, and conditioned that  
21 the ((bondsmen)) bondspersons will pay all of the cost in case such  
22 organization shall not be effected. Said petition shall be presented  
23 at a regular meeting of the said board, or at any special meeting  
24 ordered to consider and act upon said petition, and shall be published  
25 once a week, for at least two weeks (three issues) before the time at  
26 which the same is to be presented, in some newspaper of general  
27 circulation printed and published in the county where said petition is  
28 to be presented, together with a notice signed by the clerk of the  
29 board of county commissioners stating the time of the meeting at which  
30 the same will be presented. There shall also be published a notice of  
31 the hearing on said petition in a newspaper published at Olympia,  
32 Washington, to be designated by the director of ecology from year to  
33 year, which said notice shall be published for at least two weeks  
34 (three issues) prior to the date of said meeting and shall contain the  
35 name of the county or counties and the number of each township and  
36 range in which the lands embraced within the boundaries of the proposed  
37 district are situated, also the time, place and purpose for said  
38 meeting, which said notice shall be signed by the petitioner whose name

1 first appears upon the said petition. If any portion of the lands  
2 within said proposed district lie within another county or counties,  
3 then the said petition and notice shall be published for the time above  
4 provided in one newspaper printed and published in each of said  
5 counties. The said notice, together with a map of the district, shall  
6 also be served by registered mail at least thirty days before the said  
7 hearing upon the state director of ecology at Olympia, Washington, who  
8 shall, at the expense of the district in case it is later organized,  
9 otherwise at the expense of the petitioners' (~~bondsmen~~) bondspersons,  
10 make such investigation of the sufficiency of the source and supply of  
11 water for the purposes of the proposed district, as he or she may deem  
12 necessary, and file a report of his or her findings, together with a  
13 statement of his or her costs, with the board of county commissioners  
14 at or prior to the time set for said hearing. When the petition is  
15 presented, the board of county commissioners shall hear the same, shall  
16 receive such evidence as it may deem material, and may adjourn such  
17 hearing from time to time, not exceeding four weeks in all, and on the  
18 final hearing shall establish and define the boundaries of the district  
19 along such lines as in the judgment of the board will best reclaim the  
20 lands involved and enter an order to that effect: PROVIDED, That said  
21 board shall not modify the boundaries so as to except from the  
22 operation of the district any territory within the boundaries outlined  
23 in the petition, which is susceptible of irrigation by the same system  
24 of works applicable to other lands in such proposed district and for  
25 which a water supply is available; nor shall any lands which, in the  
26 judgment of said board, will not be benefited, be included within such  
27 district; any lands included within any district, which have a partial  
28 or full water right shall be given equitable credit therefor in the  
29 apportionment of the assessments in this act provided for: AND  
30 PROVIDED FURTHER, That any owner, whose lands are susceptible of  
31 irrigation from the same source, and in the judgment of the board it is  
32 practicable to irrigate the same by the proposed district system,  
33 shall, upon application to the board at the time of the hearing, be  
34 entitled to have such lands included in the district.

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

1 The clerk of the board of county commissioners shall then give  
2 notice of the election ordered to be held as aforesaid, which notice  
3 shall describe the district boundaries as established, and shall give  
4 the name by which said proposed district has been designated, and shall  
5 state the purposes and objects of said election, and shall be published  
6 once a week, for at least two weeks (three issues) prior to said  
7 election, in a newspaper of general circulation published in the county  
8 where the petition aforesaid was presented; and if any portion of said  
9 proposed district lies within another county or counties, then said  
10 notice shall be published in like manner in a newspaper within each of  
11 said counties. Said election notice shall also require the electors to  
12 cast ballots which shall contain the words "Irrigation District--Yes,"  
13 and "Irrigation District--No," and also the names of persons to be  
14 voted for as directors of the district: PROVIDED, That where in this  
15 act publication is required to be made in a newspaper of any county,  
16 the same may be made in a newspaper of general circulation in such  
17 county, selected by the person or body charged with making the  
18 publication and such newspaper shall be the official paper for such  
19 purpose.

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

22 A petition to convert an existing irrigation district to an  
23 irrigation and rehabilitation district shall be signed by at least  
24 fifty holders of title or evidence of title to land within the  
25 district. The petition shall contain the following:

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

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

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

36 It shall be unlawful from and after the passage of this chapter for

1 any officer, agent, or employee of the state of Washington, or of any  
2 county, city or other political subdivision thereof, or for any other  
3 person, firm or corporation, or its officers, agents or employees, to  
4 run, place, erect, maintain, or use any electrical apparatus or  
5 construction, except as provided in the rules of this chapter.

6 Rule 1. No wire or cable, except the neutral, carrying a current  
7 of less than seven hundred fifty volts of electricity within the  
8 corporate limits of any city or town shall be run, placed, erected,  
9 maintained or used on any insulator the center of which is less than  
10 thirteen inches from the center line of any pole. And no such wire,  
11 except the neutral, shall be run past any pole to which it is not  
12 attached at a distance of less than thirteen inches from the center  
13 line thereof. This rule shall not apply to any wire or cable where the  
14 same is run from under ground and placed vertically on the pole; nor to  
15 any wire or cable where the same is attached to the top of the pole;  
16 nor to a pole top fixture as between it and the same pole; nor to any  
17 wire or cable between the points where the same is made to leave any  
18 pole or fixture thereon for the purpose of entering any building or  
19 other structure and the point of attachment to such building or  
20 structure; nor to any jumper wire or cable carrying a current or  
21 connected with a transformer or other appliance on the same pole; nor  
22 to bridle or jumper wires on any pole which are attached to or  
23 connected with signal wires on the same pole; nor to any aerial cable  
24 as between such cable and any pole upon which it originates or  
25 terminates; nor to exclusive telephone or telegraph toll lines; nor to  
26 aerial cables containing telephone, telegraph, or signal wires, or  
27 wires continuing from same, where the cable is attached to poles on  
28 which no wires or cables other than the wires continuing from said  
29 cable are maintained, provided, that electric light or power wires or  
30 cables are in no case maintained on the same side of the street or  
31 highway on which said aerial cable is placed.

32 Rule 2. No wire or cable used to carry a current of over seven  
33 hundred fifty volts of electricity within the incorporate limits of any  
34 city or town shall be run, placed, erected, maintained or used on any  
35 insulator the center of which is nearer than twenty-four inches to the  
36 center line of any pole. And no such wire or cable shall be run past  
37 any pole to which it is not attached at a distance of less than twenty-  
38 four inches from the center line thereof: PROVIDED, That this shall

1 not apply to any wire or cable where the same is run from under ground  
2 and placed vertically on the pole; nor to any wire or cable where the  
3 same is attached to the top of the pole; nor to a pole top fixture, as  
4 between it and the same pole; nor to any wire or cable between the  
5 points where the same is made to leave any pole or fixture thereon for  
6 the purpose of entering any building or other structure, and the point  
7 of attachment to said building or structure; nor to any jumper wire or  
8 cable carrying a current or connected with transformers or other  
9 appliances on the same pole: PROVIDED FURTHER, That where said wire or  
10 cable is run vertically, it shall be rigidly supported and where  
11 possible run on the ends of the cross-arms.

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

34 Rule 4. No wire or cable used for telephone, telegraph, district  
35 messenger, or call bell circuit, fire or burglar alarm, or any other  
36 similar system, shall be run, placed, erected, maintained or used on  
37 any pole at a distance of less than three feet from any wire or cable  
38 carrying a current of over three hundred volts of electricity; and in

1 all cases (except those mentioned in exceptions to Rules 1, 2 and 3)  
2 where such wires or cables are run, above or below, or cross over or  
3 under electric light or power wires, or a trolley wire, a suitable  
4 method of construction, or insulation or protection to prevent contact  
5 shall be maintained as between such wire or cable and such electric  
6 light, power or trolley wire; and said methods of construction,  
7 insulation or protection shall be installed by, or at the expense of  
8 the person owning the wire last placed in point of time: PROVIDED,  
9 That telephone, telegraph or signal wires or cables operated for  
10 private use and not furnishing service to the public, may be placed  
11 less than three feet from any line carrying a voltage of less than  
12 seven hundred and fifty volts.

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

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

31 Rule 7. The neutral point or wire of all transformer secondaries  
32 strung or erected for use in low potential distributing systems shall  
33 be grounded in all cases where the normal maximum difference of  
34 potential between the ground and any point in the secondary circuit  
35 will not exceed one hundred and fifty volts. When no neutral point or  
36 wire is accessible one side of the secondary circuit shall be grounded  
37 in the case of single phase transformers, and any one common point in  
38 the case of interconnected polyphase bank or banks of transformers.



1 Where the maximum difference of potential between the ground and any  
2 point in the secondary circuit will, when grounded, exceed one hundred  
3 fifty volts, grounding shall be permitted. Such grounding shall be  
4 done in the manner provided in Rule 30.

5 Rule 8. In all cases where a wire or cable larger than No. 14  
6 B.W.G. originates or terminates on insulators attached to any pin or  
7 other appliance, said wire or cable shall be attached to at least two  
8 insulators: PROVIDED HOWEVER, That this section shall not apply to  
9 service wires to buildings; nor to wires run vertically on a pole; nor  
10 to wires originating or terminating on strain insulators or circuit  
11 breakers; nor to telephone, telegraph or signal wires outside the  
12 limits of any incorporated city or town.

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

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

34 Rule 11. In all span wires used for the purpose of supporting  
35 trolley wires or series arc lamps there shall be at least two circuit  
36 breakers, one of which shall at all times be maintained no less than  
37 four feet nor more than six feet distant from the trolley wire or  
38 series arc lamp, and in cases where the same is supported by a building

1 or metallic pole, the other circuit breaker shall be maintained at the  
2 building or at the pole: PROVIDED, That in span wires which support  
3 two or more trolley wires no circuit breaker shall be required in the  
4 span wire between any two of the trolley wires: PROVIDED FURTHER, That  
5 in span wires supporting trolley wires attached to wooden poles only  
6 the circuit breaker adjacent to the trolley wire shall be required.

7 Rule 12. At all points where in case of a breakdown of trolley  
8 span wires, the trolley wire would be liable to drop within seven feet  
9 of the ground, there shall be double span wires and hangers placed at  
10 such points.

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

15 Rule 14. The secondary circuit of current transformers, the  
16 casings of all potential regulators and arc light transformers, all  
17 metal frames of all switch boards, metal oil tanks used on oil switches  
18 except where the tank is part of the conducting system, all motor and  
19 generator frames, the entire frame of the crane and the tracks of all  
20 traveling cranes and hoisting devices, shall be thoroughly grounded, as  
21 provided in Rule 30.

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

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

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

37 Rule 18. When lines of seven hundred fifty volts or over are cut  
38 out at the station or substation to allow employees to work upon them,

1 they shall be short-circuited and grounded at the station, and shall in  
2 addition, if the line wires are bare, be short-circuited, and where  
3 possible grounded at the place where the work is being done.

4 Rule 19. All switches installed with overload protection devices,  
5 and all automatic overload circuit breakers must have the trip coils so  
6 adjusted as to afford complete protection against overloads and short  
7 circuits, and the same must be so arranged that no pole can be opened  
8 manually without opening all the poles, and the trip coils shall be  
9 instantly operative upon closing.

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

14 Rule 21. There shall be provided in all distributing stations a  
15 ground detecting device.

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

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

35 Rule 24. All manholes containing any wires or appliances carrying  
36 electrical current shall be kept in a sanitary condition, free from  
37 stagnant water or seepage or other drainage which is offensive or

1 dangerous to health, either by sewer connection or otherwise, while any  
2 person is working in the same.

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

7 Rule 26. No manhole shall have an opening which is, at the surface  
8 of the ground, within a distance of three feet at any point from any  
9 rail of any railway or street car track: PROVIDED, That this shall not  
10 apply where satisfactory proof shall be submitted to the proper  
11 authorities that it is impracticable or physically impossible to comply  
12 with the provisions of this paragraph: PROVIDED, That in complying  
13 with the provisions of this rule only the construction last in point of  
14 time performed, placed or erected shall be held to be in violation  
15 thereof.

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

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

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

36 No work shall be permitted to be done in any manhole or subway on  
37 any live wire, cable or appliance carrying more than three hundred

1 volts of electricity by less than two competent and experienced  
2 persons, who at all times while performing such work shall be in the  
3 same manhole or subway in which such work is being done.

4 Rule 30. The grounding provided for in these rules shall be done  
5 in the following manner: By connecting a wire or wires not less than  
6 No. 6 B.&S. gauge to a water pipe of a metallic system outside of the  
7 meter, if there is one, or to a copper plate one-sixteenth inch thick  
8 and not less than three feet by six feet area buried in coke below the  
9 permanent moisture level, or to other device equally as efficient. The  
10 ground wire or wires of a direct current system of three or more wires  
11 shall not be smaller than the neutral wire at the central station, and  
12 not smaller than a No. 6 B.&S. gauge elsewhere: PROVIDED, That the  
13 maximum cross section area of any ground wire or wires at the central  
14 station need not exceed one million circular mils. The ground wires  
15 shall be carried in as nearly a straight line as possible, and kinks,  
16 coils and short bends shall be avoided: PROVIDED, That the provisions  
17 of this rule shall not apply as to size to ground wires run from  
18 instrument transformers or meters.

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

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

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

29 (1) Nothing in RCW 19.28.161 through 19.28.271 shall be construed  
30 to require that a person obtain a license or a certified electrician in  
31 order to do electrical work at his or her residence or farm or place of  
32 business or on other property owned by him or her unless the electrical  
33 work is on the construction of a new building intended for rent, sale,  
34 or lease. However, if the construction is of a new residential  
35 building with up to four units intended for rent, sale, or lease, the  
36 owner may receive an exemption from the requirement to obtain a license

1 or use a certified electrician if he or she provides a signed affidavit  
2 to the department stating that he or she will be performing the work  
3 and will occupy one of the units as his or her principal residence.  
4 The owner shall apply to the department for this exemption and may only  
5 receive an exemption once every twenty-four months. It is intended  
6 that the owner receiving this exemption shall occupy the unit as his or  
7 her principal residence for twenty-four months after completion of the  
8 units.

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

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

19 (4) Nothing in RCW 19.28.161 through 19.28.271 shall be deemed to  
20 apply to the installation or maintenance of telephone, telegraph,  
21 radio, or television wires and equipment; nor to any electrical utility  
22 or its employees in the installation, repair, and maintenance of  
23 electrical wiring, circuits, and equipment by or for the utility, or  
24 comprising a part of its plants, lines or systems.

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

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

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

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

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

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

9 (7) Nothing precludes any person who is exempt from the licensing  
10 requirements of this chapter under this section from obtaining a  
11 journeyman or specialty certificate of competency if they otherwise  
12 meet the requirements of this chapter.

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

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

1 installation work, or four years of electrical training in a college of  
2 electrical engineering of recognized standing and two years continuous  
3 practical electrical experience in electrical installation work; or  
4 four years experience as a (~~journeyman~~) journeyperson electrician  
5 performing the duties of an electrical inspector employed by the  
6 department or a city or town with an approved inspection program under  
7 RCW 19.28.141, except that for work performed in accordance with the  
8 national electrical safety code and covered by this chapter, such  
9 inspections may be performed by a person certified as an outside  
10 (~~journeyman—lineman~~) journeyperson lineworker, under RCW  
11 19.28.261(~~(+2)~~) (5)(b), with four years experience or a person with  
12 four years experience as a certified outside (~~journeyman—lineman~~)  
13 journeyperson lineworker performing the duties of an electrical  
14 inspector employed by an electrical utility. Such state inspectors  
15 shall be paid such salary as the director of labor and industries shall  
16 determine, together with their travel expenses in accordance with RCW  
17 43.03.050 and 43.03.060 as now existing or hereafter amended. As a  
18 condition of employment, inspectors hired exclusively to perform  
19 inspections in accordance with the national electrical safety code must  
20 possess and maintain certification as an outside (~~journeyman—lineman~~)  
21 journeyperson lineworker. The expenses of the director of labor and  
22 industries and the salaries and expenses of state inspectors incurred  
23 in carrying out the provisions of this chapter shall be paid entirely  
24 out of the electrical license fund, upon vouchers approved by the  
25 director of labor and industries.

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

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

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

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

35 (1) "Authority" means the Washington higher education facilities  
36 authority created under RCW 28B.07.030 or any board, body, commission,



1 department or officer succeeding to the principal functions of the  
2 authority or to whom the powers conferred upon the authority shall be  
3 given by law.

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

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

9 (4) "Higher education institution" means a private, nonprofit  
10 educational institution, the main campus of which is permanently  
11 situated in the state, which is open to residents of the state, which  
12 neither restricts entry on racial or religious grounds, which provides  
13 programs of education beyond high school leading at least to the  
14 baccalaureate degree, and which is accredited by the Northwest  
15 Association of Schools and Colleges or by an accrediting association  
16 recognized by the higher education coordinating board.

17 (5) "Participant" means a higher education institution which, under  
18 this chapter, undertakes the financing of a project or projects or  
19 undertakes the refunding or refinancing of obligations, mortgages, or  
20 advances previously incurred for a project or projects.

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

34 (7) "Project cost" means any cost related to the acquisition,  
35 construction, improvement, alteration, or rehabilitation by a  
36 participant or the authority of any project and the financing of the  
37 project through the authority, including, but not limited to, the  
38 following costs paid or incurred: Costs of acquisition of land or

1 interests in land and any improvement; costs of contractors, builders,  
2 laborers, (~~materialmen~~) material suppliers, and suppliers of tools  
3 and equipment; costs of surety and performance bonds; fees and  
4 disbursements of architects, surveyors, engineers, feasibility  
5 consultants, accountants, attorneys, financial consultants, and other  
6 professionals; interest on bonds issued by the authority during any  
7 period of construction; principal of and interest on interim financing  
8 of any project; debt service reserve funds; depreciation funds, costs  
9 of the initial start-up operation of any project; fees for title  
10 insurance, document recording, or filing; fees of trustees and the  
11 authority; taxes and other governmental charges levied or assessed on  
12 any project; and any other similar costs. Except as specifically set  
13 forth in this definition, the term "project cost" does not include  
14 books, fuel, supplies, and similar items which are required to be  
15 treated as a current expense under generally accepted accounting  
16 principles.

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

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

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

34 (2)(a) A state agency or authorized local government may create a  
35 single general small works roster, or may create a small works roster  
36 for different specialties or categories of anticipated work. Where  
37 applicable, small works rosters may make distinctions between

1 contractors based upon different geographic areas served by the  
2 contractor. The small works roster or rosters shall consist of all  
3 responsible contractors who have requested to be on the list, and where  
4 required by law are properly licensed or registered to perform such  
5 work in this state. A state agency or local government establishing a  
6 small works roster or rosters may require eligible contractors desiring  
7 to be placed on a roster or rosters to keep current records of any  
8 applicable licenses, certifications, registrations, bonding, insurance,  
9 or other appropriate matters on file with the state agency or local  
10 government as a condition of being placed on a roster or rosters. At  
11 least once a year, the state agency or local government shall publish  
12 in a newspaper of general circulation within the jurisdiction a notice  
13 of the existence of the roster or rosters and solicit the names of  
14 contractors for such roster or rosters. In addition, responsible  
15 contractors shall be added to an appropriate roster or rosters at any  
16 time they submit a written request and necessary records. Master  
17 contracts may be required to be signed that become effective when a  
18 specific award is made using a small works roster.

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

33 (c) Procedures shall be established for securing telephone,  
34 written, or electronic quotations from contractors on the appropriate  
35 small works roster to assure that a competitive price is established  
36 and to award contracts to the lowest responsible bidder, as defined in  
37 RCW 43.19.1911. Invitations for quotations shall include an estimate  
38 of the scope and nature of the work to be performed as well as

1 materials and equipment to be furnished. However, detailed plans and  
2 specifications need not be included in the invitation. This subsection  
3 does not eliminate other requirements for architectural or engineering  
4 approvals as to quality and compliance with building codes. Quotations  
5 may be invited from all appropriate contractors on the appropriate  
6 small works roster. As an alternative, quotations may be invited from  
7 at least five contractors on the appropriate small works roster who  
8 have indicated the capability of performing the kind of work being  
9 contracted, in a manner that will equitably distribute the opportunity  
10 among the contractors on the appropriate roster. However, if the  
11 estimated cost of the work is from one hundred thousand dollars to two  
12 hundred thousand dollars, a state agency or local government, other  
13 than a port district, that chooses to solicit bids from less than all  
14 the appropriate contractors on the appropriate small works roster must  
15 also notify the remaining contractors on the appropriate small works  
16 roster that quotations on the work are being sought. The government  
17 has the sole option of determining whether this notice to the remaining  
18 contractors is made by: (i) Publishing notice in a legal newspaper in  
19 general circulation in the area where the work is to be done; (ii)  
20 mailing a notice to these contractors; or (iii) sending a notice to  
21 these contractors by facsimile or other electronic means. For purposes  
22 of this subsection (2)(c), "equitably distribute" means that a state  
23 agency or local government soliciting bids may not favor certain  
24 contractors on the appropriate small works roster over other  
25 contractors on the appropriate small works roster who perform similar  
26 services.

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

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

32 (3) In lieu of awarding contracts under subsection (2) of this  
33 section, a state agency or authorized local government may award a  
34 contract for work, construction, alteration, repair, or improvement  
35 (~~(project [projects])~~) projects estimated to cost less than thirty-five  
36 thousand dollars using the limited public works process provided under  
37 this subsection. Public works projects awarded under this subsection  
38 are exempt from the other requirements of the small works roster

1 process provided under subsection (2) of this section and are exempt  
2 from the requirement that contracts be awarded after advertisement as  
3 provided under RCW 39.04.010.

4 For limited public works projects, a state agency or authorized  
5 local government shall solicit electronic or written quotations from a  
6 minimum of three contractors from the appropriate small works roster  
7 and shall award the contract to the lowest responsible bidder as  
8 defined under RCW 43.19.1911. After an award is made, the quotations  
9 shall be open to public inspection and available by electronic request.  
10 A state agency or authorized local government shall attempt to  
11 distribute opportunities for limited public works projects equitably  
12 among contractors willing to perform in the geographic area of the  
13 work. A state agency or authorized local government shall maintain a  
14 list of the contractors contacted and the contracts awarded during the  
15 previous twenty-four months under the limited public works process,  
16 including the name of the contractor, the contractor's registration  
17 number, the amount of the contract, a brief description of the type of  
18 work performed, and the date the contract was awarded. For limited  
19 public works projects, a state agency or authorized local government  
20 may waive the payment and performance bond requirements of chapter  
21 39.08 RCW and the retainage requirements of chapter 60.28 RCW, thereby  
22 assuming the liability for the contractor's nonpayment of laborers,  
23 mechanics, subcontractors, (~~materialmen~~) material suppliers,  
24 suppliers, and taxes imposed under Title 82 RCW that may be due from  
25 the contractor for the limited public works project, however the state  
26 agency or authorized local government shall have the right of recovery  
27 against the contractor for any payments made on the contractor's  
28 behalf.

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

33 (5) As used in this section, "state agency" means the department of  
34 general administration, the state parks and recreation commission, the  
35 department of natural resources, the department of fish and wildlife,  
36 the department of transportation, any institution of higher education  
37 as defined under RCW 28B.10.016, and any other state agency delegated

1 authority by the department of general administration to engage in  
2 construction, building, renovation, remodeling, alteration,  
3 improvement, or repair activities.

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

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

1 state of Washington and subjected to the jurisdiction of the state of  
2 Washington.

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

5 (1) The bond mentioned in RCW 39.08.010 shall be in an amount equal  
6 to the full contract price agreed to be paid for such work or  
7 improvement, except under subsection (2) of this section, and shall be  
8 to the state of Washington, except as otherwise provided in RCW  
9 39.08.100, and except in cases of cities and towns, in which cases such  
10 municipalities may by general ordinance fix and determine the amount of  
11 such bond and to whom such bond shall run: PROVIDED, The same shall  
12 not be for a less amount than twenty-five percent of the contract price  
13 of any such improvement, and may designate that the same shall be  
14 payable to such city, and not to the state of Washington, and all such  
15 persons mentioned in RCW 39.08.010 shall have a right of action in his,  
16 her, or their own name or names on such bond for work done by such  
17 laborers or mechanics, and for materials furnished or provisions and  
18 goods supplied and furnished in the prosecution of such work, or the  
19 making of such improvements: PROVIDED, That such persons shall not  
20 have any right of action on such bond for any sum whatever, unless  
21 within thirty days from and after the completion of the contract with  
22 an acceptance of the work by the affirmative action of the board,  
23 council, commission, trustees, officer, or body acting for the state,  
24 county or municipality, or other public body, city, town or district,  
25 the laborer, mechanic or subcontractor, or (~~materialman~~) material  
26 supplier, or person claiming to have supplied materials, provisions or  
27 goods for the prosecution of such work, or the making of such  
28 improvement, shall present to and file with such board, council,  
29 commission, trustees or body acting for the state, county or  
30 municipality, or other public body, city, town or district, a notice in  
31 writing in substance as follows:

32 To (here insert the name of the state, county or  
33 municipality or other public body, city, town or district):

1 Notice is hereby given that the undersigned (here insert  
2 the name of the laborer, mechanic or subcontractor, or  
3 ((~~materialman~~)) material supplier, or person claiming to  
4 have furnished labor, materials or provisions for or upon  
5 such contract or work) has a claim in the sum of . . . . .  
6 dollars (here insert the amount) against the bond taken from  
7 . . . . . (here insert the name of the principal and surety or  
8 sureties upon such bond) for the work of . . . . . (here insert  
9 a brief mention or description of the work concerning which  
10 said bond was taken).

11 (here to be signed) .....

12 Such notice shall be signed by the person or corporation making the  
13 claim or giving the notice, and said notice, after being presented and  
14 filed, shall be a public record open to inspection by any person, and  
15 in any suit or action brought against such surety or sureties by any  
16 such person or corporation to recover for any of the items hereinbefore  
17 specified, the claimant shall be entitled to recover in addition to all  
18 other costs, attorney's fees in such sum as the court shall adjudge  
19 reasonable: PROVIDED, HOWEVER, That no attorney's fees shall be  
20 allowed in any suit or action brought or instituted before the  
21 expiration of thirty days following the date of filing of the notice  
22 hereinbefore mentioned: PROVIDED FURTHER, That any city may avail  
23 itself of the provisions of RCW 39.08.010 through 39.08.030,  
24 notwithstanding any charter provisions in conflict herewith: AND  
25 PROVIDED FURTHER, That any city or town may impose any other or further  
26 conditions and obligations in such bond as may be deemed necessary for  
27 its proper protection in the fulfillment of the terms of the contract  
28 secured thereby, and not in conflict herewith.

29 (2) Under the job order contracting procedure described in RCW  
30 39.10.130, bonds will be in an amount not less than the dollar value of  
31 all open work orders.

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

34 A state highway shall be constructed, altered, repaired, or  
35 improved, and improvements located on property acquired for right of  
36 way purposes may be repaired or renovated pending the use of such right  
37 of way for highway purposes, by contract or state forces. The work or



1 portions thereof may be done by state forces when the estimated costs  
2 thereof (~~(is [are])~~) are less than fifty thousand dollars and effective  
3 July 1, 2005, sixty thousand dollars: PROVIDED, That when delay of  
4 performance of such work would jeopardize a state highway or constitute  
5 a danger to the traveling public, the work may be done by state forces  
6 when the estimated cost thereof is less than eighty thousand dollars  
7 and effective July 1, 2005, one hundred thousand dollars. When the  
8 department of transportation determines to do the work by state forces,  
9 it shall enter a statement upon its records to that effect, stating the  
10 reasons therefor. To enable a larger number of small businesses, and  
11 minority, and women contractors to effectively compete for department  
12 of transportation contracts, the department may adopt rules providing  
13 for bids and award of contracts for the performance of work, or  
14 furnishing equipment, materials, supplies, or operating services  
15 whenever any work is to be performed and the engineer's estimate  
16 indicates the cost of the work would not exceed eighty thousand dollars  
17 and effective July 1, 2005, one hundred thousand dollars. The rules  
18 adopted under this section:

19 (1) Shall provide for competitive bids to the extent that  
20 competitive sources are available except when delay of performance  
21 would jeopardize life or property or inconvenience the traveling  
22 public; and

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

29 (3) May establish prequalification standards and procedures as an  
30 alternative to those set forth in RCW 47.28.070, but the  
31 prequalification standards and procedures under RCW 47.28.070 shall  
32 always be sufficient.

33 The department of transportation shall comply with such goals and  
34 rules as may be adopted by the office of minority and women's business  
35 enterprises to implement chapter 39.19 RCW with respect to contracts  
36 entered into under this chapter. The department may adopt such rules  
37 as may be necessary to comply with the rules adopted by the office of  
38 minority and women's business enterprises under chapter 39.19 RCW.

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

3       (1) Contracts for public improvements or work, other than for  
4 professional services, by the state, or any county, city, town,  
5 district, board, or other public body, herein referred to as "public  
6 body", shall provide, and there shall be reserved by the public body  
7 from the moneys earned by the contractor on estimates during the  
8 progress of the improvement or work, a sum not to exceed five percent,  
9 said sum to be retained by the state, county, city, town, district,  
10 board, or other public body, as a trust fund for the protection and  
11 payment of any person or persons, mechanic, subcontractor or  
12 (~~materialman~~) material supplier who shall perform any labor upon such  
13 contract or the doing of said work, and all persons who shall supply  
14 such person or persons or subcontractors with provisions and supplies  
15 for the carrying on of such work, and the state with respect to taxes  
16 imposed pursuant to Title 82 RCW which may be due from such contractor.  
17 Every person performing labor or furnishing supplies toward the  
18 completion of said improvement or work shall have a lien upon said  
19 moneys so reserved: PROVIDED, That such notice of the lien of such  
20 claimant shall be given in the manner and within the time provided in  
21 RCW 39.08.030 as now existing and in accordance with any amendments  
22 that may hereafter be made thereto: PROVIDED FURTHER, That the board,  
23 council, commission, trustees, officer or body acting for the state,  
24 county or municipality or other public body; (a) at any time after  
25 fifty percent of the original contract work has been completed, if it  
26 finds that satisfactory progress is being made, may make any of the  
27 partial payments which would otherwise be subsequently made in full;  
28 but in no event shall the amount to be retained be reduced to less than  
29 five percent of the amount of the moneys earned by the contractor:  
30 PROVIDED, That the contractor may request that retainage be reduced to  
31 one hundred percent of the value of the work remaining on the project;  
32 and (b) thirty days after completion and acceptance of all contract  
33 work other than landscaping, may release and pay in full the amounts  
34 retained during the performance of the contract (other than continuing  
35 retention of five percent of the moneys earned for landscaping) subject  
36 to the provisions of RCW 60.28.020.

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

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

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

10 (c) Placed in escrow with a bank or trust company by the public  
11 body until thirty days following the final acceptance of said  
12 improvement or work as completed. When the moneys reserved are to be  
13 placed in escrow, the public body shall issue a check representing the  
14 sum of the moneys reserved payable to the bank or trust company and the  
15 contractor jointly. Such check shall be converted into bonds and  
16 securities chosen by the contractor and approved by the public body and  
17 such bonds and securities shall be held in escrow. Interest on such  
18 bonds and securities shall be paid to the contractor as the said  
19 interest accrues.

20 (3) The contractor or subcontractor may withhold payment of not  
21 more than five percent from the moneys earned by any subcontractor or  
22 sub-subcontractor or supplier contracted with by the contractor to  
23 provide labor, materials, or equipment to the public project. Whenever  
24 the contractor or subcontractor reserves funds earned by a  
25 subcontractor or sub-subcontractor or supplier, the contractor or  
26 subcontractor shall pay interest to the subcontractor or sub-  
27 subcontractor or supplier at a rate equal to that received by the  
28 contractor or subcontractor from reserved funds.

29 (4) With the consent of the public body the contractor may submit  
30 a bond for all or any portion of the amount of funds retained by the  
31 public body in a form acceptable to the public body. Such bond and any  
32 proceeds therefrom shall be made subject to all claims and liens and in  
33 the same manner and priority as set forth for retained percentages in  
34 this chapter. The public body shall release the bonded portion of the  
35 retained funds to the contractor within thirty days of accepting the  
36 bond from the contractor. Whenever a public body accepts a bond in  
37 lieu of retained funds from a contractor, the contractor shall accept  
38 like bonds from any subcontractors or suppliers from which the

1 contractor has retained funds. The contractor shall then release the  
2 funds retained from the subcontractor or supplier to the subcontractor  
3 or supplier within thirty days of accepting the bond from the  
4 subcontractor or supplier.

5 (5) If the public body administering a contract, after a  
6 substantial portion of the work has been completed, finds that an  
7 unreasonable delay will occur in the completion of the remaining  
8 portion of the contract for any reason not the result of a breach  
9 thereof, it may, if the contractor agrees, delete from the contract the  
10 remaining work and accept as final the improvement at the stage of  
11 completion then attained and make payment in proportion to the amount  
12 of the work accomplished and in such case any amounts retained and  
13 accumulated under this section shall be held for a period of thirty  
14 days following such acceptance. In the event that the work shall have  
15 been terminated before final completion as provided in this section,  
16 the public body may thereafter enter into a new contract with the same  
17 contractor to perform the remaining work or improvement for an amount  
18 equal to or less than the cost of the remaining work as was provided  
19 for in the original contract without advertisement or bid. The  
20 provisions of this chapter 60.28 RCW shall be deemed exclusive and  
21 shall supersede all provisions and regulations in conflict herewith.

22 (6) Whenever the department of transportation has contracted for  
23 the construction of two or more ferry vessels, thirty days after  
24 completion and final acceptance of each ferry vessel, the department  
25 may release and pay in full the amounts retained in connection with the  
26 construction of such vessel subject to the provisions of RCW 60.28.020:  
27 PROVIDED, That the department of transportation may at its discretion  
28 condition the release of funds retained in connection with the  
29 completed ferry upon the contractor delivering a good and sufficient  
30 bond with two or more sureties, or with a surety company, in the amount  
31 of the retained funds to be released to the contractor, conditioned  
32 that no taxes shall be certified or claims filed for work on such ferry  
33 after a period of thirty days following final acceptance of such ferry;  
34 and if such taxes are certified or claims filed, recovery may be had on  
35 such bond by the department of revenue and the (~~materialmen~~) material  
36 suppliers and laborers filing claims.

37 (7) Contracts on projects funded in whole or in part by farmers

1 home administration and subject to farmers home administration  
2 regulations shall not be subject to subsections (1) through (6) of this  
3 section.

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

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

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

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

21 (a) After completion of all contract work other than landscaping,  
22 the contractor may request that the public body release and pay in full  
23 the amounts retained during the performance of the contract, and sixty  
24 days thereafter the public body must release and pay in full the  
25 amounts retained (other than continuing retention of five percent of  
26 the moneys earned for landscaping) subject to the provisions of  
27 chapters 39.12 and 60.28 RCW.

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

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

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

35 (b) Deposited by the public body in an interest bearing account in  
36 a bank, mutual savings bank, or savings and loan association. Interest

1 on moneys reserved by a public body under the provision of a public  
2 improvement contract shall be paid to the contractor;

3 (c) Placed in escrow with a bank or trust company by the public  
4 body. When the moneys reserved are placed in escrow, the public body  
5 shall issue a check representing the sum of the moneys reserved payable  
6 to the bank or trust company and the contractor jointly. This check  
7 shall be converted into bonds and securities chosen by the contractor  
8 and approved by the public body and the bonds and securities shall be  
9 held in escrow. Interest on the bonds and securities shall be paid to  
10 the contractor as the interest accrues.

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

20 (6) A contractor may submit a bond for all or any portion of the  
21 contract retainage in a form acceptable to the public body and from a  
22 bonding company meeting standards established by the public body. The  
23 public body shall accept a bond meeting these requirements unless the  
24 public body can demonstrate good cause for refusing to accept it. This  
25 bond and any proceeds therefrom are subject to all claims and liens and  
26 in the same manner and priority as set forth for retained percentages  
27 in this chapter. The public body shall release the bonded portion of  
28 the retained funds to the contractor within thirty days of accepting  
29 the bond from the contractor. Whenever a public body accepts a bond in  
30 lieu of retained funds from a contractor, the contractor shall accept  
31 like bonds from any subcontractors or suppliers from which the  
32 contractor has retained funds. The contractor shall then release the  
33 funds retained from the subcontractor or supplier to the subcontractor  
34 or supplier within thirty days of accepting the bond from the  
35 subcontractor or supplier.

36 (7) If the public body administering a contract, after a  
37 substantial portion of the work has been completed, finds that an  
38 unreasonable delay will occur in the completion of the remaining

1 portion of the contract for any reason not the result of a breach  
2 thereof, it may, if the contractor agrees, delete from the contract the  
3 remaining work and accept as final the improvement at the stage of  
4 completion then attained and make payment in proportion to the amount  
5 of the work accomplished and in this case any amounts retained and  
6 accumulated under this section shall be held for a period of sixty days  
7 following the completion. In the event that the work is terminated  
8 before final completion as provided in this section, the public body  
9 may thereafter enter into a new contract with the same contractor to  
10 perform the remaining work or improvement for an amount equal to or  
11 less than the cost of the remaining work as was provided for in the  
12 original contract without advertisement or bid. The provisions of this  
13 chapter are exclusive and shall supersede all provisions and  
14 regulations in conflict herewith.

15 (8) Whenever the department of transportation has contracted for  
16 the construction of two or more ferry vessels, sixty days after  
17 completion of all contract work on each ferry vessel, the department  
18 must release and pay in full the amounts retained in connection with  
19 the construction of the vessel subject to the provisions of RCW  
20 60.28.020 and chapter 39.12 RCW. However, the department of  
21 transportation may at its discretion condition the release of funds  
22 retained in connection with the completed ferry upon the contractor  
23 delivering a good and sufficient bond with two or more sureties, or  
24 with a surety company, in the amount of the retained funds to be  
25 released to the contractor, conditioned that no taxes shall be  
26 certified or claims filed for work on the ferry after a period of sixty  
27 days following completion of the ferry; and if taxes are certified or  
28 claims filed, recovery may be had on the bond by the department of  
29 revenue and the ((~~materialmen~~)) material suppliers and laborers filing  
30 claims.

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

35 (10) Contracts on projects funded in whole or in part by farmers  
36 home administration and subject to farmers home administration  
37 regulations are not subject to subsections (1) through (9) of this  
38 section.

1 (11) This subsection applies only to a public body that has  
2 contracted for the construction of a facility using the general  
3 contractor/construction manager procedure, as defined under RCW  
4 39.10.061. If the work performed by a subcontractor on the project has  
5 been completed within the first half of the time provided in the  
6 general contractor/construction manager contract for completing the  
7 work, the public body may accept the completion of the subcontract.  
8 The public body must give public notice of this acceptance. After a  
9 forty-five day period for giving notice of liens, and compliance with  
10 the retainage release procedures in RCW 60.28.021, the public body may  
11 release that portion of the retained funds associated with the  
12 subcontract. Claims against the retained funds after the forty-five  
13 day period are not valid.

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

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

18 (b) "Person" means a person or persons, mechanic, subcontractor, or  
19 materialperson who performs labor or provides materials for a public  
20 improvement contract, and any other person who supplies the person with  
21 provisions or supplies for the carrying on of a public improvement  
22 contract.

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

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

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

30 After the expiration of the thirty day period, and after receipt of  
31 the department of revenue's certificate, and the public body is  
32 satisfied that the taxes certified as due or to become due by the  
33 department of revenue are discharged, and the claims of (~~materialmen~~)  
34 material suppliers and laborers who have filed their claims, together  
35 with a sum sufficient to defray the cost of foreclosing the liens of  
36 such claims, and to pay attorneys' fees, have been paid, the public



1 body shall pay to the contractor the fund retained by it or release to  
2 the contractor the securities and bonds held in escrow.

3 If such taxes have not been discharged or the claims, expenses, and  
4 fees have not been paid, the public body shall either retain in its  
5 fund, or in an interest bearing account, or retain in escrow, at the  
6 option of the contractor, an amount equal to such unpaid taxes and  
7 unpaid claims together with a sum sufficient to defray the costs and  
8 attorney fees incurred in foreclosing the lien of such claims, and  
9 shall pay, or release from escrow, the remainder to the contractor.

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

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

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

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

33 Persons owning or desiring to improve contiguous tracts of tide  
34 marsh or swampy lands exposed to the overflow of the tide and capable  
35 of being made dry, may separate their respective tracts by a dike or  
36 ditch, which shall make and designate their common boundary. In all

1 such cases said dike or ditch shall be constructed at the equal cost  
2 and expense of the respective parties, and either party failing to pay  
3 his or her contributive share of such expense shall be liable to the  
4 party constructing the dike or ditch for such contributive share, or so  
5 much thereof as may remain due and unpaid, to be recovered in a civil  
6 action in a court of competent jurisdiction and the party constructing  
7 such dike shall also be entitled to a lien upon the tract of the party  
8 failing to pay his or her contributive share for the construction of  
9 said dike, or so much thereof as shall be due, which lien shall be  
10 secured and enforced as liens of ((~~materialmen~~)) material suppliers and  
11 mechanics are now by law enforced.

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

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

33 NEW SECTION. **Sec. 97.** The code reviser must recommend legislation  
34 correcting gender-specific references in all existing statutes by  
35 December 1, 2007, and advise the legislature of gender-specific  
36 language changes that would result in substantive changes to the law."

1 Correct the title.

EFFECT: (1) Removes the change from warehousemen to warehouse workers. Warehousemen is a defined term in chapter 22.09 RCW that means a person who owns, operates, or controls a warehouse in the state. It does not refer to a person who works in a warehouse; changing the term to warehouse workers would change the policy and effect of the bill.

(2) Changes statutory references from materialmen to the gender neutral material supplier.

--- END ---