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No. 95586-7

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SUPREME COURT OF THE STATE OF WASHINGTON

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THURSTON COUNTY, ex rel., JOHN SNAZA, THURSTON COUNTY  
SHERIFF,

Appellants,

v.

CITY OF OLYMPIA, CITY OF LACEY, CITY OF TUMWATER, and  
CITY OF YELM,

Respondents,

CITY OF TENINO,

Intervenor.

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**Brief of Appellant Thurston County  
(Brief Corrected Pursuant to Renumbered Clerk's Papers)**

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## **I. INTRODUCTION**

Thurston County, ex rel. John Snaza, the Thurston County Sheriff [hereinafter, “Thurston County”] submits this Brief of Petitioner/Appellant by and through their attorneys, Jon Tunheim, Thurston County Prosecuting Attorney, and Donald R. “Rick” Peters, Jr., Senior Deputy Prosecuting Attorney. Thurston County requests reversal of the decision of Mason County Superior Court Judge Amber Finlay that granted summary judgment on behalf of Respondents City of Olympia et al. on the issue of interpretation of the Revised Code of Washington (RCW) Chapter 70.48.130(6), requesting that this Court determine based upon the plain language and context of that statute that Counties are entitled to seek reimbursement from cities for certain medical expenses regardless of the level of crime committed by the inmate.

## **II. FACTS RELEVANT TO PETITION/APPEAL**

For several years, Thurston County has attempted to recover medical costs that it believes should be reimbursed by the cities under RCW 70.48.130(6) [CP 2-4]. The Cities deny that such expenses are subject to reimbursement as the Cities’ provide and pay for jail services for their own misdemeanants [CP 6-58, 93-112]. The Cities also claim that pursuant to RCW 70.48.130(6), the County, and not the Cities are the “unit of government whose law enforcement officers initiated the charges

on which the person is being held in the jail.” The Cities contention is that County Prosecutors are the entity responsible under law for “initiating” charges for all felons [CP 93-112].

There is currently no interlocal agreement in place between the Thurston County and any city within the jurisdiction of Thurston County for jail services [CP 2].

After an impasse in negotiations, Thurston County filed suit against the above-captioned Cities/Respondents on November 28, 2016. The basis for the lawsuit consisted of two parts, 1) seeking a Declaratory Judgment that in the absence of an interlocal agreement counties and specifically Thurston County could seek and obtain reimbursement from cities for certain medical costs as described in Revised Code of Washington 70.48.130, specifically 70.48.130(6); and 2) if such reimbursement is authorized under the statute, to seek an actual amount of recovery from the named cities for said expenses previously accrued by Thurston County [CP 1-5, 308-310].

Thurston County moved for Partial Summary Judgment on the Declaratory Judgment issue [CP 72-89, 231-239, 221-226], and the Cities moved for Summary Judgment as to all issues [CP 93-112]. Both the County and the Cities believed that the plain language of RCW 70.48.130(6) supported their position as to who was ultimately responsible

for payment of medical expenses. Visiting Judge Amber Finlay heard argument from the parties on their cross-motions on September 8, 2017. In her oral ruling [CP 287-301, Verbatim Report of Proceedings], Judge Finlay determined that the matter was a “justiciable controversy” under the Uniform Declaratory Judgment Act RCW 7.24 [CP/RP 289-290], and that the prosecuting attorney was not a “law enforcement agency” for the purposes of RCW 70.48.130(6) [CP/RP 291-292]. This should have concluded the argument and the County should have prevailed. Instead, Judge Finlay then concluded that the cited opinion of the Attorney general did not address the key issue to be determined and was therefore not applicable [CP/RP 294], that the plain language of that section of 70.48.130(6) was ambiguous on its face [CP/RP 293], and that taken in context with other statutes, that the “law enforcement agency initiating the charges” was the agency that actually filed the charging document [CP/RP 294-298]. Judge Finlay granted the Cities Motion for Summary Judgment in an Order dated February 11, 2018. No Findings or Conclusions were entered in this matter.

Due to the Judge Finlay’s finding of ambiguity in the language of RCW 70.48.130(6) and for other reasons including the disregard of an Attorney General Opinion, the County sought direct review by Petition filed on March 7, 2018.

### III. ARGUMENT

#### A. Standard for Review of Summary Judgment

“An appellate court reviews summary judgments de novo.” *State ex rel. Banks v. Drummond*, 187 Wn.2d 157, 167, 385 P.3d 769 (2016) citing *Scrivener v. Clark Coll.*, 181 Wn.2d 439, 444, 334 P.3d 541 (2014). “Summary judgment is appropriate where there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.” Civil Rule 56. “The appellate court construes evidence and inferences from the evidence in favor of the nonmoving party.” *State ex rel. Banks, Id.*, citing *Scrivener*, 181 Wn.2d at 444.

#### B. Standard of Review for Statutory Interpretation

“The construction and meaning of a statute is a question of law that we review de novo.” *State ex rel. Banks, Id.* citing *Dep’t of Ecology v. Campbell & Gwinn, LLC*, 146 Wn.2d 1, 9, 43 P.3d 4 (2002). “Our fundamental goal in statutory interpretation is to “discern and implement the legislature’s intent.”” *Fast v. Kennewick Pub. Hosp. Dist.*, 187 Wn.2d 27, 32-33, 394 P.3d 232 (2016) citing *State v. Armendariz*, 160 Wn.2d 106, 110, 156 P.3d 201 (2007). “The court discerns legislative intent from the plain language enacted by the legislature, considering the text of the provision in question, the context of the statute in which the provision is found, related provisions, amendments to the provision, and the statutory

scheme as a whole.” *Fast* 187 Wn.2d at 33 citing *Campbell v. Gwinn* 146 Wn.2d at 9-10.

### **C. RCW 70.48.130**

#### **i) Legislative History**

RCW 70.48.130 was codified and adopted in Washington Laws, 1977 1<sup>st</sup> Ex. Session, Chapter 316, entitled “City and County Jails Act” [See Appendix #1]. The Title was amended slightly in 1986 [Appendix #2]. The relevant provision was amended again in 1993 by Substitute House Bill 1469, Chapter 409 by adding the term “in the absence of an interlocal agreement or other contracts to the contrary” to RCW 70.48.130(6) [Appendix #3]. The Chapter received minor alterations in 2011 [Appendix #4] and there was a renumbering/added section in 2015 [Appendix #5].

#### **ii) Analysis of Key Phrase**

RCW 70.48.130 deals with emergency or necessary medical and health care for confined persons and reimbursement procedures, conditions and limitations. It was adopted as part of the “City and County Jails Act” of 1977. [Appendix #1].

In RCW 70.48.130(2), initial payment for emergency or necessary health care shall be by the governing unit.<sup>1</sup> The remainder of the statute deals with reimbursement for these costs

RCW 70.48.130(6) states:

To the extent that a confined person is unable to be financially responsible for medical care and is ineligible for the authority's medical care programs under chapter 74.09 RCW, or from coverage from private sources, and in the absence of an interlocal agreement or other contracts to the contrary, the governing unit may obtain reimbursement for the cost of such medical services from the unit of government whose law enforcement officers initiated the charges on which the person is being held in jail: PROVIDED, That reimbursement for the cost of such services shall be by the state for state prisoners being held in a jail who are accused of either escaping from a state facility or of committing an offense in a state facility.

[Emphasis added].

Pursuant to the statute, Respondent cities whose law enforcement officers initiated the charges against an inmate are billed for medical services only after it has been determined that (1) the inmate is unable to be financially responsible; (2) is ineligible under chapter 74.09 RCW; and (3) has no coverage from private sources.

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<sup>1</sup> "Governing unit" means the city and/or county or any combinations of cities and/or counties responsible for the operation, supervision, and maintenance of a jail. RCW 70.48.020(6).

The portion of RCW 70.48.130(6) wherein this dispute arises is the source of this dispute is the language “from the unit of government whose law enforcement officers initiated the charges.”

**a. Law Enforcement Officers**

(A) Court’s analysis begins with the text of the statute. *Indoor Billboard/Washington, Inc. v. Integra Telecom of Wash., Inc.*, 162 Wn.2d 59, 71, 170 P.3d 10 (2007), citing *Am. Cont’l Ins. Co. v. Steen*, 151 Wn.2d 512, 518, 91 P.3d 864 (2004); *State v. Jacobs*, 154 Wn.2d 596, 600, 115 P.3d 281 (2005). If the statute is clear and unambiguous on its face, the Court is to determine its meaning only from the language of the statute and the Court is not to resort to statutory construction principles. *Id.*

Both the Attorney General and Judge Finlay agreed that the Prosecuting Attorney is not a “law enforcement officer” for the purposes of RCW 70.48.130(6). A specific portion of AGO 2005 No. 8 states that:

[W]e have reviewed the numerous statutory references to the term “law enforcement officer” and note that we could find no examples in which this term included prosecuting attorneys. For example, the term “law enforcement officer” for the purposes of defining the coverage of the Law Enforcement Officers and Fire Fighters’ Retirement System, means “any person who is commissioned and employed by an employer on a full time, fully compensated basis to enforce the criminal laws of the state of Washington generally with certain exceptions not relevant here.” RCW 41.26.030(3). Since the term “law enforcement officer” consistently refers in Washington statute to commissioned officers with the power to arrest, and not to prosecutors, we

conclude that RCW 70.48.130 used the term in the same sense.

[CP 84].

Judge Finlay reached the same conclusion in her oral ruling of December 15, 2017: “To the Court, if the legislature intended to use law enforcement officers to mean everybody in that group, well, why did they use all those different words? To the Court, law enforcement officers clearly refer to police officers or officers of the peace, but clearly do not appear to include prosecutors.” [CP/RP 292 at lines 11-16].

If a prosecuting attorney is not a “law enforcement officer” contained within the phrase “from the unit of government whose law enforcement officers initiated the charges”, the analysis should end here and the County should prevail. If only commissioned police officers are “law enforcement officers” for the purpose of this statute, the prosecuting attorney cannot “initiate” anything under RCW 70.48.130(6). Under this analysis, the arresting police officer(s) as the only “law enforcement officers” involved in this process, and therefore cities should be held responsible for reimbursing the County for the medical expenses noted under RCW 70.48.130 when their officers make arrests and transport the accused to the County jail.

**a. Even if the Prosecuting Attorney is a “law enforcement officer” AGO 2005 No. 8 Supports the Petitioners’ Position on Interpretation.**

The analysis of the Attorney General did not end with the definition of “law enforcement officer.” AGO 2005 No.8 further determined that in the absence of an interlocal agreement:

Although a jail may be operated by a county, a city, or a combination of the two (RCW 70.48.090, .095, .180, .190), most jails in Washington are still operated by counties. In such a county, the county itself is the “governing unit” for purposes of applying RCW 70.48.130. By contrast, the “unit of government whose law enforcement officers initiated the charges” may be the county itself (where the county sheriff’s office makes the arrest in question), but might also be a city, town, the state (if the arresting officers are state patrol officers, or officers of another state agency with law enforcement powers), or another unit of local government whose officers have the power to arrest.

[CP 83-84].

The Attorney General's Opinion unequivocally states that the plain language of RCW 70.48.130(6) requires that the medical costs will be the responsibility of the unit of government whose law enforcement officers made the arrest.

In support of this contention, the Attorney General attached to the opinion a September 14, 2000 letter from Assistant Attorney General Jeffrey Even to the Whatcom County Prosecutor David McEachran that discusses the city’s responsibility for medical costs of inmates [CP 86-89]:

The statute therefore provides that the city is obligated to reimburse the county for necessary medical expenses incurred by a defendant when: (1) the defendant is in custody in the county jail; (2) the charges were initiated by city police; (3) the defendant is unable to pay his or her own expenses, either directly or through other private sources; (4) the defendant is ineligible to have the expenses paid under RCW 74.09; and (5) as of the date the expenses were incurred, the charges were not yet “disposed of by sentencing or otherwise.” RCW 70.48.130. Alternatively, if the city and county had an agreement in place on the subject, then that agreement, rather than the statute would control.

[CP 88]. This letter further concluded that the city’s obligation to reimburse the county continues until the defendant is sentenced or found not guilty [CP 89].

Judge Finlay dismissed the findings of AGO 2005 No. 8 in her oral ruling due to the fact that the Attorney General had not analyzed the meaning of the word “charges” [CP/RP 294 1-5] and then went into her analysis on ambiguity. This analysis was incorrect. The Attorney General in Ago 2005 No.8 addresses this very issue:

However, in those cases in which an arrest is made pursuant to a warrant, which in turn is based upon the filing of an information by the prosecuting attorney, who is the law enforcement officer initiating the charges? Are the charges initiated by the prosecuting attorney, who may be a county or a state officer, or by the police officer or sheriff’s deputy who makes the arrest? Despite the use of the phrase “initiating the charges” and granting that county prosecutors or city attorneys can be described as “initiating charges” in a sense, we have reviewed the numerous statutory references to the term “law enforcement officer”

and note that we could find no examples in which this term includes prosecuting attorneys.

[CP 84]. AGO 2005 No. 8 did in fact analyze the term “initiating charges”, but eliminated the fact that a prosecuting attorney could be considered such party as they are not considered in any statutory definition as “law enforcement officers.”

The Supreme Court has often relied upon AGO opinions when conducting analyses of statutory construction. “Although not controlling, attorney general opinions are entitled to great weight.” *Thurston County v. City of Olympia*, 151 Wn.2d 171, 177, 86 P.3d 151 (2004), citing *Kasper v. City of Edmonds*, 69 Wn.2d 799, 805, 420 P.2d 346 (1966). See also *Bellevue Fire Fighters, Local 1604 v. Bellevue*, 100 Wn.2d 748, 675 P.2d 592, cert. denied, 471 U.S. 1015 (1984); *Everett Concrete Prods. v. Dep’t of Labor & Indus*, 109 Wn.2d 819, 748 P.2d 1112 (1988); *Am. Legion Post No. 32 v. Walla Walla*, 116 Wn.2d 1, 802 P.2d 784 (1991); *Skagit County Pub. Hosp. Dist. No. 304 v. Skagit County Pub. Hosp. Dist. No. 1*, 177 Wn.2d 718, 305 P.3d 1079 (2013) et cetera.

“A formal attorney general opinion may be persuasive authority for one or more of at least three reasons. First, such opinions represent the considered legal opinion of the constitutionally designated ‘legal adviser of the state officers’ WASH. CONST. art. III, sec. 21; cf. *City of Seattle v. McKenna*, 172 Wn.2d 551, 556-57, 259 P.3d 1087 (2011) (discussing generally the role of the attorney general under the Washington Constitution). Second, we

presume that the legislature is aware of formal opinions issued by the attorney general and a failure to amend the statute in response to the formal opinion may, in appropriate circumstances be treated as a form of legislative acquiescence in that interpretation. *Bowles v. Dep't of Ret. Sys.*, 121 Wn.2d 52, 63-64, 847 P.2d 440 (1993). The weight of this factor increases over time and decreases where the opinion is inconsistent with previous formal opinions, administrative interpretations, or court opinions. See *Davis v. County of King*, 77 Wn.2d 930, 933, 468 P.2d 679 (1970) (addressing inconsistent formal attorney general opinions). Third, where the opinion is issued in close temporal proximity to the passage of the statute in question, it may shed light on the intent of the legislature, keeping in mind, of course, that the attorney general is a member of a separate branch of government. See *Kaiser Aluminum & Chem. Corp. v. Dep't of Labor & Indus.*, 121 Wn.2d 776, 785, 854 P.2d 611 (1993).”

*Five Corners Farmers v. State*, 173 Wn.2d 296, 268 P.3d 892

(2011).

In this matter on appeal, Judge Finlay briefly considered and entirely dismissed the finding of the Attorney General, resulting in a decision that is directly in conflict with 2005 AGO No. 8 without analyzing any of the factors noted above in *Five Corners Farmers v. State*. The relevant portions of RCW 70.48.130 have not been changed since 1993 [Appendix #3] indicating “legislative acquiescence”. Despite previous arguments of the Cities to the contrary, there are no opinions of the attorney general, administrative opinions, or appellate rulings inconsistent or overruling the conclusion of with AGO 2005 No.8. No

valid reason was offered by trial court that would warrant a complete disregard of 2005 AGO NO. 8 and it therefore should be presumed to be a valid interpretation of the meaning of RCW 70.48.130(6).

**a. Ambiguity**

The trial court ultimately determined that RCW 70.48.130(6) was facially ambiguous due to its potential multiple interpretations [CP/RP 293]. As argued above, the County and the Attorney General do not believe the statute to be ambiguous on its face. It is arguable that the trial court's own initial determination that the prosecuting attorney is not a "law enforcement officer" eliminates any ambiguity as the prosecuting attorney would not then be part of the equation.

"A statute is ambiguous only if it can be reasonably interpreted in more than one way, not merely because other possible interpretations exist." *Indoor Billboard/Washington, Inc.* 162 Wn.2d at 71, *See also Yousoufian v. King County Executive*, 152 Wn.2d 421, 98 P.3d 463 (2004). If a statute is unambiguous, the Courts are to simply apply the statute, not construe it. *Harris v. Department of Labor & Indus.*, 120 Wn.2d 461, 474, 843 P.2d 1056 (1993).

The Court's central purpose in interpreting statutes is to determine and apply legislative intent. *Five Corners Family Farmers* at 305. "The

surest indication of the legislature's intent is the plain meaning of the statute." *Id.*

As asserted above, the Attorney General has already performed an analysis as to the meaning of RCW 70.48.130 and further inquiry does not seem necessary. The adverse ruling on appeal requires a further analysis of the statute.

Section One of Washington Laws, 1977 1<sup>st</sup> Ex. Sess. Chapter 316 states the intent of the new law to be, in part: (3) to provide for a determination of the role of the state and local units of government with regard to the custody of persons who are arrested for and/or convicted of violating statutes or ordinances which define crimes. [Appendix #1, page 1] (Emphasis added). This preamble specifically refers to arrest of persons accused of violating statutes, not the filing of charges. The basic rule in RCW 70.48.130(6) as noted above allows for reimbursement of medical costs by the governing unit from the unit of government whose law enforcement officers initiated the charges. [Appendix #1 page 7]. This language is unchanged since the 1977 adoption. That relevant clause does not refer to the "filing" of charges, nor does it differentiate between felons and misdemeanants. The only arguable change of substance to the relevant clause occurred in 1993, when the phrase "in the absence of an

interlocal agreement or other contracts to the contrary” was added [Appendix #3, page 3].

RCW 39.34.180 was adopted in 1996 [Appendix #6] and describes parameters for cities and counties who wish to enter into interlocal agreements for jail services:

**Criminal justice responsibilities—Interlocal agreements—Termination.**

(1) Each county, city, and town is responsible for the prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanor offenses committed by adults in their respective jurisdictions, and referred from their respective law enforcement agencies, whether filed under state law or city ordinance, and must carry out these responsibilities through the use of their own courts, staff, and facilities, or by entering into contracts or interlocal agreements under this chapter to provide these services. Nothing in this section is intended to alter the statutory responsibilities of each county for the prosecution, adjudication, sentencing, and incarceration for not more than one year of felony offenders, nor shall this section apply to any offense initially filed by the prosecuting attorney as a felony offense or an attempt to commit a felony offense.

(2) The following principles must be followed in negotiating interlocal agreements or contracts: Cities and counties must consider (a) anticipated costs of services; and (b) anticipated and potential revenues to fund the services, including fines and fees, criminal justice funding, and state-authorized sales tax funding levied for criminal justice purposes.

(3) If an agreement as to the levels of compensation within an interlocal agreement or contract for gross misdemeanor and misdemeanor services cannot be reached between a city and county...

The plain language of 39.34.180 contemplates the use of an interlocal agreement to allow counties and cities to share costs for jail services. Nothing in 39.34.180 mentions or refers to the medical reimbursement provisions of RCW 70.48.130. The language of the 1993 amendment to RCW 70.48.130(6) states that “in the absence of an interlocal agreement or contracts to the contrary” subsection (6) is the applicable statute. Parties can alter the reimbursement provisions by interlocal agreement or contract, but otherwise, RCW 70.48.130(6) is the method for reimbursement for medical expenses.

Therefore, if after examining the plain language of the statutes and the AGO 2005 No. 8, the court believes there is still ambiguity to be resolved, the court must look to other factors. “When a statute is ambiguous, ‘this court will result to principles of statutory construction, legislative history and relevant case law to assist in interpreting it.’” *Yousoufian* at 434 citing *State v. Watson*, 146 Wn.2d 947, 955, 51 P.3d 66 (2002). “When construing a statute, the court must ascertain and give effect to the Legislature’s intent.” *Yousoufian, Id.*, citing *Shoreline Cmty. Coll. Dist. No. 7 v. Employment Sec. Dep’t*, 120 Wn.2d 394, 405, 842 P.2d 938 (1992).

The primary purpose of RCW 70.48.130 is to describe how to seek reimbursement for medical expenses paid up front by the governing unit. The County does not dispute that it is responsible for the initial medical expenses of its inmates regardless of which jurisdiction made the arrest. The statute makes clear that it was/is the intent of the legislature to ensure that the governing unit is entitled to reimbursement for these up-front expenditures. The added 1993 clause exempts governing units who have entered into interlocals or contracts related to jail operations from its provisions provided that issue is addressed in the interlocal agreement or contract.

Therefore, if the court does not find AGO 2005 No.8 persuasive as to the issue of “law enforcement officer” and that cities are ultimately responsible to pay medical reimbursement for their arrestees, one must turn to the phrase “initiating the charges” as the determining factor.

RCW 70.48 does not define the term “initiate.” *Black’s Law Dictionary*<sup>2</sup> defines “initiate” as “commenced; inchoate.” The *Merriam-Webster Dictionary*<sup>3</sup> defines “initiate” as “to cause or facilitate the beginning of.” The *Oxford Dictionary*<sup>4</sup> defines “initiate” as “to cause (a

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<sup>2</sup> *Black’s Law Dictionary*, 10<sup>th</sup> ed., (West Group, 2014).

<sup>3</sup> *Merriam-Webster Dictionary*, New ed., (Merriam-Webster, 2016).

<sup>4</sup> *Oxford Dictionary of English*, 3<sup>rd</sup> ed., (Oxford University Press, 2010).

process) to begin.” The *Cambridge Dictionary*<sup>5</sup> defines the term as “to cause or facilitate the beginning of.” Finally, the *MacMillan Dictionary*<sup>6</sup> defines it as “to make something start.”

These definitions are entirely consistent. The Declaration of Jeffrey Lippert [CP 227 – 230] describes how the felony criminal process “initiates.” For a felony arrest without a warrant, the accused is only allowed to remain in custody with a determination of probable cause [CP 228]. In each case, the probable cause statement is generated by the arresting officer from the jurisdiction the alleged crime occurred in [Id]. The Prosecuting Attorney relies upon this probable cause statement when arguing for continued detention and cannot proceed without it. [Id.] After a probable cause determination has been made by the Court, the Prosecuting Attorney cannot draft an Information without the probable cause statement and/or supporting police reports [Id]. The Prosecuting Attorney does not investigate or report on alleged crimes [Id]. To draft and generate a criminal Information, the Prosecuting Attorney is wholly dependent upon the previous work of law enforcement [CP 228-229].

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<sup>5</sup> *Cambridge Advanced Learner’s Dictionary*, 4<sup>th</sup> ed., (Cambridge University Press 2013).

<sup>6</sup> *MacMillan English Dictionary for Advanced Learners*, New ed., (MacMillan/A &C Black 2012).

In the case of an arrest based upon a warrant, the Prosecuting Attorney does, in fact, draft that document [CP 228]. However, all of the information contained in that warrant, (with few exceptions) is based upon information contained in previously generated police reports. In nearly all cases, the warrant cannot be drafted without them [CP 228-229].

The Prosecuting Attorney does not operate in a vacuum. Felony criminal charges cannot be generated by the Prosecuting Attorney without the initial referral and investigation from law enforcement agencies. Nearly all criminal prosecutions begin with a law enforcement investigation and the generation of a police report and/or a probable cause statement.

The County does not dispute that it files felony Informations (formal charges) in all cases. RCW 70.48.130(6) does not use the word “file” in the clause allocating reimbursement, nor does it use the words “draft” or “create”. All felony cases where arrest occurs are “initiated” by the law enforcement agency either by an initial determination of probable cause or via warrant based upon the investigation performed solely by that law enforcement agency. RCW 70.48.130(6) is a tool to allow the governing agency to seek reimbursement for medical expenses once an arrest has been made and the arrested person given over to the governing agency for custody. If Cities were not ultimately responsible for these medical expenses, there would be little to no incentive for a city to enter into an

interlocal agreement with a governing agency. Why would a city agree to pay expenses that it does not have to?

#### IV. CONCLUSION

A county prosecutor is not a “law enforcement officer” for the purposes of RCW 70.48.130(6). This contention is supported by AGO 2005 No. 8. As well as a portion of the ruling of the trial judge. AGO 2005 No. 8 is a valid analysis of the meaning of RCW 70.48.130(6) and has not been contradicted, overruled or overturned since its publication thirteen years ago. The plain language of RCW 70.48.130(6) supports the County’s contention that it is entitled to reimbursement from the Cities for certain medical expenses. If the Court believes that the statute is ambiguous on its face, the plain meaning of the word “initiate” requires the Court to reach the same conclusion. Thurston County respectfully request reversal of the previous ruling of the Superior Court and a grant of Declaratory/Partial Summary Judgment on the issue of interpretation of RCW 70.48.130.

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RESPECTFULLY SUBMITTED this 22nd day of June, 2018.

JON TUNHEIM  
PROSECUTING ATTORNEY



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I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Olympia, Washington.

Date: June 22, 2018

Signature: 

# Appendix #1

With the exception of section 4, which I have vetoed, the remainder of Senate Bill No. 3015 is approved.

## CHAPTER 316

[Engrossed Second Substitute Senate Bill No. 2040]

### CITY AND COUNTY JAILS ACT

AN ACT Relating to jails; amending section 35.21.330, chapter 7, Laws of 1965 and RCW 35.21.330; amending section 35.22.280, chapter 7, Laws of 1965 as last amended by section 1, chapter 16, Laws of 1971 ex. sess. and RCW 35.22.280; amending section 35.23.440, chapter 7, Laws of 1965 as amended by section 7, chapter 116, Laws of 1965 ex. sess. and RCW 35.23.440; amending section 35.24.160, chapter 7, Laws of 1965 and RCW 35.24.160; amending section 35.24.290, chapter 7, Laws of 1965 as amended by section 10, chapter 116, Laws of 1965 ex. sess. and RCW 35.24.290; amending section 35.27.240, chapter 7, Laws of 1965 as amended by section 1, chapter 125, Laws of 1965 and RCW 35.27.240; amending section 35.27.370, chapter 7, Laws of 1965 as last amended by section 15, chapter 116, Laws of 1965 ex. sess. and RCW 35.27.370; adding a new chapter to Title 70 RCW; repealing sections 36.63.010 through 36.63.110, chapter 4, Laws of 1963 and RCW 36.63.010 through 36.63.110; repealing section 36.63.120, chapter 4, Laws of 1963, section 1, chapter 17, Laws of 1969 and RCW 36.63.120; repealing sections 36.63.130 through 36.63.250, chapter 4, Laws of 1963 and RCW 36.63.130 through 36.63.250; repealing sections 1 through 9, chapter 81, Laws of 1974 ex. sess. and RCW 36.63A.010 through 36.63A.910; repealing sections 36.63.260 through 36.63.440, chapter 4, Laws of 1963 and RCW 36.63.260 through 36.63.440; repealing section 2214, Code of 1881 and RCW 70.20.140; repealing section 32, chapter 171, Laws of 1961, section 84, chapter 75, Laws of 1977 and RCW 72.01.420; making an appropriation; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

**NEW SECTION.** Section 1. It is the policy of this state that all city and county jails provide a humane and safe environment. It is the purpose of this chapter (1) to require classification of county and city jails on the basis of their purpose and their function in order to provide for (a) the setting of state-wide mandatory custodial care standards that are essential for the health, welfare, and security of persons confined in jails, (b) advisory custodial care minimum standards, and (c) physical plant minimum standards, (2) to aid the Washington state criminal justice training commission in developing and implementing personnel training and qualification standards, and (3) to provide for a determination of the role of the state and local units of government with regard to the custody of persons who are arrested for and/or convicted of violating statutes or ordinances which define crimes. The legislature also finds that in order to accomplish the purpose of this chapter it is necessary for the state to provide adequate funds to enable units of local government to fully comply with the physical plant minimum standards for detention and correctional facilities.

**NEW SECTION.** Sec. 2. As used in this chapter the words and phrases in this section shall have the meanings indicated unless the context clearly requires otherwise.

(1) "Holding facility" means a facility operated by a governing unit primarily designed, staffed, and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the temporary housing of such persons during or after trial and/or sentencing, but in no instance shall the housing exceed thirty days.

(2) "Detention facility" means a facility operated by a governing unit primarily designed, staffed, and used for the temporary housing of adult persons charged with

a criminal offense prior to trial or sentencing and for the housing of adult persons for purposes of punishment and correction after sentencing or persons serving terms not to exceed ninety days.

(3) "Correctional facility" means a facility operated by a governing unit primarily designed, staffed, and used for the housing of adult persons serving terms not exceeding one year for the purposes of punishment, correction, and rehabilitation following conviction of a criminal offense.

(4) "Jail" means any holding, detention, or correctional facility as defined in this section.

(5) "Health care" means preventive, diagnostic and rehabilitative services provided by licensed health care professionals and/or facilities; such care to include providing prescription drugs where indicated.

(6) "Commission" means the state jail commission created pursuant to section 3 of this 1977 amendatory act.

(7) "Substantially remodeled" means significant alterations made to the physical plant of a jail to conform with the physical plant standards.

(8) "Department" means the department of social and health services.

(9) "Secretary" means the secretary of social and health services.

(10) "Governing unit" means the city and/or county or any combinations of cities and/or counties responsible for the operation, supervision, and maintenance of a jail.

(11) "Mandatory custodial care standards" means those minimum standards, rules, or regulations that are adopted pursuant to section 5(1)(a) and section 7(1) of this 1977 amendatory act for jails to meet federal and state constitutional requirements relating to the health, safety, security, and welfare of inmates.

(12) "Advisory custodial care standards" means custodial care standards recommended by the commission which are not mandatory.

(13) "Physical plant standards" and "physical plant requirements" mean those minimum standards, rules, or regulations that are prescribed by the commission for jails that relate to structural specifications of the physical plant, including but not limited to size of cells and rooms within a jail, design of facilities, and specifications for fixtures and other equipment.

(14) "Jail inspector" means a person with at least five years in a supervisory position as a law enforcement or custodial corrections officer.

**NEW SECTION.** Sec. 3. A state jail commission shall be appointed by the governor to establish standards approved by the legislature for the operation of city and county jails. The commission shall be comprised of eleven members who shall be appointed by the governor and confirmed by the state senate: **PROVIDED**, That at least seven of the members shall be elected city, town, or county legislative or executive officials: **PROVIDED FURTHER**, That the secretary or the secretary's designee shall be one of the members of the commission.

At least two members of the commission shall represent minorities.

At least four members of the commission shall reside east of the crest of the Cascade Range. Any member of the commission appointed pursuant to this section as an incumbent official shall immediately, upon termination of holding said office, cease to be a member of the commission and the governor shall appoint a replacement. Vacancies shall be filled in the same manner as original appointments:

**PROVIDED**, That a person appointed as a replacement shall serve for only the balance of the replaced member's term unless the replacement is reappointed.

Three of the original appointments shall be for terms of one year, four of the initial appointments shall be for terms of two years, and four of the initial appointments shall be for terms of three years. Subsequent appointments shall be for a three year term.

The chairperson of the commission shall be appointed by the governor and shall serve as chairperson at the governor's pleasure. A vice-chairperson shall be elected by the commission. The commission shall meet on call of the chairperson or on request of a majority of its members, but not less than four times per year. This commission shall be terminated on June 30, 1983, unless this date is revised by the legislature.

**NEW SECTION. Sec. 4.** Members of the commission shall be entitled to reimbursement for travel expenses incurred in the performance of their duties pursuant to RCW 43.03.050 and 43.03.060.

**NEW SECTION. Sec. 5.** In addition to any other powers and duties contained in this chapter, the commission shall have the powers and duties:

(1) To adopt such rules and regulations, after approval by the legislature, pursuant to chapter 34.04 RCW, as it deems necessary and consistent with the purposes and intent of this chapter on the following subjects:

(a) Mandatory custodial care standards that are essential for the health, welfare, and security of persons confined in jails: **PROVIDED**, That in adopting each rule or regulation pertaining to mandatory custodial care standards, the commission shall cite the applicable case law, statutory law or constitutional provision which requires such rule or regulation;

(b) Advisory custodial care standards;

(c) The classification and uses of holding, detention, and correctional facilities. Except for the housing of work releasees in accordance with commission rules, a person may not be held in a holding facility longer than seventy-two hours, exclusive of weekends and holidays, without being transferred to a detention or correction facility unless the court having jurisdiction over the individual authorizes a longer holding, but in no instance shall the holding exceed thirty days;

(d) The content of jail records which shall be maintained by the department of corrections or the chief law enforcement officer of the governing unit. In addition the governing unit, chief law enforcement officer, or department of corrections may require such additional records as they deem proper; and

(e) The segregation of persons and classes of persons confined in holding, detention, and correctional facilities;

(2) To investigate, develop, and encourage alternative and innovative methods in all phases of jail operation;

(3) To make comments, reports, and recommendations concerning all phases of jail operation including those not specifically described in this chapter;

(4) To hire necessary staff, acquire office space, supplies, and equipment, and make such other expenditures as may be deemed necessary to carry out its duties;

(5) The secretary shall submit minimum physical plant standards to the commission for review and promulgate proposed standards pursuant to chapter 34.04 RCW. After such promulgation, the standards shall be presented for review at a

public conference of city, town, and county legislative and executive officials and directors of departments of correction or the chief law enforcement officers of the governing units in four regional meetings, two of which shall be east of the Cascade range. Subsequent to these reviews, and utilizing the data received, the commission shall adopt minimum physical plant standards pursuant to chapter 34.04 RCW, after approval by the legislature;

(6) To cause all jails to be inspected at least annually by designated jail inspectors and to issue a certificate of compliance to each facility which is found to satisfactorily meet the requirements of this chapter and the rules, regulations, and standards adopted hereunder: **PROVIDED**, That certificates of partial compliance may be issued where applicable. The inspectors shall have access to all portions of jails, to all prisoners confined therein, and to all records maintained by said jails; and

(7) To establish advisory guidelines and model ordinances to assist governing units in establishing the agreements necessary for the joint operation of jails and for the determination of the rates of allowance for the daily costs of holding a prisoner pursuant to the provisions of section 8(6) of this 1977 amendatory act.

**NEW SECTION.** Sec. 6. (1) As a condition of eligibility for such financial assistance as may be provided by or through the state of Washington exclusively for the construction and/or modernization of jails, all jail construction and/or substantial remodeling projects shall be submitted by the governing unit to the commission for review. The commission shall submit the projects to the office of program planning and fiscal management, pursuant to subsection (3) of this section, if they comply with the physical plant standards adopted by the commission, pursuant to the provisions of section 5(5) of this 1977 amendatory act. Notice of rejection because of noncompliance to said standards shall be given within forty-five days after receipt by the commission of the submitted project.

(2) If the projects are approved, the department shall oversee the construction and remodeling to the extent necessary to assure compliance with the standards adopted and approved pursuant to section 5(7) of this 1977 amendatory act.

(3) The commission shall develop estimates of the costs of the capital construction grants for each biennium required under the provisions of this chapter. The estimates shall be subject to the review of the secretary and shall be submitted to the office of program planning and fiscal management consistent with the provisions of chapter 43.88 RCW.

**NEW SECTION.** Sec. 7. All jails shall be constructed, operated, and maintained in compliance with the provisions and intent of this chapter and the rules, regulations, and standards adopted thereunder: **PROVIDED**, That, as limited by this section, compliance with such rules, regulations, and standards shall be pursuant to the time schedules set by the commission for classes of facilities:

(1) The mandatory custodial care standards that are essential for the health, welfare, and security of persons confined, which are adopted pursuant to section 5(1)(a) of this 1977 amendatory act, shall be proposed by the commission to the legislature no later than December 31, 1978. If the legislature fails to adopt or modify such standards by April 1, 1979, they shall take effect on July 1, 1979 without legislative approval and shall be complied with no later than October 1, 1979. Subsequent standards shall be prescribed by the commission and submitted

to the Legislative Budget Committee for review. If the Legislative Budget Committee disapproves such standards, they shall not have effect;

(2) The physical plant standards which are adopted and approved pursuant to section 5(5) of this 1977 amendatory act shall not be mandatory unless, pursuant to the provisions of section 11 of this 1977 amendatory act, the state fully funds the cost of implementing such standards for detention and correctional facilities: **PROVIDED**, That, such funds shall be subject to biennial appropriation: **PROVIDED FURTHER**, That after such funds are made available, local jurisdictions shall have a period of time before such standards are mandatory that is adequate to effect any needed construction or repairs: **PROVIDED FURTHER**, That those provisions of sections 6 and 11 of this 1977 amendatory act requiring approval prior to funding and commencement of construction or remodeling shall not apply to prevent the funding of jails of governing units which have appropriated funds for substantial remodeling or construction of jails after February 16, 1974, and before the effective date of this 1977 amendatory act. Approval in such cases may be given retroactively.

**NEW SECTION. Sec. 8.** All jails which do not meet the appropriate mandatory custodial care standards and physical plant standards may be required to be closed, entirely or in part, until such requirements are met, pursuant to the following procedures:

(1) In the event the commission finds a jail does not comply with the appropriate mandatory custodial care and/or physical plant standards, notice shall be given to the governing unit which shall be either a notice of noncompliance, a notice of conditional compliance for the continued operation of the jail under such restrictions as the commission determines to be appropriate, or a notice of full or partial closure.

(2) Such notices shall specify the manner in which the jail does not comply with the standards. In issuing such notices consideration shall be given to the magnitude and seriousness of the deficiencies and their potential effect on the health and safety of jail inmates, the cost of correction, and other information deemed relevant by the commission.

(3) (a) If the commission issues a notice of noncompliance, it shall specify in the notice the time limits within which the standards are to be met.

(b) If the commission determines that there will be compliance with the standards provided that certain conditions or restrictions which the commission determines to be appropriate are applied, the commission may issue a notice of conditional compliance setting out the conditions and restrictions which the commission determines to be appropriate. A certificate of conditional compliance may be issued thereon.

(c) In those cases where the nature and extent of the deficiencies are such that a notice of immediate full or partial closure is deemed necessary by the commission in order to preserve the health and safety of persons in the jail, a notice of immediate full or partial closure may be issued by the commission.

(4) Within thirty days after the date of receipt of a notice of noncompliance, a notice of conditional compliance, or a notice of full or partial closure, the appropriate governing unit may request a review thereof by the commission which review

shall be heard not more than forty-five days following such request unless such period is extended not more than another forty-five days by order of the commission. All reviews conducted under this section shall be deemed to be "contested cases" within the meaning of chapter 34.04 RCW.

The commission shall hear and decide the review, and the decision of the commission may be appealed to the superior court as provided in chapter 34.04 RCW.

(5) If a notice of full or partial closure is issued and upheld, or if a notice of conditional compliance is issued and the conditions or restrictions are not complied with, or if a notice of noncompliance is issued and upheld and compliance is not satisfactorily accomplished within the time prescribed in the notice, the attorney general, upon request and on behalf of the commission, shall apply to the superior court of the county in which the jail is located for an order of closure of all or part of the jail and the court shall have authority to issue such order of closure or prescribe other appropriate relief.

(6) In the event an order of closure is issued by the superior court, all confined persons in custody in the jail or portions thereof ordered closed shall be transferred, provided sufficient space is available, to a suitable, available jail, and the transferring governing unit shall pay for the costs of board, room, program, and administration of such transferred persons, pursuant to the rate for such costs established by the governing unit accepting such confined persons. If a transferring governing unit disputes the rates established by the governing unit accepting, the commission shall set the rates.

**NEW SECTION. Sec. 9.** (1) A city or county primarily responsible for the operation of a jail or jails may create a department of corrections to be in charge of such jail and of all persons confined therein by law, subject to the authority of the governing unit. If such department is created, it shall have charge of jails and persons confined therein. If no such department of corrections is created, the chief law enforcement officer of the city or county primarily responsible for the operation of said jail shall have charge of the jail and of all persons confined therein. A department of corrections or the chief law enforcement officer shall operate a jail in conformance with the rules and regulations adopted by the commission and any rules, regulations, or ordinances adopted by the governing unit.

(2) Whenever any jail is operated by a governing unit which includes a combination of cities and/or counties, one such city or county shall be designated as being primarily responsible for the operation of said jail.

**NEW SECTION. Sec. 10.** (1) A department of corrections or chief law enforcement officer responsible for the operation of a jail shall maintain a jail register, open to the public, into which shall be entered in a timely basis:

(a) The name of each person confined in the jail with the hour, date and cause of the confinement; and

(b) The hour, date and manner of each person's discharge.

(2) The records of a person confined in jail shall be held in confidence and shall be made available only to criminal justice agencies as defined in RCW 43.43.705; or

(a) For use in inspections made pursuant to section 7 of this 1977 amendatory act;

(b) In jail certification proceedings;

(c) For use in court proceedings upon the written order of the court in which the proceedings are conducted; or

(d) Upon the written permission of the person.

**NEW SECTION. Sec. 11.** Upon obtaining approval for the substantial remodeling or construction of a jail pursuant to section 6 of this 1977 amendatory act and biennial appropriation of the legislature, a governing unit shall receive full funding from the state for the costs of the necessary new construction or improvements to or remodeling of existing detention or correctional facilities necessary to comply with the standards established pursuant to this chapter. The commission shall biennially establish for each application the level of costs necessary to comply with the physical plant standards and shall authorize payment by the state treasurer of the designated amount from the local jail improvement and construction account created in section 12 of this 1977 amendatory act to the eligible governing unit in accordance with procedures established by the commission.

**NEW SECTION. Sec. 12.** There is hereby established in the state treasury a fund to be known as the local jail improvement and construction account in which shall be deposited such sums as are appropriated by law for the purpose of providing funds to units of local government for new construction and the substantial remodeling of detention and correctional facilities so as to obtain compliance with the physical plant standards for such facilities. Funds in the local jail improvement and construction account shall be invested in the same manner as other funds in other accounts within the state treasury, and such earnings shall accrue to the local jail improvement and construction account. Funds in this account shall be disbursed by the state treasurer to units of local government, subject to biennial legislative appropriation, at the direction of the commission.

**NEW SECTION. Sec. 13.** Payment for emergency or necessary health care shall be by the governing unit, except that the department shall reimburse the governing unit for the cost thereof if the confined person requires treatment for which such person is eligible under the department's public assistance medical program.

The governing unit may obtain reimbursement from the confined person for the cost of emergency and other health care to the extent that such person is reasonably able to pay for such care, including reimbursement from any insurance program or from other medical benefit programs available to such person. To the extent that a confined person is unable to be financially responsible for medical care and is ineligible for financial assistance from the department or from a private source, the governing unit may obtain reimbursement for the cost of such services from the unit of government whose law enforcement officers initiated the charges on which the person is being held in the jail: **PROVIDED**, That reimbursement for the cost of such services shall be by the state for state prisoners being held in a jail who are accused of either escaping from a state facility or of committing an offense in a state facility.

There shall be no right of reimbursement to the governing unit from units of government whose law enforcement officers initiated the charges for which a person is being held in the jail for care provided after the charges are disposed of by sentencing or otherwise, unless by intergovernmental agreement pursuant to chapter 39.34 RCW.

This section is not intended to limit or change any existing right of any party, governing unit, or unit of government against the person receiving the care for the cost of the care provided or paid for.

Under no circumstance shall necessary medical services be denied or delayed pending a determination of financial responsibility.

**NEW SECTION. Sec. 14.** A person having charge of a jail shall receive and keep in such jail, when room is available, all persons confined or committed thereto by process or order issued under authority of the United States until discharged according to law, the same as if such persons had been committed under process issued under authority of the state, if provision is made by the United States for the support of such persons confined, and for any additional personnel required.

**NEW SECTION. Sec. 15. (1)** It is the intent of the legislature that the temporary committee that is created pursuant to subsection (2) of this section shall avoid custodial facility and program duplication between the state and units of local government, and between the various units of local government. It is also the intent of the legislature to effectuate economies of scale and effective management of and care for persons who are confined in local jails and state custodial facilities.

(2) The following persons shall constitute a temporary committee which shall hold hearings and draft a proposal which prescribes the specific role of the state and local units of government, and the nature of any custodial facilities operated by the state and local units of government, with regard to the custody of persons who are arrested for, and/or convicted of violating statutes or ordinances which define crimes:

(a) Three members of the commission who are local elected officials, and who are appointed to such committee by the chairperson of the commission;

(b) Three representatives of the department, who are appointed by the secretary; and

(c) One member of the senate and one member of the house of representatives who are appointed by the governor.

(3) This temporary committee shall present such proposals to the commission and to the legislature on or before December 15, 1978, and shall dissolve ninety days after the presentation of such proposal.

**NEW SECTION. Sec. 16.** Having received approval pursuant to section 6 of this 1977 amendatory act:

(1) A governing unit shall not be eligible for further funding for physical plant standards for a period of ten years from the date of the completion of the said approved project; and

(2) A jail shall not be closed for noncompliance to physical plant standards within this same ten year period.

However, this section shall not apply if there is destruction of the facility because of an act of God or the result of a negligent and/or criminal act.

**NEW SECTION. Sec. 17.** Sections 1 through 16 of this 1977 amendatory act shall be known and may be cited as the City and County Jails Act.

**NEW SECTION. Sec. 18.** Sections 1 through 15 of this 1977 amendatory act shall constitute a new chapter in Title 70 RCW.

Sec. 19. Section 35.21.330, chapter 7, Laws of 1965 and RCW 35.21.330 are each amended to read as follows:

Cities and towns may acquire, build, operate and maintain (~~(jails, workhouses, workshops, stockades and other places of detention and confinement)~~) holding, detention and correctional facilities as defined in section 2 of this 1977 amendatory act at any place within the territorial limits of the county in which the city or town is situated, as may be selected by the legislative authority of the municipality; PROVIDED, That such facilities comply with the provisions of sections 1 through 16 of this 1977 amendatory act and rules adopted thereto.

Sec. 20. Section 35.22.280, chapter 7, Laws of 1965 as last amended by section 1, chapter 16, Laws of 1971 ex. sess. and RCW 35.22.280 are each amended to read as follows:

Any city of the first class shall have power:

(1) To provide for general and special elections, for questions to be voted upon, and for the election of officers;

(2) To provide for levying and collecting taxes on real and personal property for its corporate uses and purposes, and to provide for the payment of the debts and expenses of the corporation;

(3) To control the finances and property of the corporation, and to acquire, by purchase or otherwise, such lands and other property as may be necessary for any part of the corporate uses provided for by its charter, and to dispose of any such property as the interests of the corporation may, from time to time, require;

(4) To borrow money for corporate purposes on the credit of the corporation, and to issue negotiable bonds therefor, on such conditions and in such manner as shall be prescribed in its charter; but no city shall, in any manner or for any purpose, become indebted to an amount in the aggregate to exceed the limitation of indebtedness prescribed by chapter 39.36 RCW as now or hereafter amended;

(5) To issue bonds in place of or to supply means to meet maturing bonds or other indebtedness, or for the consolidation or funding of the same;

(6) To purchase or appropriate private property within or without its corporate limits, for its corporate uses, upon making just compensation to the owners thereof, and to institute and maintain such proceedings as may be authorized by the general laws of the state for the appropriation of private property for public use;

(7) To lay out, establish, open, alter, widen, extend, grade, pave, plank, establish grades, or otherwise improve streets, alleys, avenues, sidewalks, wharves, parks, and other public grounds, and to regulate and control the use thereof, and to vacate the same, and to authorize or prohibit the use of electricity at, in, or upon any of said streets, or for other purposes, and to prescribe the terms and conditions upon which the same may be so used, and to regulate the use thereof;

(8) To change the grade of any street, highway, or alley within its corporate limits, and to provide for the payment of damages to any abutting owner or owners who shall have built or made other improvements upon such street, highway, or alley at any point opposite to the point where such change shall be made with reference to the grade of such street, highway, or alley as the same existed prior to such change;

(9) To authorize or prohibit the locating and constructing of any railroad or street railroad in any street, alley, or public place in such city, and to prescribe the

terms and conditions upon which any such railroad or street railroad shall be located or constructed; to provide for the alteration, change of grade, or removal thereof; to regulate the moving and operation of railroad and street railroad trains, cars, and locomotives within the corporate limits of said city; and to provide by ordinance for the protection of all persons and property against injury in the use of such railroads or street railroads;

(10) To provide for making local improvements, and to levy and collect special assessments on property benefited thereby, and for paying for the same or any portion thereof;

(11) To acquire, by purchase or otherwise, lands for public parks within or without the limits of such city, and to improve the same. When the language of any instrument by which any property is so acquired limits the use of said property to park purposes and contains a reservation of interest in favor of the grantor or any other person, and where it is found that the property so acquired is not needed for park purposes and that an exchange thereof for other property to be dedicated for park purposes is in the public interest, the city may, with the consent of the grantor or such other person, his heirs, successors, or assigns, exchange such property for other property to be dedicated for park purposes, and may make, execute, and deliver proper conveyances to effect the exchange. In any case where, owing to death or lapse of time, there is neither donor, heir, successor, or assignee to give consent, this consent may be executed by the city and filed for record with an affidavit setting forth all efforts made to locate people entitled to give such consent together with the facts which establish that no consent by such persons is attainable. Title to property so conveyed by the city shall vest in the grantee free and clear of any trust in favor of the public arising out of any prior dedication for park purposes, but the right of the public shall be transferred and preserved with like force and effect to the property received by the city in such exchange;

(12) To construct and keep in repair bridges, viaducts, and tunnels, and to regulate the use thereof;

(13) To determine what work shall be done or improvements made at the expense, in whole or in part, of the owners of the adjoining contiguous, or proximate property, or others specially benefited thereby; and to provide for the manner of making and collecting assessments therefor;

(14) To provide for erecting, purchasing, or otherwise acquiring waterworks, within or without the corporate limits of said city, to supply said city and its inhabitants with water, or authorize the construction of same by others when deemed for the best interests of such city and its inhabitants, and to regulate and control the use and price of the water so supplied;

(15) To provide for lighting the streets and all public places, and for furnishing the inhabitants thereof with gas or other lights, and to erect, or otherwise acquire, and to maintain the same, or to authorize the erection and maintenance of such works as may be necessary and convenient therefor, and to regulate and control the use thereof;

(16) To establish and regulate markets, and to provide for the weighing, measuring, and inspection of all articles of food and drink offered for sale thereat, or at any other place within its limits, by proper penalties, and to enforce the keeping of

proper legal weights and measures by all vendors in such city, and to provide for the inspection thereof;

(17) To erect and establish hospitals and pesthouses, and to control and regulate the same;

~~(18) ((To erect and establish work houses and jails, and to control and regulate the same, and to provide for the working of prisoners confined therein;~~

~~(19)))~~ To provide for establishing and maintaining reform schools for juvenile offenders;

~~((20)))~~ (19) To provide for the establishment and maintenance of public libraries, and to appropriate, annually, such percent of all moneys collected for fines, penalties, and licenses as shall be prescribed by its charter, for the support of a city library, which shall, under such regulations as shall be prescribed by ordinance, be open for use by the public;

~~((21)))~~ (20) To regulate the burial of the dead, and to establish and regulate cemeteries within or without the corporate limits, and to acquire land therefor by purchase or otherwise; to cause cemeteries to be removed beyond the limits of the corporation, and to prohibit their establishment within two miles of the boundaries thereof;

~~((22)))~~ (21) To direct the location and construction of all buildings in which any trade or occupation offensive to the senses or deleterious to public health or safety shall be carried on, and to regulate the management thereof; and to prohibit the erection or maintenance of such buildings or structures, or the carrying on of such trade or occupation within the limits of such corporation, or within the distance of two miles beyond the boundaries thereof;

~~((23)))~~ (22) To provide for the prevention and extinguishment of fires and to regulate or prohibit the transportation, keeping, or storage of all combustible or explosive materials within its corporate limits, and to regulate and restrain the use of fireworks;

~~((24)))~~ (23) To establish fire limits and to make all such regulations for the erection and maintenance of buildings or other structures within its corporate limits as the safety of persons or property may require, and to cause all such buildings and places as may from any cause be in a dangerous state to be put in safe condition;

~~((25)))~~ (24) To regulate the manner in which stone, brick, and other buildings, party walls, and partition fences shall be constructed and maintained;

~~((26)))~~ (25) To deepen, widen, dock, cover, wall, alter, or change the channels of waterways and courses, and to provide for the construction and maintenance of all such works as may be required for the accommodation of commerce, including canals, slips, public landing places, wharves, docks, and levees, and to control and regulate the use thereof;

~~((27)))~~ (26) To control, regulate, or prohibit the anchorage, moorage, and landing of all watercrafts and their cargoes within the jurisdiction of the corporation;

~~((28)))~~ (27) To fix the rates of wharfage and dockage, and to provide for the collection thereof, and to provide for the imposition and collection of such harbor fees as may be consistent with the laws of the United States;

~~((29))~~ (28) To license, regulate, control, or restrain wharf boats, tugs, and other boats used about the harbor or within such jurisdiction;

~~((30))~~ (29) To require the owners of public halls or other buildings to provide suitable means of exit; to provide for the prevention and abatement of nuisances, for the cleaning and purification of watercourses and canals, for the drainage and filling up of ponds on private property within its limits, when the same shall be offensive to the senses or dangerous to health; to regulate and control, and to prevent and punish, the defilement or pollution of all streams running through or into its corporate limits, and for the distance of five miles beyond its corporate limits, and on any stream or lake from which the water supply of said city is taken, for a distance of five miles beyond its source of supply; to provide for the cleaning of areas, vaults, and other places within its corporate limits which may be so kept as to become offensive to the senses or dangerous to health, and to make all such quarantine or other regulations as may be necessary for the preservation of the public health, and to remove all persons afflicted with any infectious or contagious disease to some suitable place to be provided for that purpose;

~~((31))~~ (30) To declare what shall be a nuisance, and to abate the same, and to impose fines upon parties who may create, continue, or suffer nuisances to exist;

~~((32))~~ (31) To regulate the selling or giving away of intoxicating, malt, vinous, mixed, or fermented liquors as authorized by the general laws of the state: PROVIDED, That no license shall be granted to any person or persons who shall not first comply with the general laws of the state in force at the time the same is granted;

~~((33))~~ (32) To grant licenses for any lawful purpose, and to fix by ordinance the amount to be paid therefor, and to provide for revoking the same: PROVIDED, That no license shall be granted to continue for longer than one year from the date thereof;

~~((34))~~ (33) To regulate the carrying on within its corporate limits of all occupations which are of such a nature as to affect the public health or the good order of said city, or to disturb the public peace, and which are not prohibited by law, and to provide for the punishment of all persons violating such regulations, and of all persons who knowingly permit the same to be violated in any building or upon any premises owned or controlled by them;

~~((35))~~ (34) To restrain and provide for the punishment of vagrants, mendicants, prostitutes, and other disorderly persons;

~~((36))~~ (35) To provide for the punishment of all disorderly conduct, and of all practices dangerous to public health or safety, and to make all regulations necessary for the preservation of public morality, health, peace, and good order within its limits, and to provide for the arrest, trial, and punishment of all persons charged with violating any of the ordinances of said city. The punishment shall not exceed a fine of five hundred dollars or imprisonment in the city jail for six months, or both such fine and imprisonment;

~~((37))~~ (36) To project or extend its streets over and across any tidelands within its corporate limits, and along or across the harbor areas of such city, in such manner as will best promote the interests of commerce;

~~((38))~~ (37) To provide in their respective charters for a method to propose and adopt amendments thereto.

Sec. 21. Section 35.23.440, chapter 7, Laws of 1965 as amended by section 7, chapter 116, Laws of 1965 ex. sess. and RCW 35.23.440 are each amended to read as follows:

The city council of each second class city shall have power and authority:

(1) Ordinances: To make and pass all ordinances, orders and resolutions not repugnant to the Constitution of the United States or the state of Washington, or the provisions of this title, necessary for the municipal government and management of the affairs of the city, for the execution of the powers vested in said body corporate, and for the carrying into effect of the provisions of this title.

(2) License of shows: To fix and collect a license tax, for the purposes of revenue and regulation, on theatres, melodeons, balls, concerts, dances, theatrical, circus or other performances, and all performances where an admission fee is charged, or which may be held in any house or place where wines or liquors are sold to the participators; also all shows, billiard tables, pool tables, bowling alleys, exhibitions, or amusements.

(3) Hotels, etc., licenses: To fix and collect a license tax for the purposes of revenue and regulation on and to regulate all taverns, hotels, restaurants, banks, brokers, manufactories, livery stables, express companies and persons engaged in transmitting letters or packages, railroad, stage and steamboat companies or owners, whose principal place of business is in such city, or who have an agency therein.

(4) Auctioneers' licenses: To license and regulate auctioneers for the purposes of revenue and regulation.

(5) Peddlers', etc., licenses: To license, for the purposes of revenue and regulation, tax, prohibit, suppress and regulate all raffles, hawkers, peddlers, pawnbrokers, refreshment or coffee stands, booths or sheds; and to regulate as authorized by state law all tipping houses, dram shops, saloons, bars and barrooms.

(6) Dance houses: To prohibit or suppress, or to license and regulate all dance houses, fandango houses, or any exhibition or show of any animal or animals.

(7) License vehicles: To license for the purposes of revenue and regulation, and to tax hackney coaches, cabs, omnibuses, drays, market wagons, and all other vehicles used for hire, and to regulate their stands, and to fix the rates to be charged for the transportation of persons, baggage and property.

(8) Hotel runners: To license or suppress runners for steamboats, taverns, or hotels.

(9) License generally: To fix and collect a license tax for the purposes of revenue and regulation, upon all occupations and trades, and all and every kind of business authorized by law not heretofore specified: PROVIDED, That on any business, trade, or calling not provided by law to be licensed for state and county purposes, the amount of license shall be fixed at the discretion of the city council, as they may deem the interests and good order of the city may require.

(10) Riots: To prevent and restrain any riot or riotous assemblages, disturbance of the peace or disorderly conduct in any place, house or street in the city.

(11) Nuisances: To declare what shall be deemed nuisances; to prevent, remove and abate nuisances at the expense of the parties creating, causing or committing or maintaining the same, and to levy a special assessment on the land or premises

whereon the nuisance is situated to defray the cost or to reimburse the city for the cost of abating the same.

(12) **Stock pound:** To establish, maintain and regulate a common pound for estrays, and to appoint a poundkeeper, who shall be paid out of the fines and fees imposed and collected of the owners of any animals impounded, and from no other source; to prevent and regulate the running at large of any and all domestic animals within the city limits or any parts thereof, and to regulate or prevent the keeping of such animals within any part of the city.

(13) **Control of certain trades:** To control and regulate slaughterhouses, wash-houses, laundries, tanneries, forges and offensive trades, and to provide for their exclusion or removal from the city limits, or from any part thereof.

(14) **Street cleaning:** To provide, by regulation, for the prevention and summary removal of all filth and garbage in streets, sloughs, alleys, back yards or public grounds of such city, or elsewhere therein.

~~(15) ((City jail: To establish, alter and repair city prisons and to provide for the regulation of the same, and for the safekeeping of persons committed thereto; to provide for the care, feeding and clothing of the city prisoners; to provide for the formation of a chain gang for persons convicted of crimes or misdemeanors, and their proper employment and compulsory working for the benefit of the city; and also to provide for the arrest and compulsory working of vagrants: PROVIDED, That no prisoner shall be required to perform any labor until he has been duly convicted of some offense punishable by imprisonment and duly sentenced thereto.~~

~~((16))) **Gambling, etc.:** To prohibit and suppress all gaming and all gambling or disorderly houses, and houses of ill fame, and all immoral and indecent amusements, exhibitions and shows.~~

~~((17))) **(16) Markets:** To establish and regulate markets and market places.~~

~~((18))) **(17) Speed of railroad cars:** To fix and regulate the speed at which any railroad cars, streetcars, automobiles or other vehicles may run within the city limits, or any portion thereof.~~

~~((19))) **(18) City commons:** To provide for and regulate the commons of the city.~~

~~((20))) **(19) Fast driving:** To regulate or prohibit fast driving or riding in any portion of the city.~~

~~((21))) **(20) Combustibles:** To regulate or prohibit the loading or storage of gunpowder and combustible or explosive materials in the city, or transporting the same through its streets or over its waters.~~

~~((22))) **(21) Property:** To have, purchase, hold, use and enjoy property of every name or kind whatsoever, and to sell, lease, transfer, mortgage, convey, control or improve the same; to build, erect or construct houses, buildings or structures of any kind needful for the use or purposes of such city.~~

~~((23))) **(22) Fire department:** To establish, continue, regulate and maintain a fire department for such city, to change or reorganize the same, and to disband any company or companies of the said department; also, to discontinue and disband said fire department, and to create, organize, establish and maintain a paid fire department for such city.~~

~~((24))~~ (23) Water supply: To adopt, enter into and carry out means for securing a supply of water for the use of such city or its inhabitants, or for irrigation purposes therein.

~~((25))~~ (24) Overflow of water: To prevent the overflow of the city or to secure its drainage, and to assess the cost thereof to the property benefited.

~~((26))~~ (25) House numbers: To provide for the numbering of houses.

~~((27))~~ (26) Health board: To establish a board of health; to prevent the introduction and spread of disease; to establish a city infirmary and to provide for the indigent sick; and to provide and enforce regulations for the protection of health, cleanliness, peace and good order of the city; to establish and maintain hospitals within or without the city limits; to control and regulate interments and to prohibit them within the city limits.

~~((28))~~ (27) Harbors and wharves: To build, alter, improve, keep in repair and control the waterfront; to erect, regulate and repair wharves, and to fix the rate of wharfage and transit of wharf, and levy dues upon vessels and commodities; and to provide for the regulation of berths, landing, stationing and removing steamboats, sail vessels, rafts, barges and all other watercraft; to fix the rate of speed at which steamboats and other steam watercraft may run along the waterfront of the city; to build bridges so as not to interfere with navigation; to provide for the removal of obstructions to the navigation of any channel or watercourses or channels.

~~((29))~~ (28) License of steamers: To license steamers, boats and vessels used in any watercourse in the city, and to fix and collect a license tax thereon.

~~((30))~~ (29) Ferry licenses: To license ferries and toll bridges under the law regulating the granting of such license.

~~((31))~~ (30) Penalty for violation of ordinances: To determine and impose fines for forfeitures and penalties that shall be incurred for the breach or violation of any city ordinance, notwithstanding that the act constituting a violation of any such ordinance may also be punishable under the state laws, and also for a violation of the provisions of this chapter, when no penalty is affixed thereto or provided by law, and to appropriate all such fines, penalties and forfeitures for the benefit of the city; but no penalty to be enforced shall exceed for any offense the amount of five hundred dollars or six months' imprisonment, or both; and every violation of any lawful order, regulation or ordinance of the city council of such city is hereby declared a misdemeanor or public offense, and all prosecutions for the same may be in the name of the state of Washington.

~~((32))~~ (31) Police department: To create and establish a city police; to prescribe their duties and their compensation and to provide for the regulation and government of the same.

~~((33))~~ (32) Elections: To provide for conducting elections and establishing election precincts when necessary, to be as near as may be in conformity with the state law.

~~((34))~~ (33) Examine official accounts: To examine, either in open session or by committee, the accounts or doings of all officers or other persons having the care, management or disposition of moneys, property or business of the city.

~~((35))~~ (34) Contracts: To make all appropriations, contracts or agreements for the use or benefit of the city and in the city's name.

~~((36))~~ (35) Streets and sidewalks: To provide by ordinance for the opening, laying out, altering, extending, repairing, grading, paving, planking, graveling, macadamizing, or otherwise improving of public streets, avenues and other public ways, or any portion of any thereof; and for the construction, regulation and repair of sidewalks and other street improvements, all at the expense of the property to be benefited thereby, without any recourse, in any event, upon the city for any portion of the expense of such work, or any delinquency of the property holders or owners, and to provide for the forced sale thereof for such purposes; to establish a uniform grade for streets, avenues, sidewalks and squares, and to enforce the observance thereof.

~~((37))~~ (36) Waterways: To clear, cleanse, alter, straighten, widen, fill up or close any waterway, drain or sewer, or any watercourse in such city when not declared by law to be navigable, and to assess the expense thereof, in whole or in part, to the property specially benefited.

~~((38))~~ (37) Sewerage: To adopt, provide for, establish and maintain a general system of sewerage, draining, or both, and the regulation thereof; to provide funds by local assessments on the property benefited for the purpose aforesaid and to determine the manner, terms and place of connection with main or central lines of pipes, sewers or drains established, and compel compliance with and conformity to such general system of sewerage or drainage, or both, and the regulations of said council thereto relating, by the infliction of suitable penalties and forfeitures against persons and property, or either, for nonconformity to, or failure to comply with the provisions of such system and regulations or either.

~~((39))~~ (38) Buildings and parks: To provide for all public buildings, public parks or squares, necessary or proper for the use of the city.

~~((40))~~ (39) Franchises: To permit the use of the streets for railroad or other public service purposes.

~~((41))~~ (40) Payment of judgments: To order paid any final judgment against such city, but none of its lands or property of any kind or nature, taxes, revenue, franchise or rights, or interest, shall be attached, levied upon or sold in or under any process whatsoever.

~~((42))~~ (41) Weighing of fuel: To regulate the sale of coal and wood in such city, and may appoint a measurer of wood and weigher of coal for the city, and define his duties, and may prescribe his term of office, and the fees he shall receive for his services: PROVIDED, That such fees shall in all cases be paid by the parties requiring such service.

~~((43))~~ (42) Hospitals, etc.: To erect and establish hospitals and pesthouses and to control and regulate the same.

~~((44))~~ (43) Waterworks: To provide for the erection, purchase or otherwise acquiring of waterworks within or without the corporate limits of the city to supply such city and its inhabitants with water, and to regulate and control the use and price of the water so supplied.

~~((45))~~ (44) City lights: To provide for lighting the streets and all public places of the city and for furnishing the inhabitants of the city with gas, electric or other light, and for the ownership, purchase or acquisition, construction, or maintenance of such works as may be necessary or convenient therefor: PROVIDED,

That no purchase of any such water plant or light plant shall be made without first submitting the question of such purchase to the electors of the city.

~~((46))~~ (45) Parks: To acquire by purchase or otherwise land for public parks, within or without the limits of the city, and to improve the same.

~~((47))~~ (46) Bridges: To construct and keep in repair bridges, and to regulate the use thereof.

~~((48))~~ (47) Power of eminent domain: In the name of and for the use and benefit of the city, to exercise the right of eminent domain, and to condemn lands and property for the purposes of streets, alleys, parks, public grounds, waterworks or for any other municipal purpose and to acquire by purchase or otherwise such lands and property as may be deemed necessary for any of the corporate uses provided for by this title, as the interests of the city may from time to time require.

~~((49))~~ (48) To provide for the assessment of taxes: To provide for the assessment, levying and collecting of taxes on real and personal property for the corporate uses and purposes of the city and to provide for the payment of the debts and expenses of the corporation.

~~((50))~~ (49) Local improvements: To provide for making local improvements, and to levy and collect special assessments on the property benefited thereby and for paying the same or any portion thereof; to determine what work shall be done or improvements made, at the expense, in whole or in part, of the adjoining, contiguous, or proximate property, and to provide for the manner of making and collecting assessments therefor.

~~((51))~~ (50) Cemeteries: To regulate the burial of the dead and to establish and regulate cemeteries, within or without the corporate limits, and to acquire lands therefor by purchase or otherwise.

~~((52))~~ (51) Fire limits: To establish fire limits with proper regulations and to make all needful regulations for the erection and maintenance of buildings or other structures within the corporate limits as safety of persons or property may require, and to cause all such buildings and places as may from any cause be in a dangerous state to be put in a safe condition; to regulate the manner in which stone, brick and other buildings, party walls and partition fences shall be constructed and maintained.

~~((53))~~ (52) Safety and sanitary measures: To require the owners of public halls, theaters, hotels and other buildings to provide suitable means of exit and proper fire escapes; to provide for the cleaning and purification of watercourses and canals and for the draining and filling up of ponds on private property within its limits when the same shall be offensive to the senses or dangerous to the health, and to charge the expense thereof to the property specially benefited, and to regulate and control and provide for the prevention and punishment of the defilement or pollution of all streams running in or through its corporate limits and a distance of five miles beyond its corporate limits, and of any stream or lake from which the water supply of the city is or may be taken and for a distance of five miles beyond its source of supply, and to make all quarantine and other regulations as may be necessary for the preservation of the public health and to remove all persons afflicted with any contagious disease to some suitable place to be provided for that purpose.

~~((54))~~ (53) To regulate liquor traffic: To regulate the selling or giving away of intoxicating, spirituous, malt, vinous, mixed or fermented liquors as authorized by the general laws of the state.

~~((55))~~ (54) To establish streets on tidelands: To project or extend or establish streets over and across any tidelands within the limits of such city.

~~((56))~~ (55) To provide for the general welfare.

Sec. 22. Section 35.24.160, chapter 7, Laws of 1965 and RCW 35.24.160 are each amended to read as follows:

The department of police in a city of the third class shall be under the direction and control of the chief of police subject to the direction of the mayor. The chief of police shall prosecute before the police justice all violations of city ordinances which come to his knowledge. ~~((He shall have charge of the city prisons and prisoners and of any chain gang which may be established by the city council.))~~ He may pursue and arrest violators of city ordinances beyond the city limits.

His lawful orders shall be promptly executed by deputies, police officers and watchmen. Every citizen shall lend him aid, when required, for the arrest of offenders and maintenance of public order. With the concurrence of the mayor, he may appoint additional policemen to serve for one day only under his orders in the preservation of public order.

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

He shall perform such other services as may be required by statute or ordinances of the city.

He shall execute and return all process issued and directed to him by lawful authority and for his services shall receive the same fees as are paid to constables.

Sec. 23. Section 35.24.290, chapter 7, Laws of 1965 as amended by section 10, chapter 116, Laws of 1965 ex. sess. and RCW 35.24.290 are each amended to read as follows:

The city council of each third class city shall have power:

(1) To pass ordinances not in conflict with the Constitution and laws of this state or of the United States;

(2) To prevent and regulate the running at large of any or all domestic animals within the city limits or any part thereof and to cause the impounding and sale of any such animals;

(3) To establish, build and repair bridges, to establish, lay out, alter, keep open, open, widen, vacate, improve and repair streets, sidewalks, alleys, squares and other public highways and places within the city, and to drain, sprinkle and light the same; to remove all obstructions therefrom; to establish and reestablish the grades thereof; to grade, plank, pave, macadamize, gravel and curb the same, in whole or in part; to construct gutters, culverts, sidewalks and crosswalks therein or upon any part thereof; to cultivate and maintain parking strips therein, and generally to manage and control all such highways and places; to provide by local assessment for the leveling up and surfacing and oiling or otherwise treating for the laying of dust, all streets within the city limits;

(4) To establish, construct and maintain drains and sewers, and shall have power to compel all property owners on streets and alleys or within two hundred feet thereof along which sewers shall have been constructed to make proper connections therewith and to use the same for proper purposes, and in case the owners of the property on such streets and alleys or within two hundred feet thereof fail to make such connections within the time fixed by such council, it may cause such connections to be made and assess against the property served thereby the costs and expenses thereof;

(5) To provide fire engines and all other necessary or proper apparatus for the prevention and extinguishment of fires;

(6) To impose and collect an annual license on every dog within the limits of the city, to prohibit dogs running at large and to provide for the killing of all dogs not duly licensed found at large;

(7) To license, for the purposes of regulation and revenue, all and every kind of business authorized by law, and transacted and carried on in such city, and all shows, exhibitions and lawful games carried on therein and within one mile of the corporate limits thereof, to fix the rate of license tax upon the same, and to provide for the collection of the same by suit or otherwise;

(8) To improve rivers and streams flowing through such city, or adjoining the same; to widen, straighten and deepen the channel thereof, and remove obstructions therefrom; to improve the water-front of the city, and to construct and maintain embankments and other works to protect such city from overflow; to prevent the filling of the water of any bay, except such filling over tide or shorelands as may be provided for by order of the city council; to purify and prevent the pollution of streams of water, lakes or other sources of supply, and for this purpose shall have jurisdiction over all streams, lakes or other sources of supply, both within and without the city limits. Such city shall have power to provide by ordinance and to enforce such punishment or penalty as the city council may deem proper for the offense of polluting or in any manner obstructing or interfering with the water supply of such city or source thereof;

(9) To erect and maintain buildings for municipal purposes;

(10) To permit, under such restrictions as it may deem proper, and to grant franchises for, the laying of railroad tracks, and the running of cars propelled by electric, steam or other power thereon, and the laying of gas and water pipes and steam mains and conduits for underground wires, and to permit the construction of tunnels or subways in the public streets, and to construct and maintain and to permit the construction and maintenance of telegraph, telephone and electric lines therein;

(11) In its discretion to divide the city by ordinance, into a convenient number of wards, not exceeding six, to fix the boundaries thereof, and to change the same from time to time: PROVIDED, That no change in the boundaries of any ward shall be made within sixty days next before the date of a general municipal election, nor within twenty months after the wards have been established or altered. Whenever such city is so divided into wards, the city council shall designate by ordinance the number of councilmen to be elected from each ward, apportioning the same in proportion to the population of the wards. Thereafter the councilmen so designated shall be elected by the qualified electors resident in such ward, or by

general vote of the whole city as may be designated in such ordinance. When additional territory is added to the city it may by act of the council, be annexed to contiguous wards without affecting the right to redistrict at the expiration of twenty months after last previous division. The removal of a councilman from the ward for which he was elected shall create a vacancy in such office;

(12) To impose fines, penalties and forfeitures for any and all violations of ordinances, and for any breach or violation of any ordinance to fix the penalty by fine or imprisonment, or both, but no such fine shall exceed five hundred dollars nor the term of such imprisonment exceed the term of six months;

(13) ~~((To cause all persons imprisoned for violation of any ordinance to labor on the streets, or other public property or works within the city;~~

~~((14)))~~ To establish fire limits, with proper regulations;

~~((15)))~~ (14) To establish and maintain a free public library;

~~((16)))~~ (15) To establish and regulate public markets and market places;

~~((17)))~~ (16) To punish the keepers and inmates and lessors of houses of ill fame, gamblers and keepers of gambling tables, patrons thereof or those found loitering about such houses and places;

~~((18)))~~ (17) To make all such ordinances, bylaws, rules, regulations and resolutions, not inconsistent with the Constitution and laws of the state of Washington, as may be deemed expedient to maintain the peace, good government and welfare of the corporation and its trade, commerce and manufactures, and to do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter, and to enact and enforce within the limits of such city all other local, police, sanitary and other regulations as do not conflict with general laws;

~~((19)))~~ (18) To license steamers, boats and vessels used in any bay or other watercourse in the city and to fix and collect such license; to provide for the regulation of berths, landings, and stations, and for the removing of steamboats, sail boats, sail vessels, rafts, barges and other watercraft; to provide for the removal of obstructions to navigation and of structures dangerous to navigation or to other property, in or adjoining the waterfront, except in municipalities in counties in which there is a city of the first class.

Sec. 24. Section 35.27.240, chapter 7, Laws of 1965 as amended by section 1, chapter 125, Laws of 1965 and RCW 35.27.240 are each amended to read as follows:

The department of police in a town shall be under the direction and control of the marshal subject to the direction of the mayor. He shall prosecute before the police justice all violations of town ordinances which come to his knowledge. ~~((He shall have charge of the prison and prisoners.))~~ He may pursue and arrest violators of town ordinances beyond the town limits.

His lawful orders shall be promptly executed by deputies, police officers and watchmen. Every citizen shall lend him aid, when required, for the arrest of offenders and maintenance of public order. He may appoint, subject to the approval of the mayor, one or more deputies, for whose acts he and his bondsmen shall be responsible, whose compensation shall be fixed by the council. With the concurrence of the mayor, he may appoint additional policemen for one day only when necessary for the preservation of public order.

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

He shall execute and return all process issued and directed to him by any legal authority and for his services shall receive the same fees as are paid to constables. He shall perform such other services as the council by ordinance may require.

Sec. 25. Section 35.27.370, chapter 7, Laws of 1965 as last amended by section 15, chapter 116, Laws of 1965 ex. sess. and RCW 35.27.370 are each amended to read as follows:

The council of said town shall have power:

(1) To pass ordinances not in conflict with the Constitution and laws of this state, or of the United States;

(2) To purchase, lease or receive such real estate and personal property as may be necessary or proper for municipal purposes, and to control, dispose of and convey the same for the benefit of the town; to acquire, own, and hold real estate for cemetery purposes either within or without the corporate limits, to sell and dispose of such real estate, to plat or replat such real estate into cemetery lots and to sell and dispose of any and all lots therein, and to operate, improve and maintain the same as a cemetery;

(3) To contract for supplying the town with water for municipal purposes, or to acquire, construct, repair and manage pumps, aqueducts, reservoirs, or other works necessary or proper for supplying water for use of such town or its inhabitants, or for irrigating purposes therein;

(4) To establish, build and repair bridges, to establish, lay out, alter, widen, extend, keep open, improve, and repair streets, sidewalks, alleys, squares and other public highways and places within the town, and to drain, sprinkle and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, plank, macadamize, gravel and curb the same, in whole or in part, and to construct gutters, culverts, sidewalks and crosswalks therein, or on any part thereof; to cause to be planted, set out and cultivated trees therein, and generally to manage and control all such highways and places;

(5) To establish, construct and maintain drains and sewers, and shall have power to compel all property owners on streets along which sewers are constructed to make proper connections therewith, and to use the same for proper purposes when such property is improved by the erection thereon of a building or buildings; and in case the owners of such improved property on such streets shall fail to make such connections within the time fixed by such council, they may cause such connections to be made, and to assess against the property in front of which such connections are made the costs and expenses thereof;

(6) To provide fire engines and all other necessary or proper apparatus for the prevention and extinguishment of fires;

(7) To impose and collect an annual license on every dog within the limits of the town, to prohibit dogs running at large, and to provide for the killing of all dogs found at large and not duly licensed;

(8) To levy and collect annually a property tax, for the payment of current expenses and for the payment of indebtedness (if any indebtedness exists) within the limits authorized by law;

(9) To license, for purposes of regulation and revenue, all and every kind of business, authorized by law and transacted and carried on in such town; and all shows, exhibitions and lawful games carried on therein and within one mile of the corporate limits thereof; to fix the rate of license tax upon the same, and to provide for the collection of the same, by suit or otherwise; to regulate, restrain, or prohibit the running at large of any and all domestic animals within the city limits, or any part or parts thereof, and to regulate the keeping of such animals within any part of the city; to establish, maintain and regulate a common pound for estrays, and to appoint a poundkeeper, who shall be paid out of the fines and fees imposed on, and collected from, the owners of any impounded stock;

(10) To improve the rivers and streams flowing through such town or adjoining the same; to widen, straighten and deepen the channels thereof, and to remove obstructions therefrom; to prevent the pollution of streams or water running through such town, and for this purpose shall have jurisdiction for two miles in either direction; to improve the waterfront of the town, and to construct and maintain embankments and other works to protect such town from overflow;

(11) To erect and maintain buildings for municipal purposes;

(12) To grant franchises or permits to use and occupy the surface, the overhead and the underground of streets, alleys and other public ways, under such terms and conditions as it shall deem fit, for any and all purposes, including but not being limited to the construction, maintenance and operation of railroads, street railways, transportation systems, water, gas and steam systems, telephone and telegraph systems, electric lines, signal systems, surface, aerial and underground tramways;

(13) To punish the keepers and inmates and lessors of houses of ill fame, and keepers and lessors of gambling houses and rooms and other places where gambling is carried on or permitted, gamblers and keepers of gambling tables;

(14) To impose fines, penalties and forfeitures for any and all violations of ordinances, and for any breach or violation of any ordinance, to fix the penalty by fine or imprisonment, or both; but no such fine shall exceed five hundred dollars, nor the term of imprisonment exceed six months;

~~(15) ((To cause all persons imprisoned for violation of any ordinance to labor on the streets or other public property or works within the town;~~

~~(16)))~~ To operate ambulance service which may serve the town and surrounding rural areas and, in the discretion of the council, to make a charge for such service;

~~((17)))~~ (16) To make all such ordinances, bylaws, rules, regulations and resolutions not inconsistent with the Constitution and laws of the state of Washington, as may be deemed expedient to maintain the peace, good government and welfare of the town and its trade, commerce and manufacturers, and to do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter.

**NEW SECTION.** Sec. 26. If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION.** Sec. 27. The following acts or parts of acts are each hereby repealed:

(1) Sections 36.63.010 through 36.63.110, chapter 4, Laws of 1963 and RCW 36.63.010 through 36.63.110;

(2) Section 36.63.120, chapter 4, Laws of 1963, section 1, chapter 17, Laws of 1969 and RCW 36.63.120;

(3) Sections 36.63.130 through 36.63.250, chapter 4, Laws of 1963 and RCW 36.63.130 through 36.63.250;

(4) Sections 1 through 9, chapter 81, Laws of 1974 ex. sess. and RCW 36.63A.010 through 36.63A.910;

(5) Sections 36.63.260 through 36.63.440, chapter 4, Laws of 1963 and RCW 36.63.260 through 36.63.440;

(6) Section 2214, Code of 1881 and RCW 70.20.140; and

(7) Section 32, chapter 171, Laws of 1961, section 84, chapter 75, Laws of 1977 and RCW 72.01.420.

**NEW SECTION.** Sec. 28. There is hereby appropriated the sum of fifty thousand dollars from the state general fund for the purpose of carrying out the provisions of this 1977 amendatory act.

**NEW SECTION.** Sec. 29. This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate June 13, 1977.

Passed the House June 13, 1977.

Approved by the Governor June 23, 1977.

Filed in Office of Secretary of State June 23, 1977.

## CHAPTER 317

[Engrossed Substitute Senate Bill No. 2537]

### TRANSPORTATION TAXATION

AN ACT Relating to transportation taxation; amending section 82.36.010, chapter 15, Laws of 1961 as last amended by section 1, chapter 156, Laws of 1971 ex. sess. and RCW 82.36.010; amending section 1, chapter 28, Laws of 1974 ex. sess. and RCW 82.36.020; amending section 82.36.100, chapter 15, Laws of 1961 as last amended by section 3, chapter 83, Laws of 1967 ex. sess. and RCW 82.36.100; amending section 3, chapter 22, Laws of 1963 ex. sess. as amended by section 4, chapter 83, Laws of 1967 ex. sess. and RCW 82.37.030; amending section 4, chapter 175, Laws of 1971 ex. sess. as last amended by section 1, chapter 62, Laws of 1975 1st ex. sess. and RCW 82.38.030; amending section 35.77.010, chapter 7, Laws of 1965 as last amended by section 1, chapter 215, Laws of 1975 1st ex. sess. and RCW 35.77.010; amending section 46.68.090, chapter 12, Laws of 1961 as last amended by section 74, chapter 32, Laws of 1967 and RCW 46.68.090; amending section 46.68.100, chapter 12, Laws of 1961 as last amended by section 1, chapter 51, Laws of 1977 and RCW 46.68.100; amending section 9, chapter 83, Laws of 1967 ex. sess. and RCW 46.68.150; amending section 10, chapter 83, Laws of 1967 ex. sess. as amended by section 1, chapter 253, Laws of 1975 1st ex. sess. and RCW 47.26.040; amending section 14, chapter 83, Laws of 1967 ex. sess. and RCW 47.26.080; amending section 24, chapter 83, Laws of 1967 ex. sess. as amended by section 2, chapter 253, Laws of 1975 1st ex. sess. and RCW 47.26.180; amending section 25, chapter 83, Laws of 1967 ex. sess. as last amended by section 2, chapter 126, Laws of 1973 1st ex. sess. and RCW 47.26.190; amending section 30, chapter 83, Laws of 1967 ex. sess. and RCW 47.26.240; amending section 33, chapter 83, Laws of 1967 ex. sess. and RCW 47.26.270; amending section 41, chapter 83, Laws of 1967 ex. sess. and RCW 47.26.405; amending section 45, chapter 83, Laws of 1967 ex. sess. as amended by section 4, chapter 169, Laws of 1973

# Appendix #2

(12) Filing an application of a foreign corporation for an amended certificate of authority to transact business in this state and issuing an amended certificate of authority, twenty-five dollars;

~~(13) ((Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to transact business in this state, twenty-five dollars;~~

~~(14) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to transact business in this state, twenty-five dollars;~~

~~(15))~~ Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, no fee;

~~((16))~~ (14) Filing an annual report, five dollars, but a separate fee for filing such report shall not be charged for an annual report filed in conjunction with and part of the same forms or billing for the annual license renewal;

~~((17))~~ (15) Filing any other statement or report, ten dollars;

~~((18))~~ (16) Such other filings as are provided for by this title.

NEW SECTION. Sec. 26. The following acts or parts of acts are each repealed:

(1) Section 119, chapter 53, Laws of 1965 and RCW 23A.32.110; and

(2) Section 120, chapter 53, Laws of 1965 and RCW 23A.32.120.

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

NEW SECTION. Sec. 28. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 12, 1986.

Passed the House March 4, 1986.

Approved by the Governor March 22, 1986.

Filed in Office of Secretary of State March 22, 1986.

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## CHAPTER 118

[Engrossed Substitute Senate Bill No. 4128]

### CORRECTIONS STANDARDS BOARD

AN ACT Relating to the corrections standards board; amending RCW 19.27.060, 70.48-.020, 70.48.050, 70.48.060, 70.48.070, 70.48.080, 70.48.090, 70.48.110, 70.48.120, 70.48.130, 70.48.160, 70.48.200, 70.48.260, 70.48.280, 70.48.330, 70.48A.020, and 70.48A.040; and repealing RCW 70.48.030, 70.48.040, and 70.48.150.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 316, Laws of 1977 ex. sess. as last amended by section 34, chapter 165, Laws of 1983 and RCW 70.48.020 are each amended to read as follows:

As used in this chapter the words and phrases in this section shall have the meanings indicated unless the context clearly requires otherwise.

(1) "Holding facility" means a facility operated by a governing unit primarily designed, staffed, and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the temporary housing of such persons during or after trial and/or sentencing, but in no instance shall the housing exceed thirty days.

(2) "Detention facility" means a facility operated by a governing unit primarily designed, staffed, and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the housing of adult persons for purposes of punishment and correction after sentencing or persons serving terms not to exceed ninety days.

(3) "Special detention facility" means a minimum security facility operated by a governing unit primarily designed, staffed, and used for the housing of special populations of sentenced persons who do not require the level of security normally provided in detention and correctional facilities including, but not necessarily limited to, persons convicted of offenses under RCW 46.61.502 or 46.61.504.

(4) "Correctional facility" means a facility operated by a governing unit primarily designed, staffed, and used for the housing of adult persons serving terms not exceeding one year for the purposes of punishment, correction, and rehabilitation following conviction of a criminal offense.

(5) "Jail" means any holding, detention, special detention, or correctional facility as defined in this section.

(6) "Health care" means preventive, diagnostic, and rehabilitative services provided by licensed health care professionals and/or facilities; such care to include providing prescription drugs where indicated.

(7) (~~"Commission" means the state jail commission created pursuant to RCW 70.48.030 but, after June 30, 1983, "commission" and "state jail commission"~~) "Board" means the state corrections standards board.

(8) "Substantially remodeled" means significant alterations made to the physical plant of a jail to conform with the physical plant standards.

(9) (~~"Department" means the department of social and health services:~~

~~(10) "Secretary" means the secretary of social and health services:~~

~~(11))~~ "Governing unit" means the city and/or county or any combinations of cities and/or counties responsible for the operation, supervision, and maintenance of a jail.

~~((12))~~ (10) "Mandatory custodial care standards" means those minimum standards, rules, or regulations that are adopted pursuant to RCW

70.48.050(1)(a) and 70.48.070(1) for jails to meet federal and state constitutional requirements relating to the health, safety, security, and welfare of inmates.

~~((13))~~ (11) "Advisory custodial care standards" means custodial care standards recommended by the ~~((commission))~~ board which are not mandatory.

~~((14))~~ (12) "Physical plant standards" and "physical plant requirements" mean those minimum standards, rules, or regulations that are prescribed by the ~~((commission for jails))~~ board that relate to structural specifications of the physical plant, including but not limited to size of cells and rooms within a jail, design of facilities, and specifications for fixtures and other equipment.

~~((15))~~ (13) "Jail inspector" means a person with at least five years in a supervisory position as a law enforcement or custodial corrections officer.

~~((16))~~ (14) "Major urban" means a county or combination of counties which has a city having a population greater than twenty-six thousand based on the 1978 projections of the office of financial management.

~~((17))~~ (15) "Medium urban" means a county or combination of counties which has a city having a population equal to or greater than ten thousand but less than twenty-six thousand based on the 1978 projections of the office of financial management.

~~((18))~~ (16) "Rural" means a county or combination of counties which has a city having a population less than ten thousand based on the 1978 projections of the office of financial management.

Sec. 2. Section 5, chapter 316, Laws of 1977 ex. sess. as last amended by section 4, chapter 12, Laws of 1981 2nd ex. sess. and RCW 70.48.050 are each amended to read as follows:

In addition to any other powers and duties contained in this chapter, the ~~((commission))~~ board shall have the powers and duties:

(1) To adopt such rules and regulations, after approval by the legislature, pursuant to chapter 34.04 RCW, as it deems necessary and consistent with the purposes and intent of this chapter on the following subjects:

(a) Mandatory custodial care standards that are essential for the health, welfare, and security of persons confined in jails. In adopting each rule or regulation pertaining to mandatory custodial care standards, the ~~((commission))~~ board shall cite the applicable case law, statutory law or constitutional provision which requires such rule or regulation. The ~~((commission))~~ board shall grant variances from custodial care standards to governing units which operate jails with physical deficiencies which directly affect their ability to comply with these standards, if the governing unit is eligible for and has applied for funds under RCW 70.48.110. The variances remain in effect until state funding to improve or reconstruct the jails of these governing units has been expended for that purpose;

(b) Advisory custodial care standards;

(c) The classification and uses of holding, detention, and correctional facilities. Except for the housing of work releasees in accordance with ~~((commission))~~ board rules, a person may not be held in a holding facility longer than seventy-two hours, exclusive of weekends and holidays, without being transferred to a detention or correctional facility unless the court having jurisdiction over the individual authorizes a longer holding, but in no instance shall the holding exceed thirty days;

(d) The content of jail records which shall be maintained by the department of corrections or the chief law enforcement officer of the governing unit. In addition the governing unit, chief law enforcement officer, or department of corrections may require such additional records as they deem proper; and

(e) The segregation of persons and classes of persons confined in holding, detention, and correctional facilities;

(2) To investigate, develop, and encourage alternative and innovative methods in all phases of jail operation;

(3) To make comments, reports, and recommendations concerning all phases of jail operation including those not specifically described in this chapter;

(4) To hire necessary staff, acquire office space, supplies, and equipment, and make such other expenditures as may be deemed necessary to carry out its duties;

(5) ~~((The secretary shall submit minimum physical plant standards to the commission for review and promulgate proposed standards pursuant to chapter 34.04 RCW. After such promulgation, the standards shall be presented for review at a public conference of city, town, and county legislative and executive officials and directors of departments of correction or the chief law enforcement officers of the governing units in four regional meetings, two of which shall be east of the Cascade range. Subsequent to these reviews, and utilizing the data received, the commission shall))~~ To adopt minimum physical plant standards pursuant to chapter 34.04 RCW~~((, after approval by the legislature))~~ for jails. The ~~((commission))~~ board may preempt any provisions of the state building code under chapter 19.27 RCW and any local ordinances that apply to jails or a particular jail if the provisions relate to the installation or use of sprinklers in the cells and the ~~((commission))~~ board finds that compliance with the provisions would conflict with the secure and humane operation of jails or the particular jail;

(6) To cause all jails to be inspected at least annually by designated jail inspectors and to issue a certificate of compliance to each facility which is found to satisfactorily meet the requirements of this chapter and the rules, regulations, and standards adopted hereunder: **PROVIDED**, That certificates of partial compliance may be issued where applicable. The inspectors shall have access to all portions of jails, to all prisoners confined therein, and to all records maintained by said jails; and

(7) To establish advisory guidelines and model ordinances to assist governing units in establishing the agreements necessary for the joint operation of jails and for the determination of the rates of allowance for the daily costs of holding a prisoner pursuant to the provisions of RCW 70.48.080(6).

Sec. 3. Section 6, chapter 316, Laws of 1977 ex. sess. as last amended by section 1, chapter 87, Laws of 1982 and RCW 70.48.060 are each amended to read as follows:

(1) Any funds allocated to a governing unit for jail construction or renovation pursuant to this chapter shall constitute full funding of the cost of implementing the physical plant standards within the meaning of RCW 70.48.070(2). Jail construction or renovation represents the full extent of the state's financial commitment with regard to jails. Local governing units are responsible for funding all costs of operating jails.

(2) As a condition of eligibility for such financial assistance as may be provided by or through the state of Washington exclusively for the construction and/or modernization of jails, all jail construction and/or substantial remodeling projects shall be submitted by the governing unit to the ((commission)) board which shall review all submitted projects in accordance with rules to be adopted by the ((commission)) board and shall approve or reject each project for purposes of state funding. The ((commission)) board shall allocate available funding to the projects approved for funding in accordance with moneys actually available and the priorities established by the ((commission)) board under this section.

(3) The rules to be adopted by the ((commission)) board for purposes of approving or denying requests for state funds for jail construction or remodeling shall:

(i) Limit state funding to the minimum amount required to fully implement the physical plant standards;

(ii) Encourage the voluntary consolidation of jail facilities and programs of contiguous governing units where feasible: PROVIDED, That such consolidation is approved by all participating governing units: PROVIDED FURTHER, That the ((commission)) board may fund the minimum cost of approved remodeling of an existing county jail facility to be operated as a holding facility in the future when that county is a party to a multi-county consolidation agreement which meets the requirements of RCW 70.48.090, the cost of such holding facility remodeling project(s) and of the consolidated correctional facility project does not exceed the established maximum budgets for current detention and/or correctional facility projects of those governing units, and approval of such a revised concept maximizes the beds to be provided while maintaining or reducing the construction costs;

(iii) Insure that each governing unit or consolidation of governing units applying for state funds under this chapter has submitted a plan which demonstrates that pretrial and posttrial alternatives to incarceration are being considered within the governmental unit;

(iv) Establish criteria and procedures for setting priorities among the projects approved for state funding for purposes of allocating state funds actually available; and

(v) Establish procedures for the submission, review, and approval or denial of projects submitted and appeals from adverse determinations, including time periods applicable thereto.

(4) The ~~((commission))~~ board shall review all submitted projects with the office of financial management and the office of financial management shall provide technical assistance to the ~~((commission))~~ board for purposes of insuring the accuracy of statistical information to be used by the ~~((commission))~~ board in determining projects to be funded.

(5) The ~~((commission))~~ board shall oversee approved construction and remodeling to the extent necessary to assure compliance with the standards adopted and approved pursuant to RCW 70.48.050(5).

(6) The ~~((commission))~~ board shall develop estimates of the costs of the capital construction grants for each biennium required under the provisions of this chapter. The estimates shall be submitted to the office of financial management consistent with the provisions of chapter 43.88 RCW and the office of financial management shall review and approve or disapprove within thirty days.

(7) The ~~((commission))~~ board and the office of financial management shall jointly report to the legislature on or before the convening of a regular session as to the projects approved for funding, construction status of such projects, funds expended and encumbered to date, and updated population and incarceration statistics.

(8) The ~~((jail-commission))~~ board shall examine, and by December 1, 1980, present to the legislature recommendations relating to detention and correctional services, including the formulation of the role of state and local governing units regarding detention and correctional facilities.

Sec. 4. Section 7, chapter 316, Laws of 1977 ex. sess. as last amended by section 14, chapter 232, Laws of 1979 ex. sess. and RCW 70.48.070 are each amended to read as follows:

All jails shall be constructed, operated, and maintained in compliance with the provisions and intent of this chapter and the rules, regulations, and standards adopted thereunder: PROVIDED, That, as limited by this section, compliance with such rules, regulations, and standards shall be pursuant to the time schedules set by the ~~((commission))~~ board for classes of facilities:

(1) The mandatory custodial care standards that are essential for the health, welfare, and security of persons confined, which are adopted pursuant to RCW 70.48.050(1)(a), shall be proposed (~~by the commission~~) to the legislature no later than December 31, 1978;

(2) The physical plant standards which are adopted and approved pursuant to RCW 70.48.050(5) shall not be mandatory unless, pursuant to the provisions of RCW 70.48.110, the state fully funds the cost of implementing such standards for detention and correctional facilities: PROVIDED, That, such funds shall be subject to appropriation: PROVIDED FURTHER, That after such funds are made available, local jurisdictions shall have a period of time before such standards are mandatory that is adequate to effect any needed construction or repairs: PROVIDED FURTHER, That those provisions of RCW 70.48.060 and 70.48.110 requiring approval prior to funding and commencement of construction or remodeling shall not apply to prevent the funding of jails of governing units which have appropriated funds for substantial remodeling or construction of jails after February 16, 1974, and before June 23, 1977. Approval in such cases may be given retroactively: PROVIDED FURTHER, That the (~~commission~~) board may grant variances from the physical plant standards consistent with the intent of this chapter, and such standards shall otherwise be mandatory for purposes of this section and RCW 70.48.080 and jail facilities approved by the (~~commission~~) board shall be deemed to comply with the physical plant standards;

(3) The mandatory custodial care standards and physical plant standards as submitted (~~by the commission~~) to the legislature on December 20, 1978 are hereby approved and shall take effect after adoption (~~by the commission~~). Mandatory custodial care standards shall be complied with no later than October 1, 1979;

(4) Modifications of the standards or additional standards may be adopted by the (~~commission~~) board pursuant to chapter 34.04 RCW.

Sec. 5. Section 8, chapter 316, Laws of 1977 ex. sess. and RCW 70.48.080 are each amended to read as follows:

All jails which do not meet the appropriate mandatory custodial care standards and physical plant standards may be required to be closed, entirely or in part, until such requirements are met, pursuant to the following procedures:

(1) In the event the (~~commission~~) board finds a jail does not comply with the appropriate mandatory custodial care and/or physical plant standards, notice shall be given to the governing unit which shall be either a notice of noncompliance, a notice of conditional compliance for the continued operation of the jail under such restrictions as the (~~commission~~) board determines to be appropriate, or a notice of full or partial closure.

(2) Such notices shall specify the manner in which the jail does not comply with the standards. In issuing such notices consideration shall be

given to the magnitude and seriousness of the deficiencies and their potential effect on the health and safety of jail inmates, the cost of correction, and other information deemed relevant by the ((commission)) board.

(3) (a) If the ((commission)) board issues a notice of noncompliance, it shall specify in the notice the time limits within which the standards are to be met.

(b) If the ((commission)) board determines that there will be compliance with the standards provided that certain conditions or restrictions which the ((commission)) board determines to be appropriate are applied, the ((commission)) board may issue a notice of conditional compliance setting out the conditions and restrictions which the ((commission)) board determines to be appropriate. A certificate of conditional compliance may be issued thereon.

(c) In those cases where the nature and extent of the deficiencies are such that a notice of immediate full or partial closure is deemed necessary by the ((commission)) board in order to preserve the health and safety of persons in the jail, a notice of immediate full or partial closure may be issued by the ((commission)) board.

(4) Within thirty days after the date of receipt of a notice of noncompliance, a notice of conditional compliance, or a notice of full or partial closure, the appropriate governing unit may request a review thereof by the ((commission)) board which review shall be heard not more than forty-five days following such request unless such period is extended not more than another forty-five days by order of the ((commission)) board. All reviews conducted under this section shall be deemed to be "contested cases" within the meaning of chapter 34.04 RCW.

The ((commission)) board shall hear and decide the review, and the decision of the ((commission)) board may be appealed to the superior court as provided in chapter 34.04 RCW.

(5) If a notice of full or partial closure is issued and upheld, or if a notice of conditional compliance is issued and the conditions or restrictions are not complied with, or if a notice of noncompliance is issued and upheld and compliance is not satisfactorily accomplished within the time prescribed in the notice, the attorney general, upon request and on behalf of the ((commission)) board, shall apply to the superior court of the county in which the jail is located for an order of closure of all or part of the jail and the court shall have authority to issue such order of closure or prescribe other appropriate relief.

(6) In the event an order of closure is issued by the superior court, all confined persons in custody in the jail or portions thereof ordered closed shall be transferred, provided sufficient space is available, to a suitable, available jail, and the transferring governing unit shall pay for the costs of board, room, program, and administration of such transferred persons, pursuant to the rate for such costs established by the governing unit accepting

such confined persons. If a transferring governing unit disputes the rates established by the governing unit accepting, the ((commission)) board shall set the rates.

Sec. 6. Section 9, chapter 316, Laws of 1977 ex. sess. as amended by section 15, chapter 232, Laws of 1979 ex. sess. and RCW 70.48.090 are each amended to read as follows:

(1) Contracts for jail services may be made between a county and city located within the boundaries of a county, and among counties. The contracts shall: Be in writing, give one governing unit the responsibility for the operation of the jails, specify the responsibilities of each governing unit involved, and include the applicable charges for custody of the prisoners as well as the basis for adjustments in the charges. The contracts may be terminated only by ninety days written notice to the governing units involved and to the ((commission)) board. The notice shall state the grounds for termination and the specific plans for accommodating the affected jail population.

(2) The contract authorized in subsection (1) of this section shall be for a minimum term of ten years when state funds are provided to construct or remodel a jail in one governing unit that will be used to house prisoners of other governing units. The contract may not be terminated prior to the end of the term without the ((commission's)) board's approval. If the contract is terminated, or upon the expiration and nonrenewal of the contract, the governing unit whose jail facility was built or remodeled to hold the prisoners of other governing units shall pay to the state treasurer the amount set by the ((commission)) board when it authorized disbursement of state funds for the remodeling or construction under RCW 70.48.120. This amount shall be deposited in the local jail improvement and construction account and shall fairly represent the construction costs incurred in order to house prisoners from other governing units. The ((commission)) board may pay the funds to the governing units which had previously contracted for jail services under rules which the ((commission)) board may adopt. The acceptance of state funds for constructing or remodeling consolidated jail facilities constitutes agreement to the proportionate amounts set by the ((commission)) board. Notice of the proportionate amounts shall be given to all governing units involved.

(3) A city or county primarily responsible for the operation of a jail or jails may create a department of corrections to be in charge of such jail and of all persons confined therein by law, subject to the authority of the governing unit. If such department is created, it shall have charge of jails and persons confined therein. If no such department of corrections is created, the chief law enforcement officer of the city or county primarily responsible for the operation of said jail shall have charge of the jail and of all persons confined therein. A department of corrections or the chief law enforcement officer shall operate a jail in conformance with the rules and regulations

adopted by the ~~((commission))~~ board and any rules, regulations, or ordinances adopted by the governing unit.

Sec. 7. Section 11, chapter 316, Laws of 1977 ex. sess. and RCW 70.48.110 are each amended to read as follows:

Upon obtaining approval for the substantial remodeling or construction of a jail pursuant to RCW 70.48.060 and biennial appropriation of the legislature, a governing unit shall receive full funding from the state for the costs of the necessary new construction or improvements to or remodeling of existing detention or correctional facilities necessary to comply with the standards established pursuant to this chapter. The ~~((commission))~~ board shall biennially establish for each application the level of costs necessary to comply with the physical plant standards and shall authorize payment by the state treasurer of the designated amount from the local jail improvement and construction account created in RCW 70.48.120 to the eligible governing unit in accordance with procedures established by the ~~((commission))~~ board.

Sec. 8. Section 12, chapter 316, Laws of 1977 ex. sess. as amended by section 2, chapter 276, Laws of 1981 and RCW 70.48.120 are each amended to read as follows:

There is hereby established in the state treasury a fund to be known as the local jail improvement and construction account in which shall be deposited such sums as are appropriated by law for the purpose of providing funds to units of local government for new construction and the substantial remodeling of detention and correctional facilities so as to obtain compliance with the physical plant standards for such facilities. Funds in the local jail improvement and construction account shall be invested in the same manner as other funds in other accounts within the state treasury, and such earnings shall accrue to the local jail improvement and construction account. Funds shall be remitted to the governing units in a reasonably timely fashion to meet their contractual obligations. Funds in this account shall be disbursed by the state treasurer to units of local government, subject to biennial legislative appropriation, at the direction of the ~~((commission))~~ board.

Sec. 9. Section 13, chapter 316, Laws of 1977 ex. sess. and RCW 70.48.130 are each amended to read as follows:

Payment for emergency or necessary health care shall be by the governing unit, except that the department of social and health services shall reimburse the governing unit for the cost thereof if the confined person requires treatment for which such person is eligible under the ~~((department's))~~ department of social and health services' public assistance medical program.

The governing unit may obtain reimbursement from the confined person for the cost of emergency and other health care to the extent that such

person is reasonably able to pay for such care, including reimbursement from any insurance program or from other medical benefit programs available to such person. To the extent that a confined person is unable to be financially responsible for medical care and is ineligible for financial assistance from the department or from a private source, the governing unit may obtain reimbursement for the cost of such services from the unit of government whose law enforcement officers initiated the charges on which the person is being held in the jail: PROVIDED, That reimbursement for the cost of such services shall be by the state for state prisoners being held in a jail who are accused of either escaping from a state facility or of committing an offense in a state facility.

There shall be no right of reimbursement to the governing unit from units of government whose law enforcement officers initiated the charges for which a person is being held in the jail for care provided after the charges are disposed of by sentencing or otherwise, unless by intergovernmental agreement pursuant to chapter 39.34 RCW.

This section is not intended to limit or change any existing right of any party, governing unit, or unit of government against the person receiving the care for the cost of the care provided or paid for.

Under no circumstance shall necessary medical services be denied or delayed pending a determination of financial responsibility.

Sec. 10. Section 16, chapter 316, Laws of 1977 ex. sess. as amended by section 3, chapter 276, Laws of 1981 and RCW 70.48.160 are each amended to read as follows:

Having received approval pursuant to RCW 70.48.060, a governing unit shall not be eligible for further funding for physical plant standards for a period of ten years from the date of the completion of the approved project. A jail shall not be closed for noncompliance to physical plant standards within this same ten year period. This section does not apply if:

(1) The ~~((commission))~~ board or its successor elects to fund phased components of a jail project for which a governing unit has applied. In that instance, initially funded components do not constitute full funding within the meaning of RCW 70.48.060(1) and 70.48.070(2) and the ~~((commission))~~ board may fund subsequent phases of the jail project;

(2) There is destruction of the facility because of an act of God or the result of a negligent and/or criminal act.

Sec. 11. Section 10, chapter 232, Laws of 1979 ex. sess. and RCW 70.48.200 are each amended to read as follows:

(1) In determining the capacity of a planned jail facility for purposes of funding under this chapter, the ~~((commission))~~ board shall consider all relevant information, including data supplied to the ~~((commission))~~ board by the office of financial management with regard to the governing unit's population projections, current incarceration rates as applied to population

projections by age group, and peaking factors not to exceed 1.29 standard deviations above the mean average daily population.

(2) The number of square feet allowed per bed shall generally be consistent for facilities of similar size and classification within either major urban, medium urban, or rural counties.

(3) Funds shall be allocated to governing units based on authorized beds and square feet as determined by the ((commission)) board under this chapter and the rules adopted pursuant thereto.

(4) Total dollars allocated to a governing unit for new construction or renovation shall be the lesser of the amount specified in an accepted bid, the amount computed in subsection (3) of this section, or the budget request submitted to the ((commission)) board by the governing unit.

(5) If a governing unit determines the assumptions specified in subsection (1) of this section are to be exceeded, then the funding responsibility in excess of amount determined by the ((commission)) board will be that of the governing unit.

(6) The office of financial management shall assist governing units in obtaining whatever federal grants and aid might be available for jail construction and renovation. The amount of such grants or aid which might be obtained shall be deducted from the moneys which would otherwise be granted to the governing units from the funds from the sale of bonds authorized by RCW 70.48.260.

(7) Jails which are constructed and/or renovated with funds provided pursuant to this chapter shall not be considered state buildings for the purposes of RCW 43.17.200.

Sec. 12. Section 2, chapter 232, Laws of 1979 ex. sess. as amended by section 1, chapter 143, Laws of 1980 and RCW 70.48.260 are each amended to read as follows:

For the purpose of providing funds for the planning, acquisition, construction, and improvement of jail buildings and necessary supporting facilities within the state, and the ((state jail commission's)) board's operational costs related to the review of physical plant funding applications, award of grants, and construction monitoring, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one hundred six million dollars, or so much thereof as may be required, to finance the improvements defined in this chapter and all costs incidental thereto but not including acquisition or preparation of sites. These bonds shall be paid and discharged within thirty years. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of the bonds to be sold.

Sec. 13. Section 4, chapter 232, Laws of 1979 ex. sess. and RCW 70.48.280 are each amended to read as follows:

The proceeds from the sale of the bonds deposited in the local jail improvement and construction account of the general fund under the terms of

this chapter shall be administered by the (~~Washington state jail commission~~) board subject to legislative appropriation.

Sec. 14. Section 5, chapter 276, Laws of 1981 and RCW 70.48.330 are each amended to read as follows:

All cities or counties which accept funding for jail remodeling or new construction under this chapter shall certify to the (~~commission~~) board that the facility to be built shall, upon opening, meet all mandatory custodial care standards adopted by the (~~commission~~) board under RCW 70.48.050. The (~~commission~~) board shall not make funding under this chapter contingent on compliance of the existing jail facility with standards adopted under RCW 70.48.050.

Sec. 15. Section 6, chapter 96, Laws of 1974 ex. sess. as last amended by section 10, chapter 360, Laws of 1985 and RCW 19.27.060 are each amended to read as follows:

(1) The governing bodies of counties and cities may amend the codes enumerated in RCW 19.27.031 as they apply within their respective jurisdictions, but the amendments shall not result in a code that is less than the minimum performance standards and objectives contained in the state building code. No amendment to a code enumerated in RCW 19.27.031 that affects single family or multifamily residential buildings shall be effective unless the amendment is approved by the building code council under RCW 19.27.074(1)(b). Any county or city amendment to a code enumerated in RCW 19.27.031 which is approved under RCW 19.27.074(1)(b) shall continue to be effective after any action is taken under RCW 19.27.074(1)(a) without necessity of reapproval under RCW 19.27.074(1)(b) unless the amendment is declared null and void by the council at the time any action is taken under RCW 19.27.074(1)(a) because such action in any way altered the impact of the amendment.

(2) Except as permitted or provided otherwise under this section, the state building code shall be applicable to all buildings and structures including those owned by the state or by any governmental subdivision or unit of local government.

(3) The governing body of each county or city may limit the application of any portion of the state building code to exclude specified classes or types of buildings or structures according to use other than single family or multifamily residential buildings: PROVIDED, That in no event shall fruits or vegetables of the tree or vine stored in buildings or warehouses constitute combustible stock for the purposes of application of the uniform fire code.

(4) The provisions of this chapter shall not apply to any building four or more stories high with a B occupancy as defined by the uniform building code, 1982 edition, and with a city fire insurance rating of 1, 2, or 3 as defined by a recognized fire rating bureau or organization.

(5) No provision of the uniform fire code concerning roadways shall be part of the state building code: PROVIDED, That this subsection shall not

limit the authority of a county or city to adopt street, road, or access standards.

(6) The provisions of the state building code are preempted by any physical standards adopted by the (~~state jail commission~~) corrections standards board under RCW 70.48.050 when the code provisions relating to the installation or use of sprinklers in the cells conflict with the standards and the secure and humane operation of jails.

Sec. 16. Section 2, chapter 131, Laws of 1981 as amended by section 1, chapter 63, Laws of 1983 1st ex. sess. and RCW 70.48A.020 are each amended to read as follows:

For the purpose of providing funds for the planning, acquisition, construction, and improvement of jail buildings and necessary supporting facilities within the state, and the (~~state jail commission's~~) corrections standards board's operational costs related to the review of physical plant funding applications, award of grants, and construction monitoring, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one hundred forty-four million three hundred thousand dollars, or so much thereof as may be required, to finance the improvements defined in RCW 70.48A.010 through 70.48A.080 and all costs incidental thereto, including administration, but not including acquisition or preparation of sites. Appropriations for administration shall be determined by the legislature. No bonds authorized by this section may be offered for sale without prior legislative appropriation of the proceeds of the bonds to be sold: PROVIDED, That the reappropriation of previously authorized bond moneys and this new appropriation shall constitute full funding of each approved project within the meaning of RCW 70.48.070 and 70.48.110.

Sec. 17. Section 4, chapter 131, Laws of 1981 and RCW 70.48A.040 are each amended to read as follows:

The proceeds from the sale of the bonds deposited in the local jail improvement and construction account in the general fund under the terms of RCW 70.48A.010 through 70.48A.080 shall be administered by the (~~Washington state jail commission~~) corrections standards board subject to legislative appropriation.

NEW SECTION. Sec. 18. The following acts or parts of acts are each repealed:

(1) Section 3, chapter 316, Laws of 1977 ex. sess., section 12, chapter 232, Laws of 1979 ex. sess. and RCW 70.48.030;

(2) Section 4, chapter 316, Laws of 1977 ex. sess. and RCW 70.48-.040; and

(3) Section 15, chapter 316, Laws of 1977 ex. sess. and RCW 70.48.150.

Passed the Senate March 11, 1986.

Passed the House March 11, 1986.

Approved by the Governor March 22, 1986.

Filed in Office of Secretary of State March 22, 1986.

## CHAPTER 119

[Senate Bill No. 4446]

### FIRE HYDRANTS

AN ACT Relating to city and county regulation of fire hydrants; and adding a new section to chapter 80.28 RCW.

Be it enacted by the Legislature of the State of Washington:

**NEW SECTION.** Sec. 1. A new section is added to chapter 80.28 RCW to read as follows:

A city, town or county may, by ordinance or resolution, require a water company to maintain fire hydrants in the area served by the water company. The utilities and transportation commission has no authority to waive this obligation.

Passed the Senate March 4, 1986.

Passed the House March 1, 1986.

Approved by the Governor March 22, 1986.

Filed in Office of Secretary of State March 22, 1986.

## CHAPTER 120

[Senate Bill No. 4450]

### ELECTIONS—BALLOTS—DECLARATIONS OF CANDIDACY

AN ACT Relating to elections; amending RCW 29.30.060, 29.30.350, and 29.30.450; and adding new sections to chapter 29.18 RCW.

Be it enacted by the Legislature of the State of Washington:

**NEW SECTION.** Sec. 1. The names of all candidates for partisan office, for the office of superintendent of public instruction, and for all judicial offices except district court judge shall be rotated in each precinct in the manner specified by RCW 29.30.040, 29.30.340, and 29.30.440. The order of names of candidates for such offices on sample ballots and on absentee ballots in primaries shall be determined in the following manner:

(1) After the close of business on the last day for candidates to file for office, the officer with whom declarations of candidacy are filed shall, from among those filings made in person and by mail in accordance with section 2(2) of this act, determine by lot the order in which the names of those

# Appendix #3

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1469**

Chapter 409, Laws of 1993

53rd Legislature  
1993 Regular Session

JAIL INMATE MEDICAL COSTS--RESPONSIBILITY

EFFECTIVE DATE: 5/15/93

Passed by the House April 20, 1993  
Yeas 72 Nays 25

BRIAN EBERSOLE  
**Speaker of the  
House of Representatives**

Passed by the Senate April 14, 1993  
Yeas 44 Nays 0

JOEL PRITCHARD  
**President of the Senate**

Approved May 15, 1993

MIKE LOWRY  
**Governor of the State of Washington**

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1469** as passed by the House of Representatives and the Senate on the dates hereon set forth.

ALAN THOMPSON  
**Chief Clerk**

FILED

May 15, 1993 - 1:24 p.m.

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 1469**

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AS AMENDED BY THE SENATE

Passed Legislature - 1993 Regular Session

**State of Washington                      53rd Legislature                      1993 Regular Session**

**By** House Committee on Corrections (originally sponsored by Representatives L. Johnson, Morris, Long and Thibaudeau)

Read first time 03/01/93.

1            AN ACT Relating to reimbursement of medical costs for care provided  
2 to confined persons; amending RCW 70.48.130; and declaring an  
3 emergency.

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

5            **Sec. 1.** RCW 70.48.130 and 1986 c 118 s 9 are each amended to read  
6 as follows:

7            It is the intent of the legislature that all jail inmates receive  
8 appropriate and cost-effective emergency and necessary medical care.  
9 Governing units, the department of social and health services, and  
10 medical care providers shall cooperate to achieve the best rates  
11 consistent with adequate care.

12            Payment for emergency or necessary health care shall be by the  
13 governing unit, except that the department of social and health  
14 services shall directly reimburse the ~~((governing unit for the cost~~  
15 ~~thereof if the confined person requires treatment for which such person~~  
16 ~~is eligible under the department of social and health services' public~~  
17 ~~assistance medical program)) provider pursuant to chapter 74.09 RCW, in~~  
18 accordance with the rates and benefits established by the department,  
19 if the confined person is eligible under the department's medical care

1 programs as authorized under chapter 74.09 RCW. After payment by the  
2 department, the financial responsibility for any remaining balance,  
3 including unpaid client liabilities that are a condition of eligibility  
4 or participation under chapter 74.09 RCW, shall be borne by the medical  
5 care provider and the governing unit as may be mutually agreed upon  
6 between the medical care provider and the governing unit. In the  
7 absence of mutual agreement between the medical care provider and the  
8 governing unit, the financial responsibility for any remaining balance  
9 shall be borne equally between the medical care provider and the  
10 governing unit. Total payments from all sources to providers for care  
11 rendered to confined persons eligible under chapter 74.09 RCW shall not  
12 exceed the amounts that would be paid by the department for similar  
13 services provided under Title XIX medicaid, unless additional resources  
14 are obtained from the confined person.

15 As part of the screening process upon booking or preparation of an  
16 inmate into jail, general information concerning the inmate's ability  
17 to pay for medical care shall be identified, including insurance or  
18 other medical benefits or resources to which an inmate is entitled.  
19 This information shall be made available to the department, the  
20 governing unit, and any provider of health care services.

21 The governing unit or provider may obtain reimbursement from the  
22 confined person for the cost of ((emergency and other)) health care  
23 ((to the extent that such person is reasonably able to pay for such  
24 care)) services not provided under chapter 74.09 RCW, including  
25 reimbursement from any insurance program or from other medical benefit  
26 programs available to ((such)) the confined person. Nothing in this  
27 chapter precludes civil or criminal remedies to recover the costs of  
28 medical care provided jail inmates or paid for on behalf of inmates by  
29 the governing unit. As part of a judgment and sentence, the courts are  
30 authorized to order defendants to repay all or part of the medical  
31 costs incurred by the governing unit or provider during confinement.

32 To the extent that a confined person is unable to be financially  
33 responsible for medical care and is ineligible for ((financial  
34 assistance from the department or from a private source)) the  
35 department's medical care programs under chapter 74.09 RCW, or for  
36 coverage from private sources, and in the absence of an interlocal  
37 agreement or other contracts to the contrary, the governing unit may  
38 obtain reimbursement for the cost of such medical services from the  
39 unit of government whose law enforcement officers initiated the charges

1 on which the person is being held in the jail: PROVIDED, That  
2 reimbursement for the cost of such services shall be by the state for  
3 state prisoners being held in a jail who are accused of either escaping  
4 from a state facility or of committing an offense in a state facility.

5 There shall be no right of reimbursement to the governing unit from  
6 units of government whose law enforcement officers initiated the  
7 charges for which a person is being held in the jail for care provided  
8 after the charges are disposed of by sentencing or otherwise, unless by  
9 intergovernmental agreement pursuant to chapter 39.34 RCW.

10 ~~((This section is not intended to limit or change any existing  
11 right of any party, governing unit, or unit of government against the  
12 person receiving the care for the cost of the care provided or paid  
13 for.))~~

14 Under no circumstance shall necessary medical services be denied or  
15 delayed (~~pending~~) because of disputes over the cost of medical care  
16 or a determination of financial responsibility for payment of the costs  
17 of medical care provided to confined persons.

18 Nothing in this section shall limit any existing right of any  
19 party, governing unit, or unit of government against the person  
20 receiving the care for the cost of the care provided.

21 NEW SECTION. Sec. 2. This act is necessary for the immediate  
22 preservation of the public peace, health, or safety, or support of the  
23 state government and its existing public institutions, and shall take  
24 effect immediately.

Passed the House April 20, 1993.

Passed the Senate April 14, 1993.

Approved by the Governor May 15, 1993.

Filed in Office of Secretary of State May 15, 1993.

# Appendix 4

## (Relevant Portions)

CERTIFICATION OF ENROLLMENT

**SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1738**

Chapter 15, Laws of 2011

62nd Legislature  
2011 1st Special Session

HEALTH CARE PURCHASING--SINGLE STATE AGENCY

EFFECTIVE DATE: 07/01/11

Passed by the House May 13, 2011  
Yeas 53 Nays 35

FRANK CHOPP

**Speaker of the House of Representatives**

Passed by the Senate May 9, 2011  
Yeas 44 Nays 0

BRAD OWEN

**President of the Senate**

Approved June 7, 2011, 3:06 p.m.

CHRISTINE GREGOIRE

**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1738** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

**Chief Clerk**

FILED

June 8, 2011

**Secretary of State  
State of Washington**

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**SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1738**

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AS AMENDED BY THE SENATE

Passed Legislature - 2011 1st Special Session

**State of Washington                      62nd Legislature                      2011 1st Special Session**

**By** House Ways & Means (originally sponsored by Representatives Cody and Jenkins; by request of Governor Gregoire)

READ FIRST TIME 03/24/11.

1            AN ACT Relating to changing the designation of the medicaid single  
2 state agency from the department of social and health services to the  
3 health care authority and transferring the related powers, functions,  
4 and duties to the health care authority; amending RCW 74.09.037,  
5 74.09.050, 74.09.055, 74.09.075, 74.09.080, 74.09.120, 74.09.160,  
6 74.09.180, 74.09.185, 74.09.190, 74.09.200, 74.09.210, 74.09.240,  
7 74.09.260, 74.09.280, 74.09.290, 74.09.300, 74.09.470, 74.09.480,  
8 74.09.490, 74.09.500, 74.09.510, 74.09.515, 74.09.520, 74.09.521,  
9 74.09.5222, 74.09.5225, 74.09.530, 74.09.540, 74.09.555, 74.09.565,  
10 74.09.575, 74.09.585, 74.09.595, 74.09.655, 74.09.658, 74.09.659,  
11 74.09.700, 74.09.710, 74.09.715, 74.09.720, 74.09.725, 74.09.730,  
12 74.09.770, 74.09.790, 74.09.800, 74.09.810, 74.09.820, 41.05.011,  
13 41.05.015, 41.05.021, 41.05.036, 41.05.037, 41.05.140, 43.20A.365,  
14 74.04.005, 74.04.015, 74.04.025, 74.04.050, 74.04.055, 74.04.060,  
15 74.04.062, 74.04.290, 7.68.080, 43.41.160, 43.41.260, 43.70.670,  
16 47.06B.020, 47.06B.060, 47.06B.070, 48.01.235, 48.43.008, 48.43.517,  
17 69.41.030, 69.41.190, 70.01.010, 70.47.010, 70.47.020, 70.47.110,  
18 70.48.130, 70.168.040, 70.225.040, 74.09A.005, 74.09A.010, 74.09A.020,  
19 74.09A.030, and 74.09.015; reenacting and amending RCW 74.09.010,  
20 74.09.035, and 74.09.522; adding new sections to chapter 74.09 RCW;  
21 adding a new section to chapter 43.20A RCW; adding a new chapter to

1 Title 41 RCW; creating new sections; recodifying RCW 43.20A.365;  
2 repealing RCW 74.09.085, 74.09.110, 74.09.5221, 74.09.5227, 74.09.755,  
3 43.20A.860, and 74.04.270; providing an effective date; providing an  
4 expiration date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that:

7 (1) Washington state government must be organized to be efficient,  
8 cost-effective, and responsive to its residents;

9 (2) The cost of state-purchased health care continues to grow at an  
10 unsustainable rate, now representing nearly one-third of the state's  
11 budget and hindering our ability to invest in other essential services  
12 such as education and public safety;

13 (3) Responsibility for state health care purchasing is currently  
14 spread over multiple agencies, but successful interagency collaboration  
15 on quality and cost initiatives has helped demonstrate the benefits to  
16 the state of centralized health care purchasing;

17 (4) Consolidating the majority of state health care purchasing into  
18 a single state agency will best position the state to work with others,  
19 including private sector purchasers, health insurance carriers, health  
20 care providers, and consumers to increase the quality and affordability  
21 of health care for all state residents;

22 (5) The development and implementation of uniform state policies  
23 for all state-purchased health care is among the purposes for which the  
24 health care authority was originally created; and

25 (6) The state will be best able to take advantage of the  
26 opportunities and meet its obligations under the federal affordable  
27 care act, including establishment of a health benefit exchange and  
28 medicaid expansion, if primary responsibility for doing so rests with  
29 a single state agency.

30 The legislature therefore intends, where appropriate, to  
31 consolidate state health care purchasing within the health care  
32 authority, positioning the state to use its full purchasing power to  
33 get the greatest value for its money, and allowing other agencies to  
34 focus even more intently on their core missions.

1 (iv) Who resides in an area of the state served by a managed health  
2 care system participating in the plan;

3 (v) Until March 1, 2011, whose gross family income at the time of  
4 enrollment does not exceed two hundred percent of the federal poverty  
5 level as adjusted for family size and determined annually by the  
6 federal department of health and human services;

7 (vi) Who chooses to obtain basic health care coverage from a  
8 particular managed health care system in return for periodic payments  
9 to the plan;

10 (vii) Who is not receiving medical assistance administered by the  
11 (~~department of social and health services~~) authority; and

12 (viii) After February 28, 2011, who is in the basic health  
13 transition eligibles population under 1115 medicaid demonstration  
14 project number 11-W-00254/10;

15 (b) An individual who meets the requirements in (a)(i) through  
16 (iv), (vi), and (vii) of this subsection and who is a foster parent  
17 licensed under chapter 74.15 RCW and whose gross family income at the  
18 time of enrollment does not exceed three hundred percent of the federal  
19 poverty level as adjusted for family size and determined annually by  
20 the federal department of health and human services; and

21 (c) To the extent that state funds are specifically appropriated  
22 for this purpose, with a corresponding federal match, an individual, or  
23 an individual's spouse or dependent children, who meets the  
24 requirements in (a)(i) through (iv), (vi), and (vii) of this subsection  
25 and whose gross family income at the time of enrollment is more than  
26 two hundred percent, but less than two hundred fifty-one percent, of  
27 the federal poverty level as adjusted for family size and determined  
28 annually by the federal department of health and human services.

29 (10) "Washington basic health plan" or "plan" means the system of  
30 enrollment and payment for basic health care services, administered by  
31 the plan (~~administrator~~) director through participating managed  
32 health care systems, created by this chapter.

33 **Sec. 84.** RCW 70.47.110 and 1991 sp.s. c 4 s 3 are each amended to  
34 read as follows:

35 The (~~department of social and health services~~) health care  
36 authority may make payments to (~~the administrator or to~~)  
37 participating managed health care systems on behalf of any enrollee who

1 is a recipient of medical care under chapter 74.09 RCW, at the maximum  
2 rate allowable for federal matching purposes under Title XIX of the  
3 social security act. Any enrollee on whose behalf the (~~department of~~  
4 ~~social and health services~~) health care authority makes such payments  
5 may continue as an enrollee, making premium payments based on the  
6 enrollee's own income as determined under the sliding scale, after  
7 eligibility for coverage under chapter 74.09 RCW has ended, as long as  
8 the enrollee remains eligible under this chapter. Nothing in this  
9 section affects the right of any person eligible for coverage under  
10 chapter 74.09 RCW to receive the services offered to other persons  
11 under that chapter but not included in the schedule of basic health  
12 care services covered by the plan. The (~~administrator~~) director  
13 shall seek to determine which enrollees or prospective enrollees may be  
14 eligible for medical care under chapter 74.09 RCW and may require these  
15 individuals to complete the eligibility determination process under  
16 chapter 74.09 RCW prior to enrollment or continued participation in the  
17 plan. The (~~administrator and the department of social and health~~  
18 ~~services~~) director shall (~~cooperatively~~) adopt procedures to  
19 facilitate the transition of plan enrollees and payments on their  
20 behalf between the plan and the programs established under chapter  
21 74.09 RCW.

22 **Sec. 85.** RCW 70.48.130 and 1993 c 409 s 1 are each amended to read  
23 as follows:

24 (1) It is the intent of the legislature that all jail inmates  
25 receive appropriate and cost-effective emergency and necessary medical  
26 care. Governing units, the (~~department of social and health~~  
27 ~~services~~) health care authority, and medical care providers shall  
28 cooperate to achieve the best rates consistent with adequate care.

29 (2) Payment for emergency or necessary health care shall be by the  
30 governing unit, except that the (~~department of social and health~~  
31 ~~services~~) health care authority shall directly reimburse the provider  
32 pursuant to chapter 74.09 RCW, in accordance with the rates and  
33 benefits established by the (~~department~~) authority, if the confined  
34 person is eligible under the (~~department's~~) authority's medical care  
35 programs as authorized under chapter 74.09 RCW. After payment by the  
36 (~~department~~) authority, the financial responsibility for any  
37 remaining balance, including unpaid client liabilities that are a

1 condition of eligibility or participation under chapter 74.09 RCW,  
2 shall be borne by the medical care provider and the governing unit as  
3 may be mutually agreed upon between the medical care provider and the  
4 governing unit. In the absence of mutual agreement between the medical  
5 care provider and the governing unit, the financial responsibility for  
6 any remaining balance shall be borne equally between the medical care  
7 provider and the governing unit. Total payments from all sources to  
8 providers for care rendered to confined persons eligible under chapter  
9 74.09 RCW shall not exceed the amounts that would be paid by the  
10 ((department)) authority for similar services provided under Title XIX  
11 medicaid, unless additional resources are obtained from the confined  
12 person.

13 (3) As part of the screening process upon booking or preparation of  
14 an inmate into jail, general information concerning the inmate's  
15 ability to pay for medical care shall be identified, including  
16 insurance or other medical benefits or resources to which an inmate is  
17 entitled. This information shall be made available to the  
18 ((department)) authority, the governing unit, and any provider of  
19 health care services.

20 (4) The governing unit or provider may obtain reimbursement from  
21 the confined person for the cost of health care services not provided  
22 under chapter 74.09 RCW, including reimbursement from any insurance  
23 program or from other medical benefit programs available to the  
24 confined person. Nothing in this chapter precludes civil or criminal  
25 remedies to recover the costs of medical care provided jail inmates or  
26 paid for on behalf of inmates by the governing unit. As part of a  
27 judgment and sentence, the courts are authorized to order defendants to  
28 repay all or part of the medical costs incurred by the governing unit  
29 or provider during confinement.

30 (5) To the extent that a confined person is unable to be  
31 financially responsible for medical care and is ineligible for the  
32 ((department's)) authority's medical care programs under chapter 74.09  
33 RCW, or for coverage from private sources, and in the absence of an  
34 interlocal agreement or other contracts to the contrary, the governing  
35 unit may obtain reimbursement for the cost of such medical services  
36 from the unit of government whose law enforcement officers initiated  
37 the charges on which the person is being held in the jail: PROVIDED,  
38 That reimbursement for the cost of such services shall be by the state

# Appendix #5

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5593**

Chapter 267, Laws of 2015

64th Legislature  
2015 Regular Session

INMATES--HEALTH CARE COSTS AND SERVICES

EFFECTIVE DATE: 7/24/2015

Passed by the Senate April 21, 2015  
Yeas 47 Nays 0

BRAD OWEN

**President of the Senate**

Passed by the House April 15, 2015  
Yeas 98 Nays 0

FRANK CHOPP

**Speaker of the House of Representatives**

Approved May 14, 2015 11:58 AM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5593** as passed by Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

**Secretary**

FILED

May 14, 2015

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5593**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2015 Regular Session

**State of Washington                      64th Legislature                      2015 Regular Session**

**By Senate Ways & Means (originally sponsored by Senators Dammeier, Padden, Cleveland, O'Ban, Pedersen, Becker, and Kohl-Welles)**

READ FIRST TIME 02/27/15.

1            AN ACT Relating to the safe delivery of and reasonable payment  
2 for health care services by hospitals for inmates and persons  
3 detained by law enforcement; amending RCW 70.02.200 and 70.48.130;  
4 and adding a new chapter to Title 10 RCW.

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

6            NEW SECTION.    **Sec. 1.** Any individual in custody for a violent  
7 offense or a sex offense as those terms are defined in RCW 9.94A.030  
8 who is brought by, or accompanied by, an officer to a hospital must  
9 continue to be accompanied or otherwise secured by an officer during  
10 the time that the individual is receiving care at the hospital.  
11 However, this section does not apply to an individual being  
12 supervised by the department of corrections if the individual's  
13 custody is the result solely of a sanction imposed by the department  
14 of corrections, the indeterminate sentence review board, or the  
15 court, in response to a violation of conditions.

16            NEW SECTION.    **Sec. 2.** (1) An individual receiving medical care  
17 under this section need not continue to be accompanied or otherwise  
18 secured if:

- 19            (a) The individual's medical care provider so indicates; or  
20            (b) The officer determines, using his or her best judgment, that:

1 (i) The individual does not present an imminent and significant  
2 risk of causing physical harm to themselves or another person;

3 (ii) There is no longer sufficient evidentiary basis to maintain  
4 the individual in custody; or

5 (iii) In the interest of public safety, the presence of the  
6 officer is urgently required at another location and the officer  
7 determines, using his or her best judgment and in consultation with  
8 his or her supervisor, if available on duty, that the public safety  
9 interest outweighs the need to accompany or secure the individual in  
10 the hospital.

11 (2)(a) In the event that a medical care provider determines the  
12 individual need not be accompanied or otherwise secured pursuant to  
13 subsection (1)(a) of this section, the officer has no ongoing duty to  
14 accompany or otherwise secure the individual for the duration of  
15 their treatment by the hospital. When a medical care provider  
16 indicates that a person need not be accompanied or otherwise secured,  
17 the hospital must notify the officer or the officer's designee when  
18 the individual is expected to be released by the hospital.

19 (b) If, after a medical provider indicates that the individual  
20 need not be accompanied or otherwise secured pursuant to subsection  
21 (1)(a) of this section, the individual demonstrates behavior that  
22 presents an imminent and significant risk of causing physical harm to  
23 themselves or others and the physical condition of the individual  
24 renders the individual capable of causing physical harm to themselves  
25 or others, the hospital may request the presence of an officer to  
26 guard or otherwise accompany the individual, in which case subsection  
27 (1)(a) and (b) of this section still apply.

28 (3) In the event the officer determines the individual need not  
29 be accompanied or otherwise secured pursuant to subsection (1)(b)(i)  
30 or (ii) of this section, the officer must notify the medical care  
31 provider that the officer is leaving the individual unattended or  
32 unsecured, in which case the hospital has no duty to notify the  
33 officer when the individual is, or expected to be, released from the  
34 hospital.

35 (4) In the event that the officer is urgently required at another  
36 location pursuant to subsection (1)(b)(iii) of this section, the  
37 officer must notify the medical care provider or, if an immediate  
38 departure is required, other hospital staff member that the officer  
39 is leaving the individual unattended or unsecured and make a  
40 reasonable effort to ensure a replacement officer or other means of

1 accompanying or securing the individual as soon as reasonably  
2 possible under the circumstances. The hospital must notify the  
3 officer or the officer's designee if the individual is, or is  
4 expected to be, released from the hospital prior to the officer or a  
5 replacement officer returning to resume accompanying or otherwise  
6 securing the individual.

7 (5) Except for actions or omissions constituting gross negligence  
8 or willful misconduct, the hospital and health care providers as  
9 defined in chapter 18.130 RCW are immune from liability, including  
10 civil liability, professional conduct sanctions, and administrative  
11 actions resulting from the individual not being accompanied or  
12 secured.

13 NEW SECTION. **Sec. 3.** In a case where an individual accompanied  
14 or otherwise secured by an officer pursuant to this act is waiting  
15 for treatment in a hospital emergency department, the hospital shall  
16 see the patient in as expeditious a manner as possible, while taking  
17 into consideration best triage practices and federal and state legal  
18 obligations regarding appropriate screening and treatment of  
19 patients.

20 NEW SECTION. **Sec. 4.** The provisions of this act do not  
21 constitute a special relationship exception to the public duty  
22 doctrine. Officers and their employing departments and agencies and  
23 representatives are immune from civil liability arising out of the  
24 failure to comply with this act, unless it is shown that, in the  
25 totality of the circumstances, the officer, employing department,  
26 agency, or representative acted with gross negligence or bad faith.

27 NEW SECTION. **Sec. 5.** Nothing in this chapter changes the  
28 standards of care with regard to the use of restraints on pregnant  
29 women or youth in custody as codified in chapters 70.48 and 72.09  
30 RCW.

31 NEW SECTION. **Sec. 6.** For purposes of this chapter, "officer"  
32 means a law enforcement officer, corrections officer, or guard  
33 supplied by a law enforcement or corrections agency.

34 **Sec. 7.** RCW 70.02.200 and 2014 c 220 s 7 are each amended to  
35 read as follows:

1 (1) In addition to the disclosures authorized by RCW 70.02.050  
2 and 70.02.210, a health care provider or health care facility may  
3 disclose health care information, except for information and records  
4 related to sexually transmitted diseases and information related to  
5 mental health services which are addressed by RCW 70.02.220 through  
6 70.02.260, about a patient without the patient's authorization, to:

7 (a) Any other health care provider or health care facility  
8 reasonably believed to have previously provided health care to the  
9 patient, to the extent necessary to provide health care to the  
10 patient, unless the patient has instructed the health care provider  
11 or health care facility in writing not to make the disclosure;

12 (b) Immediate family members of the patient, including a  
13 patient's state registered domestic partner, or any other individual  
14 with whom the patient is known to have a close personal relationship,  
15 if made in accordance with good medical or other professional  
16 practice, unless the patient has instructed the health care provider  
17 or health care facility in writing not to make the disclosure;

18 (c) A health care provider or health care facility who is the  
19 successor in interest to the health care provider or health care  
20 facility maintaining the health care information;

21 (d) A person who obtains information for purposes of an audit, if  
22 that person agrees in writing to:

23 (i) Remove or destroy, at the earliest opportunity consistent  
24 with the purpose of the audit, information that would enable the  
25 patient to be identified; and

26 (ii) Not to disclose the information further, except to  
27 accomplish the audit or report unlawful or improper conduct involving  
28 fraud in payment for health care by a health care provider or  
29 patient, or other unlawful conduct by the health care provider;

30 (e) Provide directory information, unless the patient has  
31 instructed the health care provider or health care facility not to  
32 make the disclosure;

33 (f) Fire, police, sheriff, or other public authority, that  
34 brought, or caused to be brought, the patient to the health care  
35 facility or health care provider if the disclosure is limited to the  
36 patient's name, residence, sex, age, occupation, condition,  
37 diagnosis, estimated or actual discharge date, or extent and location  
38 of injuries as determined by a physician, and whether the patient was  
39 conscious when admitted;

1 (g) Federal, state, or local law enforcement authorities and the  
2 health care provider, health care facility, or third-party payor  
3 believes in good faith that the health care information disclosed  
4 constitutes evidence of criminal conduct that occurred on the  
5 premises of the health care provider, health care facility, or third-  
6 party payor;

7 (h) Another health care provider, health care facility, or third-  
8 party payor for the health care operations of the health care  
9 provider, health care facility, or third-party payor that receives  
10 the information, if each entity has or had a relationship with the  
11 patient who is the subject of the health care information being  
12 requested, the health care information pertains to such relationship,  
13 and the disclosure is for the purposes described in RCW 70.02.010(17)  
14 (a) and (b); ~~((and))~~

15 (i) An official of a penal or other custodial institution in  
16 which the patient is detained; and

17 (j) Any law enforcement officer, corrections officer, or guard  
18 supplied by a law enforcement or corrections agency who is  
19 accompanying a patient pursuant to section 1 of this act, only to the  
20 extent the disclosure is incidental to the fulfillment of the role of  
21 the law enforcement officer, corrections officer, or guard under  
22 section 1 of this act.

23 (2) In addition to the disclosures required by RCW 70.02.050 and  
24 70.02.210, a health care provider shall disclose health care  
25 information, except for information related to sexually transmitted  
26 diseases and information related to mental health services which are  
27 addressed by RCW 70.02.220 through 70.02.260, about a patient without  
28 the patient's authorization if the disclosure is:

29 (a) To federal, state, or local law enforcement authorities to  
30 the extent the health care provider is required by law;

31 (b) To federal, state, or local law enforcement authorities, upon  
32 receipt of a written or oral request made to a nursing supervisor,  
33 administrator, or designated privacy official, in a case in which the  
34 patient is being treated or has been treated for a bullet wound,  
35 gunshot wound, powder burn, or other injury arising from or caused by  
36 the discharge of a firearm, or an injury caused by a knife, an ice  
37 pick, or any other sharp or pointed instrument which federal, state,  
38 or local law enforcement authorities reasonably believe to have been  
39 intentionally inflicted upon a person, or a blunt force injury that  
40 federal, state, or local law enforcement authorities reasonably

1 believe resulted from a criminal act, the following information, if  
2 known:

3 (i) The name of the patient;

4 (ii) The patient's residence;

5 (iii) The patient's sex;

6 (iv) The patient's age;

7 (v) The patient's condition;

8 (vi) The patient's diagnosis, or extent and location of injuries  
9 as determined by a health care provider;

10 (vii) Whether the patient was conscious when admitted;

11 (viii) The name of the health care provider making the  
12 determination in (b)(v), (vi), and (vii) of this subsection;

13 (ix) Whether the patient has been transferred to another  
14 facility; and

15 (x) The patient's discharge time and date;

16 (c) Pursuant to compulsory process in accordance with RCW  
17 70.02.060.

18 **Sec. 8.** RCW 70.48.130 and 2011 1st sp.s. c 15 s 85 are each  
19 amended to read as follows:

20 (1) It is the intent of the legislature that all jail inmates  
21 receive appropriate and cost-effective emergency and necessary  
22 medical care. Governing units, the health care authority, and medical  
23 care providers shall cooperate to achieve the best rates consistent  
24 with adequate care.

25 (2) Payment for emergency or necessary health care shall be by  
26 the governing unit, except that the health care authority shall  
27 directly reimburse the provider pursuant to chapter 74.09 RCW, in  
28 accordance with the rates and benefits established by the authority,  
29 if the confined person is eligible under the authority's medical care  
30 programs as authorized under chapter 74.09 RCW. After payment by the  
31 authority, the financial responsibility for any remaining balance,  
32 including unpaid client liabilities that are a condition of  
33 eligibility or participation under chapter 74.09 RCW, shall be borne  
34 by the medical care provider and the governing unit as may be  
35 mutually agreed upon between the medical care provider and the  
36 governing unit. In the absence of mutual agreement between the  
37 medical care provider and the governing unit, the financial  
38 responsibility for any remaining balance shall be borne equally  
39 between the medical care provider and the governing unit. Total

1 payments from all sources to providers for care rendered to cor  
2 persons eligible under chapter 74.09 RCW shall not exceed the ar  
3 that would be paid by the authority for similar services provided  
4 under Title XIX medicaid, unless additional resources are obtained  
5 from the confined person.

6 (3) For inpatient, outpatient, and ancillary services for  
7 confined persons that are not paid by the medicaid program pursuant  
8 to subsection (2) of this section, unless other rates are agreed to  
9 by the governing unit and the hospital, providers of hospital  
10 services that are hospitals licensed under chapter 70.41 RCW must  
11 accept as payment in full by the governing units the applicable  
12 facility's percent of allowed charges rate or fee schedule as  
13 determined, maintained, and posted by the Washington state department  
14 of labor and industries pursuant to chapter 51.04 RCW.

15 (4) As part of the screening process upon booking or preparation  
16 of an inmate into jail, general information concerning the inmate's  
17 ability to pay for medical care shall be identified, including  
18 insurance or other medical benefits or resources to which an inmate  
19 is entitled. The inmate may also be evaluated for medicaid  
20 eligibility and, if deemed potentially eligible, enrolled in  
21 medicaid. This information shall be made available to the authority,  
22 the governing unit, and any provider of health care services. To the  
23 extent that federal law allows, a jail or the jail's designee is  
24 authorized to act on behalf of a confined person for purposes of  
25 applying for medicaid.

26 ~~((4))~~ (5) The governing unit or provider may obtain  
27 reimbursement from the confined person for the cost of health care  
28 services not provided under chapter 74.09 RCW, including  
29 reimbursement from any insurance program or from other medical  
30 benefit programs available to the confined person. Nothing in this  
31 chapter precludes civil or criminal remedies to recover the costs of  
32 medical care provided jail inmates or paid for on behalf of inmates  
33 by the governing unit. As part of a judgment and sentence, the courts  
34 are authorized to order defendants to repay all or part of the  
35 medical costs incurred by the governing unit or provider during  
36 confinement.

37 ~~((5))~~ (6) To the extent that a confined person is unable to be  
38 financially responsible for medical care and is ineligible for the  
39 authority's medical care programs under chapter 74.09 RCW, or for  
40 coverage from private sources, and in the absence of an interlocal

1 agreement or other contracts to the contrary, the governing unit may  
2 obtain reimbursement for the cost of such medical services from the  
3 unit of government whose law enforcement officers initiated the  
4 charges on which the person is being held in the jail: PROVIDED, That  
5 reimbursement for the cost of such services shall be by the state for  
6 state prisoners being held in a jail who are accused of either  
7 escaping from a state facility or of committing an offense in a state  
8 facility.

9 ~~((6))~~ (7) There shall be no right of reimbursement to the  
10 governing unit from units of government whose law enforcement  
11 officers initiated the charges for which a person is being held in  
12 the jail for care provided after the charges are disposed of by  
13 sentencing or otherwise, unless by intergovernmental agreement  
14 pursuant to chapter 39.34 RCW.

15 ~~((7))~~ (8) Under no circumstance shall necessary medical  
16 services be denied or delayed because of disputes over the cost of  
17 medical care or a determination of financial responsibility for  
18 payment of the costs of medical care provided to confined persons.

19 ~~((8))~~ (9) Nothing in this section shall limit any existing  
20 right of any party, governing unit, or unit of government against the  
21 person receiving the care for the cost of the care provided.

22 NEW SECTION. **Sec. 9.** Sections 1 through 6 of this act  
23 constitute a new chapter in Title 10 RCW.

Passed by the Senate April 21, 2015.

Passed by the House April 15, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

# Appendix #6

CERTIFICATION OF ENROLLMENT

**ENGROSSED SUBSTITUTE SENATE BILL 6211**

Chapter 308, Laws of 1996

54th Legislature  
1996 Regular Session

CRIMINAL JUSTICE COSTS--INTERLOCAL AGREEMENTS AND CONTRACTS

EFFECTIVE DATE: 1/1/97

Passed by the Senate March 7, 1996  
YEAS 47 NAYS 2

JOEL PRITCHARD

**President of the Senate**

Passed by the House March 5, 1996  
YEAS 94 NAYS 0

CLYDE BALLARD

**Speaker of the  
House of Representatives**

Approved March 30, 1996

MIKE LOWRY

**Governor of the State of Washington**

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6211** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN

**Secretary**

FILED

March 30, 1996 - 4:42 p.m.

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE SENATE BILL 6211**

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AS AMENDED BY THE HOUSE

Passed Legislature - 1996 Regular Session

**State of Washington                      54th Legislature                      1996 Regular Session**

**By** Senate Committee on Government Operations (originally sponsored by Senators Haugen, Smith, Hale, McCaslin and Hochstatter)

Read first time 02/01/96.

1            AN ACT Relating to criminal justice costs; adding a new section to  
2 chapter 39.34 RCW; and providing an effective date.

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

4            NEW SECTION.    **Sec. 1.** A new section is added to chapter 39.34 RCW  
5 to read as follows:

6            (1) Each county, city, and town is responsible for the prosecution,  
7 adjudication, sentencing, and incarceration of misdemeanor and gross  
8 misdemeanor offenses committed by adults in their respective  
9 jurisdictions, and referred from their respective law enforcement  
10 agencies, whether filed under state law or city ordinance, and must  
11 carry out these responsibilities through the use of their own courts,  
12 staff, and facilities, or by entering into contracts or interlocal  
13 agreements under this chapter to provide these services. Nothing in  
14 this section is intended to alter the statutory responsibilities of  
15 each county for the prosecution, adjudication, sentencing, and  
16 incarceration for not more than one year of felony offenders, nor shall  
17 this section apply to any offense initially filed by the prosecuting  
18 attorney as a felony offense or an attempt to commit a felony offense.

1 (2) The following principles must be followed in negotiating  
2 interlocal agreements or contracts: Cities and counties must consider  
3 (a) anticipated costs of services; and (b) anticipated and potential  
4 revenues to fund the services, including fines and fees, criminal  
5 justice funding, and state-authorized sales tax funding levied for  
6 criminal justice purposes.

7 (3) If an agreement as to the levels of compensation within an  
8 interlocal agreement or contract for gross misdemeanor and misdemeanor  
9 services cannot be reached between a city and county, then either party  
10 may invoke binding arbitration on the compensation issued by notice to  
11 the other party. In the case of establishing initial compensation, the  
12 notice shall request arbitration within thirty days. In the case of  
13 nonrenewal of an existing contract or interlocal agreement, the notice  
14 must be given one hundred twenty days prior to the expiration of the  
15 existing contract or agreement and the existing contract or agreement  
16 remains in effect until a new agreement is reached or until an  
17 arbitration award on the matter of fees is made. The city and county  
18 each select one arbitrator, and the initial two arbitrators pick a  
19 third arbitrator.

20 (4) For cities or towns that have not adopted, in whole or in part,  
21 criminal code or ordinance provisions related to misdemeanor and gross  
22 misdemeanor crimes as defined by state law, this section shall have no  
23 application until July 1, 1998.

24 NEW SECTION. **Sec. 2.** This act shall take effect January 1, 1997.

Passed the Senate March 7, 1996.

Passed the House March 5, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

# THURSTON COUNTY PROSECUTING ATTORNEY'S OFFICE

June 22, 2018 - 2:29 PM

## Transmittal Information

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 95586-7  
**Appellate Court Case Title:** Thurston County et al v. City of Olympia, et al  
**Superior Court Case Number:** 16-2-04768-5

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### Comments:

Due to 6/22/18 renumbering by the Thurston County Superior Court Clerk of Clerk's Papers we are resubmitting our brief with the corrected numbers.

---

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