State of Washington 61st Legislature 2009 Regular Session

By Senators Kohl-Welles, Regala, McDermott, Murray, Kline, Fraser, and Jacobsen

Read first time 04/02/09. Referred to Committee on Ways & Means.

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

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

PART I

GENERAL PROVISIONS

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

PART II

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

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

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

NEW SECTION. Sec. 204. FEDERAL BASE INCOME. "Federal base income" means adjusted gross income.

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

NEW SECTION. Sec. 206. INTERNAL REVENUE CODE. "Internal revenue code" means the United States internal revenue code of 1986 and amendments thereto, as existing and in effect on January 1, 2009.

NEW SECTION. Sec. 207. PERSON OR COMPANY. "Person" or "company," herein used interchangeably, means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the state of Washington, corporation, limited liability company, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise and the United States or any instrumentality thereof.

NEW SECTION. Sec. 208. RESIDENT. "Resident" includes an individual who:
(1) Has resided in this state for the entire tax year; or
(2) Is domiciled in this state unless the individual:
   (a) Maintains no permanent place of abode in this state; and
   (b) Does not maintain a permanent place of abode elsewhere; and
(c) Spends in the aggregate not more than thirty days in the tax year in this state; or

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

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

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

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

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

NEW SECTION. Sec. 212. TAXPAYER. "Taxpayer" means an individual receiving income subject to tax under this title.

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

PART III
DETERMINATION OF TAX

NEW SECTION. Sec. 301. TAX IMPOSED--RATE. A tax is imposed at the rate of one percent on all taxable income of resident individuals and on all individuals deriving income from sources in Washington for each taxable year. Taxable income of a taxpayer exempt from taxation by internal revenue code section 501 is exempt from taxation by this title.
NEW SECTION.  Sec. 302.  CREDIT FOR INCOME TAXES DUE ANOTHER JURISDICTION.  (1) A resident individual is allowed a credit against the tax imposed under this title for the amount of any income tax imposed by another state or foreign country, or political subdivision of the state or foreign country, on income taxed under this title, subject to the following conditions, which shall be imposed separately with respect to each taxing jurisdiction:

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

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

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

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

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

NEW SECTION.  Sec. 303.  DUAL RESIDENCE.  If an individual is regarded as a resident both of this state and another jurisdiction for state personal income tax purposes, the department shall reduce the tax on that portion of the taxpayer's income which is subjected to tax in both jurisdictions solely by virtue of dual residence, if the other taxing jurisdiction allows a similar reduction. The reduction shall equal the lower of the two taxes applicable to the income taxed twice, multiplied by a fraction. The numerator of the fraction is the tax imposed by this state on the income taxed twice. The denominator of the fraction is the tax imposed by both jurisdictions on the income taxed twice. The fraction shall never be greater than one.
NEW SECTION. Sec. 304. BUSINESS AND OCCUPATION TAX CREDIT. (1) There shall be allowed a credit against the tax imposed by this title in the amount of the state of Washington business and occupation tax paid by the taxpayer in the tax year subject to the limitation of subsection (2) of this section.

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. Sec. 306. CARRYFORWARDS AND CARRYBACKS. The amount of tax credits received by any taxpayer under sections 302, 304, and 305 of this act shall not exceed the total amount of tax due, and there shall be no carryback or carryforward of any unused excess credits.

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

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

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

1. Taxes on or measured by net income which have been deducted under the internal revenue code in computing federal base income;
2. The amount of taxes paid or accrued which have been deducted for federal purposes, but for which a business and occupation tax credit or public utility tax credit, or both, is allowed.

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

NEW SECTION. Sec. 405. CARRYOVERS. To federal base income, add amounts which have been deducted in computing federal base income to the extent the amounts have been carried over from taxable years ending before the effective date of this title.

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

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

1. In the case of a joint return or a surviving spouse, one million dollars;
2. In the case of the head of a household, seven hundred fifty thousand dollars;
3. In the case of an individual who is not married and who is not a surviving spouse or head of a household and in the case of a married individual filing a separate return, five hundred thousand dollars.

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

**NEW SECTION. Sec. 409.** TAX RETURNS FOR FRACTIONAL YEAR. (1) If the first taxable year of any taxpayer with respect to which a tax is imposed by this title ends before December 31st of the calendar year in which this title becomes effective, the taxable income for the fractional taxable year shall be the taxpayer's taxable income for the entire taxable year, adjusted by one of the following methods, at the taxpayer's election:

a. The taxable income shall be multiplied by a fraction. The numerator of the fraction is the number of days in the fractional taxable year. The denominator of the fraction is the number of days in the entire taxable year.
(b) The taxable income shall be adjusted, in accordance with rules of the department, so as to include only such income and be reduced only by such deductions as can be clearly determined from the permanent records of the taxpayer to be attributable to the fractional taxable year.

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

NEW SECTION. Sec. 410. INDEX FOR INFLATION. For each tax year beginning after December 31, 2008, the standard deduction amounts under section 407 of this act shall be adjusted by the department for inflation by multiplying the standard deduction amounts of the previous tax year by the cost-of-living adjustment as determined under internal revenue code section 1(f) (3) through (5) for the calendar year in which the tax year begins. No adjustment shall be made which decreases the standard deduction amounts. If any adjustment increase is not a multiple of ten dollars, the increase shall be rounded to the next lowest multiple of ten dollars.

PART V
DIVISION OF INCOME, MODIFICATIONS, AND CREDITS

NEW SECTION. Sec. 501. APPORTIONMENT AND ALLOCATION OF INCOME.
(1) For resident individuals, all income shall be apportioned and allocated to this state.

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

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

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

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

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

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

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

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

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

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

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

(5) As used in this section:
(a) "S corporation income" includes both distributed and undistributed federal taxable income of the S corporation.
(b) "Pro rata share" means pro rata share as determined under section 1366(a) of the internal revenue code.

NEW SECTION. Sec. 503. BENEFICIARIES OF ESTATES AND TRUSTS. (1) The taxable incomes of beneficiaries of estates and trusts thereof shall be computed by including a share of the modifications under sections 401 through 503 of this act and the credits allowed under sections 302, 304, and 305 of this act.

Each taxpayer's share of a modification or credit is the amount of modification or credit multiplied by a fraction. The numerator of the fraction is the taxpayer's share of the distributable net income of the
estate or trust. The denominator of the fraction is the total distributable net income of the estate or trust. The fraction shall never be greater than one.

(2) As used in this section, "distributable net income" means distributable net income as defined in the internal revenue code. If an estate or trust has no federal distributable net income, the term means the income of the estate or trust which is distributed or is required to be distributed during the taxable year under local law or the terms of the estate or trust instrument.

PART VI

WITHHOLDING--ESTIMATED TAX

NEW SECTION. Sec. 601. EMPLOYER WITHHOLDING--REQUIREMENTS. (1) Every employer making a payment of wages or salaries earned in this state, regardless of the place where the payment is made, and who is required by the internal revenue code to withhold taxes, shall deduct and withhold a tax as prescribed by the department by rule. The rules prescribed shall reasonably reflect the annual tax liability of the employee under this title. Every employer making such a deduction and withholding shall furnish to the employee a record of the amount of tax deducted and withheld from the employee on forms provided by the department.

(2) If the employee is a resident of this state and earns income from personal services entirely performed in another state which imposes an income tax on the income, and the employer withholds income taxes under the laws of the state in which the income is earned, the employer is not required to withhold any tax imposed by this title on the income if the laws of the state in which the income is earned allow a similar exemption for its residents who earn income in this state.

NEW SECTION. Sec. 602. LIABILITY OF EMPLOYER FOR TAX WITHHELD. Any person required to deduct and withhold the tax imposed by this title is liable to the department for the payment of the amount deducted and withheld, and is not liable to any other person for the amount of tax deducted and withheld under this title or for the act of withholding. The amount of tax so deducted and withheld shall be held to be a special fund in trust for this state.
NEW SECTION. Sec. 603. CREDIT FOR TAX WITHHELD--HOW CLAIMED. The amount deducted and withheld as tax under sections 601 through 606 of this act during any taxable year shall be allowed as a credit against the tax imposed for the taxable year by this title. If the liability of any individual for taxes, interest, penalties, or other amounts due the state of Washington is less than the total amount of the credit which the individual is entitled to claim under this section, the individual is entitled to a refund from the department in the amount of the excess of the credit over the tax otherwise due. If any individual entitled to claim a credit under this section is not otherwise required by this title to file a return, a refund may be obtained in the amount of the credit by filing a return, with applicable sections completed, to claim the refund. No credit or refund is allowed under this section unless the credit or refund is claimed on a return filed for the taxable year for which the amount was deducted and withheld.

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

NEW SECTION. Sec. 605. WITHHOLDING--FAILURE TO PAY OR COLLECT--PENALTIES. (1) The tax required by this title to be collected by the employer shall be deemed to be held in trust by the employer until paid to the department. Any employer who appropriates or converts the tax deducted and withheld to his or her own use or to any use other than as prescribed in this chapter is guilty of a gross misdemeanor.

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

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

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

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

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

PART VII
CRIMES

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

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

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

PART VIII
ADMINISTRATIVE PROVISIONS

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

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

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

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

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

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

NEW SECTION.  Sec. 804.  JOINT RETURN. (1) If the federal income tax liabilities of both spouses are determined on a joint federal return for the taxable year, they shall file a joint return under this title unless one spouse is a resident and the other is a nonresident.  
(2) If neither spouse is required to file a federal income tax return for the taxable year, a joint return may be filed under this title under the same conditions under which a joint return may be filed for purposes of the federal income tax.  
(3) If the federal income tax liability of either spouse is determined on a separate federal return for the taxable year, they shall file separate returns under this title.
(4) If one spouse is a resident and the other is a nonresident, they shall file separate returns under this title, unless they elect to determine their tax liabilities under this title on a joint return as if they were both residents, and:

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

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

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

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

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

NEW SECTION. Sec. 806. ESTIMATION AGREEMENTS. The department may reasonably estimate the items of business or nonbusiness income of a taxpayer having an office within the state and one or more other states or foreign countries which may be apportioned or allocated to the state and may enter into estimation agreements with such taxpayers for the determination of their liability for the tax imposed by this title.
NEW SECTION. Sec. 807. PROVISIONS OF INTERNAL REVENUE CODE CONTROL. (1) To the extent possible without being inconsistent with this title, all of the provisions of the internal revenue code relating to the following subjects apply to the taxes imposed under this title:
(a) Time of payment of tax deducted and withheld under sections 301 through 306 of this act;
(b) Liability of transferees;
(c) Time and manner of making returns, extensions of time for filing returns, verification of returns, and the time when a return is deemed filed.
(2) The department by rule may provide modifications and exceptions to the provisions listed in subsection (1) of this section, if reasonably necessary to facilitate the prompt, efficient, and equitable collection of tax under this title.

NEW SECTION. Sec. 808. REFUNDS OF OVERPAYMENTS--OTHER ADMINISTRATIVE PROVISIONS. (1) The department shall refund all taxes improperly paid or collected.
(2) The following sections apply to the administration of taxes imposed under this title: RCW 82.32.020, 82.32.050, 82.32.060, 82.32.070, 82.32.090, 82.32.100, 82.32.105, 82.32.110, 82.32.120, 82.32.130, 82.32.140, 82.32.150, 82.32.160, 82.32.170, 82.32.180, 82.32.190, 82.32.200, 82.32.210, 82.32.220, 82.32.230, 82.32.235, 82.32.237, 82.32.240, 82.32.245, 82.32.265, 82.32.300, 82.32.310, 82.32.320, 82.32.330, 82.32.340, 82.32.350, and 82.32.360.

NEW SECTION. Sec. 809. The education enrichment account is created in the state treasury. All receipts from the tax imposed under this title shall be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used for the support of the common schools and for the support of the state's institutions of higher education. Revenues provided under this section shall not be used to supplant levels of funding existing on the effective date of this act.

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

PART IX
APPEALS

Sec. 901. RCW 82.03.130 and 2005 c 253 s 7 are each amended to
read as follows:
(1) The board shall have jurisdiction to decide the following types
of appeals:
(a) Appeals taken pursuant to RCW 82.03.190.
(b) Appeals from a county board of equalization pursuant to RCW
84.08.130.
(c) Appeals by an assessor or landowner from an order of the
director of revenue made pursuant to RCW 84.08.010 and 84.08.060, if
filed with the board of tax appeals within thirty days after the
mailing of the order, the right to such an appeal being hereby
established.
(d) Appeals by an assessor or owner of an intercounty public
utility or private car company from determinations by the director of
revenue of equalized assessed valuation of property and the
apportionment thereof to a county made pursuant to chapter 84.12 and
84.16 RCW, if filed with the board of tax appeals within thirty days
after mailing of the determination, the right to such appeal being
hereby established.
(e) Appeals by an assessor, landowner, or owner of an intercounty
public utility or private car company from a determination of any
county indicated ratio for such county compiled by the department of
revenue pursuant to RCW 84.48.075: PROVIDED, That
(i) Said appeal be filed after review of the ratio under RCW
84.48.075(3) and not later than fifteen days after the mailing of the
certification; and
(ii) The hearing before the board shall be expeditiously held in
accordance with rules prescribed by the board and shall take precedence
over all matters of the same character.
(f) Appeals from the decisions of sale price of second class shorelands on navigable lakes by the department of natural resources pursuant to RCW (79.94.210) 79.125.450.

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

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

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

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

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

(l) Appeals pursuant to RCW 84.39.020.

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

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

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

In all appeals over which the board has jurisdiction under RCW 82.03.130, a party taking an appeal may elect either a formal or an informal hearing, such election to be made according to rules of practice and procedure to be promulgated by the board: PROVIDED, That nothing shall prevent the assessor or taxpayer, as a party to an appeal pursuant to RCW 84.08.130, within twenty days from the date of the receipt of the notice of appeal, from filing with the clerk of the board notice of intention that the hearing be a formal one: PROVIDED, HOWEVER, That nothing herein shall be construed to modify the provisions of RCW 82.03.190: AND PROVIDED FURTHER, That upon an appeal under RCW 82.03.130(1) (e) or (m), the director of revenue may, within ten days from the date of its receipt of the notice of appeal, file with the clerk of the board notice of its ((intention that the hearing be held pursuant to chapter 34.05 RCW)) election of a formal hearing.
In the event that appeals are taken from the same decision, order, or determination, as the case may be, by different parties and only one of such parties elects a formal hearing, a formal hearing shall be granted.

**PART X**

**APPLICATION OF TAX TO PUBLIC PENSIONS**

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

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

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

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

(4) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) a notice of payroll deduction issued under chapter 26.23 RCW, (c) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (d) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, (e) a court order directing the department of retirement systems to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law.
(5) Subsection (1) of this section does not exempt any pension or other benefit received under this chapter from tax under Title 82A RCW (sections 101 through 810 of this act), nor does it prohibit the department of retirement systems from complying with the tax withholding requirements of that title.

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

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

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

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

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

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

Sec. 1003. RCW 6.13.030 and 2007 c 429 s 1 are each amended to
read as follows:

A homestead may consist of lands, as described in RCW 6.13.010,
regardless of area, but the homestead exemption amount shall not exceed
the lesser of (1) the total net value of the lands, manufactured homes,
mobile home, improvements, and other personal property, as described in
RCW 6.13.010, or (2) the sum of one hundred twenty-five thousand
dollars in the case of lands, manufactured homes, mobile home, and
improvements, or the sum of fifteen thousand dollars in the case of
other personal property described in RCW 6.13.010((, except where the
homestead is subject to execution, attachment, or seizure by or under
any legal process whatever to satisfy a judgment in favor of any state
for failure to pay that state's income tax on benefits received while
a resident of the state of Washington from a pension or other
retirement plan, in which event there shall be no dollar limit on the
value of the exemption)).

Sec. 1004. RCW 6.15.020 and 2007 c 492 s 1 are each amended to
read as follows:

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

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

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

(4) For the purposes of this section, the term "employee benefit plan" means any plan or arrangement that is described in RCW 49.64.020, including any Keogh plan, whether funded by a trust or by an annuity contract, and in sections 401(a) or 403(a) of the internal revenue code of 1986, as amended; or that is a tax-sheltered annuity described in section 403(b) of such code or an individual retirement account described in section 408 of such code; or a Roth individual retirement account described in section 408A of such code; or a medical savings account described in section 220 of such code; or an education individual retirement account described in section 530 of such code; or a retirement bond described in section 409 of such code as in effect before January 1, 1984. The term "employee benefit plan" also means any rights accruing on account of money paid currently or in advance
for purchase of tuition units under the advanced college tuition payment program in chapter 28B.95 RCW. The term "employee benefit plan" shall not include any employee benefit plan that is established or maintained for its employees by the government of the United States, by the state of Washington under chapter 2.10, 2.12, 41.26, 41.32, 41.34, 41.35, 41.37, 41.40, or 43.43 RCW or RCW 41.50.770, or by any agency or instrumentality of the government of the United States.

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

(6) Unless contrary to applicable federal law, nothing contained in subsection (3), (4), or (5) of this section shall be construed as a termination or limitation of a spouse's community property interest in an individual retirement account held in the name of or on account of the other spouse, the account holder spouse. At the death of the nonaccount holder spouse, the nonaccount holder spouse may transfer or distribute the community property interest of the nonaccount holder spouse in the account holder spouse's individual retirement account to the nonaccount holder spouse's estate, testamentary trust, inter vivos trust, or other successor or successors pursuant to the last will of the nonaccount holder spouse or the law of intestate succession, and that distributee may, but shall not be required to, obtain an order of a court of competent jurisdiction, including a nonjudicial dispute.
resolution agreement or other order entered under chapter 11.96A RCW, to confirm the distribution. For purposes of subsection (3) of this section, the distributee of the nonaccount holder spouse's community property interest in an individual retirement account shall be considered a person entitled to the full protection of subsection (3) of this section. The nonaccount holder spouse's consent to a beneficiary designation by the account holder spouse with respect to an individual retirement account shall not, absent clear and convincing evidence to the contrary, be deemed a release, gift, relinquishment, termination, limitation, or transfer of the nonaccount holder spouse's community property interest in an individual retirement account. For purposes of this subsection, the term "nonaccount holder spouse" means the spouse of the person in whose name the individual retirement account is maintained. The term "individual retirement account" includes an individual retirement account and an individual retirement annuity both as described in section 408 of the internal revenue code of 1986, as amended, a Roth individual retirement account as described in section 408A of the internal revenue code of 1986, as amended, and an individual retirement bond as described in section 409 of the internal revenue code as in effect before January 1, 1984. As used in this subsection, an order of a court of competent jurisdiction includes an agreement, as that term is used under RCW 11.96A.220.

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

(1) The right of any person to any future payment under the provisions of this chapter shall not be transferable or assignable at law or in equity, and none of the moneys paid or payable or the rights existing under this chapter, shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law. This section shall not be applicable to any child support collection action taken under chapter 26.18, 26.23, or 74.20A RCW. Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation.
(2) Nothing in this chapter shall be construed to deprive any participant, eligible to receive a pension hereunder, from receiving a pension under any other act to which that participant may become eligible by reason of services other than or in addition to his or her services under this chapter.

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

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

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

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

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

(b) Under a group health care benefit plan approved pursuant to RCW 28A.400.350 or 41.05.065 from authorizing monthly deductions therefrom, of the amount or amounts of subscription payments, premiums, or contributions to any person, firm, or corporation furnishing or providing medical, surgical, and hospital care or other health care insurance; or

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

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

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

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

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

(1) Subject to subsections (2) ((and)) (3), (and) (4) of this section, the right of a person to a pension, an annuity, or retirement allowance, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, the various funds created by this chapter, and all moneys and investments and income thereof, are hereby exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, and shall be unassignable.

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

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

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

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

(1) Subject to subsections (2) ((and)) (3), and (4) of this
section, the right of a person to a pension, an annuity, or retirement
allowance, any optional benefit, any other right accrued or accruing to
any person under the provisions of this chapter, the various funds
created by this chapter, and all moneys and investments and income
thereof, are hereby exempt from any state, county, municipal, or other
local tax, and shall not be subject to execution, garnishment,
attachment, the operation of bankruptcy or insolvency laws, or other
process of law whatsoever, and shall be unassignable.

(2)(a) This section shall not be deemed to prohibit a beneficiary
of a retirement allowance from authorizing deductions therefrom for
payment of premiums due on any group insurance policy or plan issued
for the benefit of a group comprised of public employees of the state

SB 6147 p. 28
of Washington or its political subdivisions and which has been approved for deduction in accordance with rules that may be adopted by the state health care authority and/or the department, and this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of dues and other membership fees to any retirement association or organization the membership of which is composed of retired public employees, if a total of three hundred or more of such retired employees have authorized such deduction for payment to the same retirement association or organization.

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

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

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

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

(1) The right of a person to a pension, annuity or a retirement allowance, to the return of contribution, the pension, annuity or retirement allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the fund created under this chapter shall not be subject to execution, garnishment, or any other process whatsoever.
This section shall not apply to child support collection actions taken under chapter 26.18, 26.23, or 74.20A RCW against benefits payable under any such plan or arrangement. Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation.

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

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

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

(2) On the written request of any person eligible to receive benefits under this section, the department may deduct from such payments the premiums for life, health, or other insurance. The request on behalf of any child or children shall be made by the legal guardian of such child or children. The department may provide for such persons one or more plans of group insurance, through contracts with regularly constituted insurance carriers or health care service contractors.

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

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

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

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

(2) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, (e) a court order directing the department of retirement systems to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law.

(3) Subsection (1) of this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of members of the

p. 31  SB 6147
Washington state patrol or other public employees of the state of Washington, or for contributions to the Washington state patrol memorial foundation.

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

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

PART XI
MISCELLANEOUS

NEW SECTION. Sec. 1101. SEVERABILITY. 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. 1102. CAPTIONS AND PART HEADINGS. Captions and part headings as used in this act constitute no part of the law.

NEW SECTION. Sec. 1103. CODIFICATION. Sections 101 through 810 of this act constitute a new title in the Revised Code of Washington, to be codified as Title 82A RCW.

NEW SECTION. Sec. 1104. This act takes effect January 1, 2010.

--- END ---