

the employer, or was discharged for misconduct connected with his or her work; and

(ii) The employer requests relief of charges in writing within thirty days following mailing to the last known address of the notification of the initial determination of such a claim, stating the date and reason for the last leaving; and

(iii) Upon investigation of the separation, the commissioner rules that the relief should be granted.

(i) Benefits paid to an individual who does not successfully complete an approved on-the-job training program under RCW 50.12.240 shall not be charged to the experience rating account of the contribution paying employer who provided the approved on-the-job training.

NEW SECTION. Sec. 3. The employment security department shall report to the commerce and labor committees of the senate and the house of representatives by January 1, 1989, on the number of claimants receiving benefits and the total amount of benefits paid to date under this act.

NEW SECTION. Sec. 4. (1) This act shall apply retrospectively to all applicable employers and employees as of November 16, 1986.

(2) 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.

NEW SECTION. Sec. 5. 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.

Passed the House February 20, 1987.

Passed the Senate February 12, 1987.

Approved by the Governor February 20, 1987.

Filed in Office of Secretary of State February 20, 1987.

CHAPTER 3

[Senate Bill No. 5015]

MUNICIPAL COURTS—TERMINOLOGY REVISIONS

AN ACT Relating to modifications in terminology regarding municipal courts; and amending RCW 3.46.020, 3.70.010, 7.16.160, 9.92.070, 35.18.060, 35.23.020, 35.23.040, 35.23.190, 35.24.020, 35.24.080, 35.24.160, 35.27.070, 35.27.240, 35A.12.020, 35A.12.090, 35A.13.010, 35A.13.080, 46.52.100, 78.12.020, and 78.12.060.

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

Sec. 1. Section 36, chapter 299, Laws of 1961 as amended by section 73, chapter 258, Laws of 1984 and RCW 3.46.020 are each amended to read as follows:

Each judge of a municipal department shall be a judge of the district court in which the municipal department is situated. Such judge ~~((may)) shall be ((alternately))~~ designated as a municipal judge ~~((or police judge)).~~

Sec. 2. Section 123, chapter 299, Laws of 1961 as amended by section 50, chapter 258, Laws of 1984 and RCW 3.70.010 are each amended to read as follows:

There is established in the state an association, to be known as the Washington state magistrates' association, membership in which shall include all duly elected or appointed and qualified judges of courts of limited jurisdiction, including but not limited to district judges ~~((, police court judges))~~ and municipal court judges.

Sec. 3. Section 16, chapter 65, Laws of 1895 and RCW 7.16.160 are each amended to read as follows:

It may be issued by any court, except a ~~((justice's or a police))~~ district or municipal court, to any inferior tribunal, corporation, board or person, to compel the performance of an act which the law especially enjoins as a duty resulting from an office, trust or station, or to compel the admission of a party to the use and enjoyment of a right or office to which ~~((he))~~ the party is entitled, and from which ~~((he))~~ the party is unlawfully precluded by such inferior tribunal, corporation, board or person.

Sec. 4. Section 1, chapter 15, Laws of 1923 and RCW 9.92.070 are each amended to read as follows:

Hereafter whenever any judge of any superior court ~~((, justice of the peace or police))~~ or a district or municipal judge shall sentence any person to pay any fine and costs, ~~((he))~~ the judge may, in ~~((his))~~ the judge's discretion, provide that such fine and costs may be paid in certain designated installments, or within certain designated period or periods; and if such fine and costs shall be paid by the defendant in accordance with such order no commitment or imprisonment of the defendant shall be made for failure to pay such fine or costs. PROVIDED, that the provisions of this section shall not apply to any sentence given for the violation of any of the liquor laws of this state.

Sec. 5. Section 35.18.060, chapter 7, Laws of 1965 as amended by section 1, chapter 116, Laws of 1965 ex. sess. and RCW 35.18.060 are each amended to read as follows:

The powers and duties of the city manager shall be:

(1) To have general supervision over the administrative affairs of the municipality;

(2) To appoint and remove at any time all department heads, officers, and employees of the city or town, except members of the council, and subject to the provisions of any applicable law, rule, or regulation relating to

civil service: PROVIDED, That the council may provide for the appointment by the mayor, subject to confirmation by the council, of the city planning commission, and other advisory citizens' committees, commissions and boards advisory to the city council: PROVIDED FURTHER, That the city manager shall appoint the ((police)) municipal judge to a term of four years, subject to confirmation by the council. The ((police)) municipal judge may be removed only on conviction of malfeasance or misconduct in office, or because of physical or mental disability rendering him incapable of performing the duties of his office. The council may cause an audit to be made of any department or office of the city or town government and may select the persons to make it, without the advice or consent of the city manager;

(3) To attend all meetings of the council at which his attendance may be required by that body;

(4) To see that all laws and ordinances are faithfully executed, subject to the authority which the council may grant the mayor to maintain law and order in times of emergency;

(5) To recommend for adoption by the council such measures as he may deem necessary or expedient;

(6) To prepare and submit to the council such reports as may be required by that body or as he may deem it advisable to submit;

(7) To keep the council fully advised of the financial condition of the city or town and its future needs;

(8) To prepare and submit to the council a tentative budget for the fiscal year;

(9) To perform such other duties as the council may determine by ordinance or resolution.

Sec. 6. Section 35.23.020, chapter 7, Laws of 1965 and RCW 35.23.020 are each amended to read as follows:

The elective officers of a city of the second class shall consist of a mayor, twelve councilmen, a city clerk, and a city treasurer(~~(; and a police judge. PROVIDED, That in any such city operating under a commission form of government the police judge shall be appointed by the mayor).~~).

Sec. 7. Section 35.23.040, chapter 7, Laws of 1965 as amended by section 21, chapter 126, Laws of 1979 ex. sess. and RCW 35.23.040 are each amended to read as follows:

A general municipal election shall be held biennially in second class cities not operating under the commission form of government in each odd-numbered year as provided in RCW 29.13.020.

The term of office of mayor, city clerk, city treasurer and councilmen in such cities shall be four years, and until their successors are elected and qualified and assume office in accordance with RCW 29.04.170, but not more than six councilmen shall be elected in any one year to fill a full term.

~~((The term of office of police judge shall be two years and until his successor is elected and qualified and assumes office in accordance with RCW 29.04.170.))~~

Sec. 8. Section 35.23.190, chapter 7, Laws of 1965 as amended by section 17, chapter 167, Laws of 1986 and RCW 35.23.190 are each amended to read as follows:

Before entering upon his duties and within ten days after receiving notice of his election or appointment every officer of the city shall qualify by taking the oath of office and by filing such bond duly approved as may be required of him. The oath of office shall be filed with the county auditor. If no notice of election or appointment was received, the officer must qualify on or before the date fixed for the assumption by him of the duties of the office to which he was elected or appointed. The city council shall fix the amount of all official bonds and may designate what officers shall be required to give bonds in addition to those required to do so by statute.

The clerk, treasurer, city attorney, chief of police, ~~((police judge))~~ and street commissioner shall each execute an official bond in such penal sum as the city council by ordinance may determine, conditioned for the faithful performance of their duties, including in the same bond the duties of all offices of which he is the ex officio incumbent.

All official bonds shall be approved by the city council and when so approved shall be filed with the city clerk except the city clerk's which shall be filed with the mayor. No city officer shall be eligible as a surety upon any bond running to the city as obligee.

The city council may require a new or additional bond of any officer whenever it deems it expedient.

Sec. 9. Section 35.24.020, chapter 7, Laws of 1965 as last amended by section 1, chapter 116, Laws of 1969 and RCW 35.24.020 are each amended to read as follows:

The government of a third class city shall be vested in a mayor, a city council of seven members, a city attorney, a clerk, a treasurer, all elective; and a chief of police, ~~((police))~~ municipal judge, city engineer, street superintendent, health officer and such other appointive officers as may be provided for by statute or ordinance: PROVIDED, That the council may enact an ordinance providing for the appointment of the city clerk, city attorney, and treasurer by the mayor, which appointment shall be subject to confirmation by a majority vote of the city council. Such ordinance shall be enacted and become effective not later than thirty days prior to the first day allowed for filing declarations of candidacy for such offices when such offices are subject to an approaching city primary election. Elective incumbent city clerks, city attorneys, and city treasurers shall serve for the remainder of their unexpired term notwithstanding any appointment made pursuant to RCW 35.24.020 and 35.24.050. If a free public library and reading room is

established, five library trustees shall be appointed. The city council by ordinance shall prescribe the duties and fix the compensation of all officers: **PROVIDED**, That the provisions of any such ordinance shall not be inconsistent with any statute: **PROVIDED FURTHER**, That where the city council finds that the appointment of a full time city engineer is unnecessary, it may in lieu of such appointment, by resolution provide for the performance of necessary engineering services on either a part time, temporary or periodic basis by a qualified engineering firm, pursuant to any reasonable contract.

The mayor shall appoint and at his pleasure may remove all appointive officers except as otherwise provided herein: **PROVIDED**, That ~~((police))~~ municipal judges shall be removed only upon conviction of misconduct or malfeasance in office, or because of physical or mental disability rendering him incapable of performing the duties of his office. Every appointment or removal must be in writing signed by the mayor and filed with the city clerk.

Sec. 10. Section 35.24.080, chapter 7, Laws of 1965 as amended by section 18, chapter 167, Laws of 1986 and RCW 35.24.080 are each amended to read as follows:

In a city of the third class, the treasurer, city attorney, clerk, ~~((police judge;))~~ chief of police, and such other officers as the council may require shall each, before entering upon the duties of his office, take an oath of office and execute and file with the clerk an official bond in such penal sum as the council shall determine, conditioned for the faithful performance of his duties and otherwise conditioned as may be provided by ordinance. The oath of office shall be filed with the county auditor.

Sec. 11. Section 35.24.160, chapter 7, Laws of 1965 as amended by section 22, chapter 316, Laws of 1977 ex. sess. 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 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. 12. Section 35.27.070, chapter 7, Laws of 1965 as amended by section 14, chapter 116, Laws of 1965 ex. sess. and RCW 35.27.070 are each amended to read as follows:

The government of a town shall be vested in a mayor and a council consisting of five members and a treasurer, all elective; the mayor shall appoint a clerk(;) and a marshal(~~(, and a police justice)~~); and may appoint a town attorney, pound master, street superintendent, a civil engineer, and such police and other subordinate officers as may be provided for by ordinance. All appointive officers shall hold office at the pleasure of the mayor and shall not be subject to confirmation by the town council(~~(, except that a police judge shall be removed only upon conviction of misconduct or malfeasance in office, or because of physical or mental disability rendering him incapable of performing the duties of his office)~~).

Sec. 13. Section 35.27.240, chapter 7, Laws of 1965 as last amended by section 24, chapter 316, Laws of 1977 ex. sess. 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 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. 14. Section 35A.12.020, chapter 119, Laws of 1967 ex. sess. and RCW 35A.12.020 are each amended to read as follows:

The appointive officers shall be those provided for by charter or ordinance and shall include a city clerk and a chief law enforcement officer. The office of city clerk may be merged with that of a city treasurer, if any, with an appropriate title designated therefor. Provision shall be made for obtaining legal counsel for the city, either by appointment of a city attorney on a full-time or part-time basis, or by any reasonable contractual arrangement for such professional services. The authority, duties and qualifications of all appointive officers shall be prescribed by charter or ordinance, consistent with the provisions of this title, and any amendments thereto, and the compensation of appointive officers shall be prescribed by ordinance: PROVIDED, That the compensation of an appointed (~~police judge or~~) municipal judge shall be within applicable statutory limits.

Sec. 15. Section 35A.12.090, chapter 119, Laws of 1967 ex. sess. and RCW 35A.12.090 are each amended to read as follows:

The mayor shall have the power of appointment and removal of all appointive officers and employees subject to any applicable law, rule, or regulation relating to civil service (~~except that a police judge or municipal judge who is appointed may be removed only upon conviction of misconduct or malfeasance in office, or because of physical or mental disability rendering him incapable of performing the duties of his office~~). The head of a department or office of the city government may be authorized by the mayor to appoint and remove subordinates in such department or office, subject to any applicable civil service provisions. All appointments of city officers and employees shall be made on the basis of ability and training or experience of the appointees in the duties they are to perform, from among persons having such qualifications as may be prescribed by ordinance or by charter, and in compliance with provisions of any merit system applicable to such city. Confirmation by the city council of appointments of officers and employees shall be required only when the city charter, or the council by ordinance, provides for confirmation of such appointments. Confirmation of mayoral appointments by the council may be required by the council in any instance where qualifications for the office or position have not been established by ordinance or charter provision. Appointive offices shall be without definite term unless a term is established for such office by law, charter or ordinance.

Sec. 16. Section 35A.13.010, chapter 119, Laws of 1967 ex. sess. as last amended by section 2, chapter 106, Laws of 1985 and RCW 35A.13.010 are each amended to read as follows:

The councilmen shall be the only elective officers of a code city electing to adopt the council-manager plan of government authorized by this chapter, except where statutes provide for an elective (~~police~~) municipal judge. The council shall appoint an officer whose title shall be "city manager" who

shall be the chief executive officer and head of the administrative branch of the city government. The city manager shall be responsible to the council for the proper administration of all affairs of the code city. The council of a noncharter code city having less than twenty-five hundred inhabitants shall consist of five members; when there are twenty-five hundred or more inhabitants the council shall consist of seven members: PROVIDED, That if the population of a city after having become a code city decreases from twenty-five hundred or more to less than twenty-five hundred, it shall continue to have a seven member council. If, after a city has become a council-manager code city its population increases to twenty-five hundred or more inhabitants, the number of councilmanic offices in such city may increase from five to seven members upon the affirmative vote of a majority of the existing council to increase the number of councilmanic offices in the city. When the population of a council-manager code city having five councilmanic offices increases to five thousand or more inhabitants, the number of councilmanic offices in the city shall increase from five to seven members. In the event of an increase in the number of councilmanic offices, the city council shall, by majority vote, pursuant to RCW 35A.13.020, appoint two persons to serve in these offices until the next municipal general election, at which election one person shall be elected for a two-year term and one person shall be elected for a four-year term. The number of inhabitants shall be determined by the most recent official state or federal census or determination by the state office of financial management. A charter adopted under the provisions of this title, incorporating the council-manager plan of government set forth in this chapter may provide for an uneven number of councilmen not exceeding eleven.

A noncharter code city of less than five thousand inhabitants which has elected the council-manager plan of government and which has seven councilmanic offices may establish a five-member council in accordance with the following procedure. At least six months prior to a municipal general election, the city council shall adopt an ordinance providing for reduction in the number of councilmanic offices to five. The ordinance shall specify which two councilmanic offices, the terms of which expire at the next general election, are to be terminated. The ordinance shall provide for the renumbering of council positions and shall also provide for a two-year extension of the term of office of a retained councilmanic office, if necessary, in order to comply with RCW 35A.12.040.

Sec. 17. Section 35A.13.080, chapter 119, Laws of 1967 ex. sess. and RCW 35A.13.080 are each amended to read as follows:

The powers and duties of the city manager shall be:

- (1) To have general supervision over the administrative affairs of the code city;
- (2) To appoint and remove at any time all department heads, officers, and employees of the code city, except members of the council, and subject



to the provisions of any applicable law, rule, or regulation relating to civil service: PROVIDED, That the council may provide for the appointment by the mayor, subject to confirmation by the council, of a city planning commission, and other advisory citizens' committees, commissions, and boards advisory to the city council: PROVIDED FURTHER, That if the ((~~police judge or~~)) municipal judge of the code city is appointed, such appointment shall be made by the city manager subject to confirmation by the council, for a four year term. ((~~The police judge or municipal judge may be removed only on conviction of malfeasance or misconduct in office, or because of physical or mental disability rendering him incapable of performing the duties of his office.~~)) The council may cause an audit to be made of any department or office of the code city government and may select the persons to make it, without the advice or consent of the city manager;

(3) To attend all meetings of the council at which his attendance may be required by that body;

(4) To see that all laws and ordinances are faithfully executed, subject to the authority which the council may grant the mayor to maintain law and order in times of emergency;

(5) To recommend for adoption by the council such measures as he may deem necessary or expedient;

(6) To prepare and submit to the council such reports as may be required by that body or as he may deem it advisable to submit;

(7) To keep the council fully advised of the financial condition of the code city and its future needs;

(8) To prepare and submit to the council a proposed budget for the fiscal year, as required by chapter 35A.33 RCW, and to be responsible for its administration upon adoption;

(9) To perform such other duties as the council may determine by ordinance or resolution.

Sec. 18. Section 12, chapter 2, Laws of 1983 as amended by section 6, chapter 302, Laws of 1985 and RCW 46.52.100 are each amended to read as follows:

Every (~~justice of the peace, police judge,~~) district court, municipal court, and clerk of superior court shall keep or cause to be kept a record of every traffic complaint, traffic citation, notice of infraction, or other legal form of traffic charge deposited with or presented to ((~~said justice of the peace, police judge, superior~~)) the court(;) or a traffic violations bureau, and shall keep a record of every official action by said court or its traffic violations bureau in reference thereto, including but not limited to a record of every conviction, forfeiture of bail, judgment of acquittal, finding that a traffic infraction has been committed, dismissal of a notice of infraction, and the amount of fine, forfeiture, or penalty resulting from every said traffic complaint, citation, or notice of infraction deposited with or presented

to the (~~justice of the peace, police judge,~~) district court, municipal court, superior court, or traffic violations bureau.

The Monday following the conviction, forfeiture of bail, or finding that a traffic infraction was committed for violation of any provisions of this chapter or other law regulating the operating of vehicles on highways, every said magistrate of the court or clerk of the court of record in which such conviction was had, bail was forfeited, or the finding made shall prepare and immediately forward to the director of licensing at Olympia an abstract of the record of said court covering the case, which abstract must be certified by the person so required to prepare the same to be true and correct. Report need not be made of any finding involving the illegal parking or standing of a vehicle.

Said abstract must be made upon a form furnished by the director and shall include the name and address of the party charged, the number, if any, of (~~his~~) the party's driver's or chauffeur's license, the registration number of the vehicle involved, the nature of the offense, the date of hearing, the plea, the judgment, whether bail forfeited, whether the determination that a traffic infraction was committed was contested, and the amount of the fine, forfeiture, or penalty as the case may be.

Every court of record shall also forward a like report to the director upon the conviction of any person of manslaughter or other felony in the commission of which a vehicle was used.

The failure of any such judicial officer to comply with any of the requirements of this section shall constitute misconduct in office and shall be grounds for removal therefrom.

The director shall keep all abstracts received hereunder at (~~his~~) the director's office in Olympia and the same shall be open to public inspection during reasonable business hours.

Venue in all (~~justice~~) district courts shall be before one of the two nearest (~~justices of the peace~~) district judges in incorporated cities and towns nearest to the point the violation allegedly occurred: PROVIDED, That in counties of class A and of the first class such cases may be tried in the county seat at the request of the defendant.

It shall be the duty of the officer, prosecuting attorney, or city attorney signing the charge or information in any case involving a charge of driving under the influence of intoxicating liquor or any drug immediately to make request to the director for an abstract of convictions and forfeitures which the director shall furnish.

Sec. 19. Section 2, page 121, Laws of 1890 and RCW 78.12.020 are each amended to read as follows:

Three persons being residents of the county, and knowing or having reason to believe that the provisions of RCW 78.12.010 are being or have been violated within such county, may file a notice with any (~~justice of the peace or police judge~~) district or municipal court therein, which notice

shall be in writing, and shall state—First, the location, as near as may be, of the hole, excavation or shaft. Second, that the same is dangerous to persons or animals, and has been left or is being worked contrary to the provisions of this chapter. Third, the name of the person or persons, company or corporation who is or are the owners of the same, if known, or if unknown, the persons who were known to be employed therein. Fourth, if abandoned and no claimant; and Fifth, the estimated cost of fencing or otherwise securing the same against any avoidable accidents.

Sec. 20. Section 6, page 122, Laws of 1890 and RCW 78.12.060 are each amended to read as follows:

If the notice filed with the (~~justice of the peace, or police judge~~) district or municipal court, as aforesaid, shall state that the excavation, shaft or hole has been abandoned, and no person claims the ownership thereof, (~~said justice of the peace, or judge,~~) the court shall notify the (~~board of county commissioners of the county, or either of them,~~) county legislative authority of the location of the same, and they shall, as soon as possible thereafter, cause the same to be so fenced, or otherwise guarded, as to prevent accidents to persons or animals; and all expenses thus incurred shall be paid as other county expenses: PROVIDED, That nothing herein contained shall be so construed as to compel the county commissioners to fill up, fence or otherwise guard any shaft, excavation or hole, unless in their discretion, the same may be considered dangerous to persons or animals.

NEW SECTION. Sec. 21. 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.

Passed the Senate January 15, 1987.

Passed the House February 11, 1987.

Approved by the Governor March 3, 1987.

Filed in Office of Secretary of State March 3, 1987.

## CHAPTER 4

[Engrossed House Bill No. 6]

### GAMBLING STATUTES RECODIFIED

AN ACT Relating to recodification of existing statutes regulating gambling; dividing definitions and authorized activities into separate sections; amending RCW 9.46.070, 9.46.120, 9.46.200, 9.46.220, 9.46.230, 9.46.240, and 9.46.250; reenacting and amending RCW 9.46.110; adding new sections to chapter 9.46 RCW; creating new sections; repealing RCW 9.46.020 and 9.46.030; and declaring an emergency.

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

NEW SECTION. Sec. 1. The separation of definitions and authorized activities provisions of the state's gambling statutes into shorter sections is intended to improve the readability and facilitate the future amendment of