

2 ESSB 6111 - H COMM AMD
3 By Committee on State Government

4 ADOPTED AS AMENDED 3/1/94

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** Government derives its powers from the
8 people. Ethics in government are the foundation on which the structure
9 of government rests. State officials and employees of government hold
10 a public trust that obligates them, in a special way, to honesty and
11 integrity in fulfilling the responsibilities to which they are elected
12 and appointed. Paramount in that trust is the principle that public
13 office, whether elected or appointed, may not be used for personal gain
14 or private advantage.

15 The citizens of the state expect all state officials and employees
16 to perform their public responsibilities in accordance with the highest
17 ethical and moral standards and to conduct the business of the state
18 only in a manner that advances the public's interest. State officials
19 and employees are subject to the sanctions of law and scrutiny of the
20 media; ultimately, however, they are accountable to the people and must
21 consider this public accountability as a particular obligation of the
22 public service. Only when affairs of government are conducted, at all
23 levels, with openness as provided by law and an unswerving commitment
24 to the public good does government work as it should.

25 The obligations of government rest equally on the state's
26 citizenry. The effectiveness of government depends, fundamentally, on
27 the confidence citizens can have in the judgments and decisions of
28 their elected representatives. Citizens, therefore, should honor and
29 respect the principles and the spirit of representative democracy,
30 recognizing that both elected and appointed officials, together with
31 state employees, seek to carry out their public duties with
32 professional skill and dedication to the public interest. Such service
33 merits public recognition and support.

34 All who have the privilege of working for the people of Washington
35 state can have but one aim: To give the highest public service to its
36 citizens.

1 (9) "Gift" means anything of economic value for which no
2 consideration is given. "Gift" does not include:

3 (a) Items from family members or friends where it is clear beyond
4 a reasonable doubt that the gift was not made as part of any design to
5 gain or maintain influence in the agency of which the recipient is an
6 officer or employee;

7 (b) Items related to the outside business of the recipient that are
8 customary and not related to the recipient's performance of official
9 duties;

10 (c) Items exchanged among officials and employees or a social event
11 hosted or sponsored by a state officer or state employee for coworkers;

12 (d) Payments by a governmental or nongovernmental entity of
13 reasonable expenses incurred in connection with a speech, presentation,
14 appearance, or trade mission made in an official capacity. As used in
15 this subsection, "reasonable expenses" are limited to travel, lodging,
16 and subsistence expenses incurred the day before through the day after
17 the event;

18 (e) Items a state officer or state employee is authorized by law to
19 accept;

20 (f) Payment of enrollment and course fees and reasonable travel
21 expenses attributable to attending seminars and educational programs
22 sponsored by a bona fide nonprofit professional, educational, or trade
23 association, or charitable institution. As used in this subsection,
24 "reasonable expenses" are limited to travel, lodging, and subsistence
25 expenses incurred the day before through the day after the event;

26 (g) Items returned by the recipient to the donor within thirty days
27 of receipt or donated to a charitable organization within thirty days
28 of receipt;

29 (h) Campaign contributions reported under chapter 42.17 RCW; and

30 (i) Discounts available to an individual as a member of an employee
31 group, occupation, or similar broad-based group.

32 (10) "Honorarium" means money or thing of value offered to a state
33 officer or state employee for a speech, appearance, article, or similar
34 item or activity in connection with the state officer's or state
35 employee's official role.

36 (11) "Participate" means to participate in state action or a
37 proceeding personally and substantially as a state officer or state
38 employee, through approval, disapproval, decision, recommendation, the
39 rendering of advice, investigation, or otherwise but does not include

1 preparation, consideration, or enactment of legislation or the
2 performance of legislative duties.

3 (12) "Person" means any individual, partnership, association,
4 corporation, firm, institution, or other entity, whether or not
5 operated for profit.

6 (13) "Regulatory agency" means any state board, commission,
7 department, or officer, except those in the legislative or judicial
8 branches, authorized by law to conduct adjudicative proceedings, issue
9 permits or licenses, or to control or affect interests of identified
10 persons.

11 (14) "Responsibility" in connection with a transaction involving
12 the state, means the direct administrative or operating authority,
13 whether intermediate or final, and either exercisable alone or through
14 subordinates, effectively to approve, disapprove, or otherwise direct
15 state action in respect of such transaction.

16 (15) "State action" means any action on the part of an agency,
17 including, but not limited to:

18 (a) A decision, determination, finding, ruling, or order; and

19 (b) A grant, payment, award, license, contract, transaction,
20 sanction, or approval, or the denial thereof, or failure to act with
21 respect to a decision, determination, finding, ruling, or order.

22 (16) "State officer" means every person holding a position of
23 public trust in or under an executive, legislative, or judicial office
24 of the state. "State officer" includes judges of the superior court,
25 judges of the court of appeals, justices of the supreme court, members
26 of the legislature together with the secretary of the senate and the
27 chief clerk of the house of representatives, holders of elective
28 offices in the executive branch of state government, chief executive
29 officers of state agencies, members of boards, commissions, or
30 committees with authority over one or more state agencies or
31 institutions, and employees of the state who are engaged in
32 supervisory, policy-making, or policy-enforcing work. For the purposes
33 of this chapter, "state officer" also includes any person exercising or
34 undertaking to exercise the powers or functions of a state officer.

35 (17) "State employee" means an individual who is employed by an
36 agency in any branch of state government. For purposes of this
37 chapter, employees of the superior courts are not state officers or
38 state employees.

1 (18) "Thing of economic value", in addition to its ordinary
2 meaning, includes:

3 (a) A loan, property interest, interest in a contract or other
4 chose in action, and employment or another arrangement involving a
5 right to compensation;

6 (b) An option, irrespective of the conditions to the exercise of
7 the option; and

8 (c) A promise or undertaking for the present or future delivery or
9 procurement.

10 (19) (a) "Transaction involving the state" means a proceeding,
11 application, submission, request for a ruling or other determination,
12 contract, claim, case, or other similar matter that the state officer,
13 state employee, or former state officer or state employee in question
14 believes, or has reason to believe:

15 (i) Is, or will be, the subject of state action; or

16 (ii) Is one to which the state is or will be a party; or

17 (iii) Is one in which the state has a direct and substantial
18 proprietary interest.

19 (b) "Transaction involving the state" does not include the
20 following: Preparation, consideration, or enactment of legislation,
21 including appropriation of moneys in a budget, or the performance of
22 legislative duties by an officer or employee; or a claim, case,
23 lawsuit, or similar matter if the officer or employee did not
24 participate in the underlying transaction involving the state that is
25 the basis for the claim, case, or lawsuit.

26 NEW SECTION. **Sec. 102.** ACTIVITIES INCOMPATIBLE WITH PUBLIC
27 DUTIES. No state officer or state employee may have an interest,
28 financial or otherwise, direct or indirect, or engage in a business or
29 transaction or professional activity, or incur an obligation of any
30 nature, that is in conflict with the proper discharge of the state
31 officer's or state employee's duties.

32 NEW SECTION. **Sec. 103.** FINANCIAL INTERESTS IN TRANSACTIONS. (1)
33 No state officer or state employee may be beneficially interested,
34 directly or indirectly, in a contract, sale, lease, purchase, or grant
35 that may be made by, through, or is under the supervision of the
36 officer or employee, in whole or in part, or accept, directly or
37 indirectly, any compensation, gratuity, or reward from any other person

1 beneficially interested in the contract, sale, lease, purchase, or
2 grant.

3 (2) No state officer or state employee may participate in a
4 transaction involving the state in his or her official capacity with a
5 person of which the officer or employee is an officer, agent, employee,
6 or member, or in which the officer or employee owns a beneficial
7 interest.

8 NEW SECTION. **Sec. 104.** ASSISTING IN TRANSACTIONS. (1) Except in
9 the course of official duties or incident to official duties, no state
10 officer or state employee may assist another person, directly or
11 indirectly, whether or not for compensation, in a transaction involving
12 the state:

13 (a) In which the state officer or state employee has at any time
14 participated; or

15 (b) If the transaction involving the state is or has been under the
16 official responsibility of the state officer or state employee within
17 a period of two years preceding such assistance.

18 (2) No state officer or state employee may share in compensation
19 received by another for assistance that the officer or employee is
20 prohibited from providing under subsection (1) or (3) of this section.

21 (3) A business entity of which a state officer or state employee is
22 a partner, managing officer, or employee shall not assist another
23 person in a transaction involving the state if the state officer or
24 state employee is prohibited from doing so by subsection (1) of this
25 section.

26 (4) This chapter does not prevent a state officer or state employee
27 from assisting, in a transaction involving the state:

28 (a) The state officer's or state employee's parent, spouse, or
29 child, or a child thereof for whom the officer or employee is serving
30 as guardian, executor, administrator, trustee, or other personal
31 fiduciary, if the state officer or state employee did not participate
32 in the transaction; or

33 (b) Another state employee involved in disciplinary or other
34 personnel administration proceedings.

35 NEW SECTION. **Sec. 105.** CONFIDENTIAL INFORMATION. No state
36 officer or state employee may accept employment or engage in any
37 business or professional activity that the officer or employee might

1 reasonably expect would require or induce him or her to disclose
2 confidential information acquired by the official or employee by reason
3 of the official's or employee's official position.

4 (2) No state officer or state employee may disclose confidential
5 information gained by reason of the officer's or employee's official
6 position or otherwise use the information for his or her personal gain
7 or benefit or the gain or benefit of another.

8 (3) No state officer or state employee may disclose confidential
9 information to any person not entitled or authorized to receive the
10 information.

11 (4) No state officer or state employee may intentionally conceal a
12 record if the officer or employee knew the record was required to be
13 released under chapter 42.17 RCW, was under a personal obligation to
14 release the record, and failed to do so. This subsection does not
15 apply where the decision to withhold the record was made in good faith.

16 NEW SECTION. **Sec. 106.** TESTIMONY OF STATE OFFICERS AND STATE
17 EMPLOYEES. This chapter does not prevent a state officer or state
18 employee from giving testimony under oath or from making statements
19 required to be made under penalty of perjury or contempt.

20 NEW SECTION. **Sec. 107.** SPECIAL PRIVILEGES. Except as required to
21 perform duties within the scope of employment, no state officer or
22 state employee may use his or her position to secure special privileges
23 or exemptions for himself or herself, or his or her spouse, child,
24 parents, or other persons.

25 NEW SECTION. **Sec. 108.** POSTPUBLIC SERVICE EMPLOYMENT. (1) No
26 former state officer or state employee may, within a period of one year
27 from the date of termination of state employment, accept employment or
28 receive compensation from an employer if:

29 (a) The officer or employee, during the two years immediately
30 preceding termination of state employment, was engaged in the
31 negotiation or administration on behalf of the state or agency of one
32 or more contracts with that employer and was in a position to make
33 discretionary decisions affecting the outcome of such negotiation or
34 the nature of such administration;

35 (b) Such a contract or contracts have a total value of more than
36 ten thousand dollars; and

1 (c) The duties of the employment with the employer or the
2 activities for which the compensation would be received include
3 fulfilling or implementing, in whole or in part, the provisions of such
4 a contract or contracts or include the supervision or control of
5 actions taken to fulfill or implement, in whole or in part, the
6 provisions of such a contract or contracts. This subsection shall not
7 be construed to prohibit a state officer or state employee from
8 accepting employment with a state employee organization.

9 (2) No person who has served as a state officer or state employee
10 may, within a period of two years following the termination of state
11 employment, have a direct or indirect beneficial interest in a contract
12 or grant that was expressly authorized or funded by specific
13 legislative or executive action in which the former state officer or
14 state employee participated.

15 (3) No former state officer or state employee may accept an offer
16 of employment or receive compensation from an employer if the officer
17 or employee knows or has reason to believe that the offer of employment
18 or compensation was intended, in whole or in part, directly or
19 indirectly, to influence the officer or employee or as compensation or
20 reward for the performance or nonperformance of a duty by the officer
21 or employee during the course of state employment.

22 (4) No former state officer or state employee may accept an offer
23 of employment or receive compensation from an employer if the
24 circumstances would lead a reasonable person to believe the offer has
25 been made, or compensation given, for the purpose of influencing the
26 performance or nonperformance of duties by the officer or employee
27 during the course of state employment.

28 (5) No former state officer or state employee may at any time
29 subsequent to his or her state employment assist another person,
30 whether or not for compensation, in any transaction involving the state
31 in which the former state officer or state employee at any time
32 participated during state employment. This subsection shall not be
33 construed to prohibit any employee or officer of a state employee
34 organization from rendering assistance to state officers or state
35 employees in the course of employee organization business.

36 (6) As used in this section, "employer" means a person as defined
37 in section 101 of this act or any other entity or business that the
38 person owns or in which the person has a controlling interest.

1 NEW SECTION. **Sec. 109.** FORMER STATE OFFICERS AND STATE EMPLOYEES.

2 This chapter shall not be construed to prevent a former state officer
3 or state employee from rendering assistance to others if the assistance
4 is provided without compensation in any form and is limited to one or
5 more of the following:

6 (1) Providing the names, addresses, and telephone numbers of state
7 agencies or state employees;

8 (2) Providing free transportation to another for the purpose of
9 conducting business with a state agency;

10 (3) Assisting a natural person or nonprofit corporation in
11 obtaining or completing application forms or other forms required by a
12 state agency for the conduct of a state business; or

13 (4) Providing assistance to the poor and infirm.

14 **Sec. 110.** RCW 42.18.270 and 1969 ex.s. c 234 s 27 are each amended
15 to read as follows:

16 (1) The head of an agency, upon finding that any former state
17 officer or state employee of such agency or any other person has
18 violated any provision of this chapter or rules adopted under it, may,
19 in addition to any other powers the head of such agency may have, bar
20 or impose reasonable conditions upon:

21 (a) The appearance before such agency of such former state officer
22 or state employee or other person; and

23 (b) The conduct of, or negotiation or competition for, business
24 with such agency by such former state officer or state employee or
25 other person, such period of time as may reasonably be necessary or
26 appropriate to effectuate the purposes of this chapter.

27 (2) Findings of violations referred to in subsection (1)(b) of this
28 section shall be made on record after notice and hearing, conducted in
29 accordance with the Washington Administrative Procedure Act, chapter
30 34.05 RCW. Such findings and orders are subject to judicial review.

31 (3) This section does not apply to the legislative or judicial
32 branches of government.

33 NEW SECTION. **Sec. 111.** COMPENSATION FOR OFFICIAL DUTIES. No

34 state officer or state employee may, directly or indirectly, ask for or
35 give or receive or agree to receive any compensation, gift, reward, or
36 gratuity from a source except the state of Washington for performing or

1 omitting or deferring the performance of any official duty, unless
2 otherwise authorized by law.

3 NEW SECTION. **Sec. 112.** COMPENSATION FOR OUTSIDE ACTIVITIES. (1)
4 No state officer or state employee may receive any thing of economic
5 value under any contract or grant outside of his or her official
6 duties. The prohibition in this subsection does not apply where each
7 of the following conditions are met:

8 (a) The contract or grant is bona fide and actually performed;

9 (b) The performance or administration of the contract or grant is
10 not within the course of the officer's or employee's official duties,
11 or is not under the officer's or employee's official supervision;

12 (c) The performance of the contract or grant is not prohibited by
13 section 104 of this act or by applicable laws or rules governing
14 outside employment for the officer or employee;

15 (d) The contract or grant is neither performed for nor compensated
16 by any person from whom such officer or employee would be prohibited by
17 section 115(4) of this act from receiving a gift;

18 (e) The contract or grant is not one expressly created or
19 authorized by the officer or employee in his or her official capacity
20 or by his or her agency;

21 (f) The contract or grant would not require unauthorized disclosure
22 of confidential information.

23 (2) In addition to satisfying the requirements of subsection (1) of
24 this section, a state officer or state employee may have a beneficial
25 interest in a grant or contract with a state agency only if:

26 (a) The contract or grant is awarded or issued as a result of an
27 open and competitive bidding process in which more than one bid or
28 grant application was received; or

29 (b) The contract or grant is awarded or issued as a result of an
30 open and competitive bidding or selection process in which the
31 officer's or employee's bid or proposal was the only bid or proposal
32 received and the officer or employee has been advised by the
33 appropriate ethics board, before execution of the contract or grant,
34 that the contract or grant would not be in conflict with the proper
35 discharge of the officer's or employee's official duties; or

36 (c) The process for awarding the contract or issuing the grant is
37 not open and competitive, but the officer or employee has been advised
38 by the appropriate ethics board that the contract or grant would not be

1 in conflict with the proper discharge of the officer's or employee's
2 official duties.

3 (3) A state officer or state employee awarded a contract or issued
4 a grant in compliance with subsection (2) of this section shall file
5 the contract or grant with the appropriate ethics board within thirty
6 days after the date of execution.

7 (4) This section does not prevent a state officer or state employee
8 from receiving compensation contributed from the treasury of the United
9 States, another state, county, or municipality if the compensation is
10 received pursuant to arrangements entered into between such state,
11 county, municipality, or the United States and the officer's or
12 employee's agency. This section does not prohibit a state officer or
13 state employee from serving or performing any duties under an
14 employment contract with a governmental entity.

15 (5) As used in this section, "officer" and "employee" do not
16 include officers and employees who, in accordance with the terms of
17 their employment or appointment, are serving without compensation from
18 the state of Washington or are receiving from the state only
19 reimbursement of expenses incurred or a predetermined allowance for
20 such expenses.

21 NEW SECTION. **Sec. 113.** HONORARIA. (1) No state officer or state
22 employee may receive honoraria unless specifically authorized by the
23 agency where they serve as state officer or state employee.

24 (2) An agency may not permit honoraria under the following
25 circumstances:

26 (a) The person offering the honorarium is seeking or is reasonably
27 expected to seek contractual relations with or a grant from the
28 employer of the state officer or state employee, and the officer or
29 employee is in a position to participate in the terms or the award of
30 the contract or grant;

31 (b) The person offering the honorarium is regulated by the employer
32 of the state officer or state employee and the officer or employee is
33 in a position to participate in the regulation; or

34 (c) The person offering the honorarium (i) is seeking or opposing
35 or is reasonably likely to seek or oppose enactment of legislation or
36 adoption of administrative rules or actions, or policy changes by the
37 state officer's or state employee's agency; and (ii) the officer or
38 employee may participate in the enactment or adoption.

1 NEW SECTION. **Sec. 114.** GIFTS. No state officer or state employee
2 may receive, accept, take, seek, or solicit, directly or indirectly,
3 any thing of economic value as a gift, gratuity, or favor from a person
4 if it could be reasonably expected that the gift, gratuity, or favor
5 would influence the vote, action, or judgment of the officer or
6 employee, or be considered as part of a reward for action or inaction.

7 NEW SECTION. **Sec. 115.** LIMITATIONS ON GIFTS. (1) No state
8 officer or state employee may accept gifts, other than those specified
9 in subsections (2) and (5) of this section, with an aggregate value in
10 excess of fifty dollars from a single source in a calendar year or a
11 single gift from multiple sources with a value in excess of fifty
12 dollars. For purposes of this section, "single source" means any
13 person, as defined in section 101 of this act, whether acting directly
14 or through any agent or other intermediary, and "single gift" includes
15 any event, item, or group of items used in conjunction with each other
16 or any trip including transportation, lodging, and attendant costs, not
17 excluded from the definition of gift under section 101 of this act.
18 The value of gifts given to an officer's or employee's family member
19 shall be attributed to the official or employee for the purpose of
20 determining whether the limit has been exceeded, unless an independent
21 business, family, or social relationship exists between the donor and
22 the family member.

23 (2) Except as provided in subsection (4) of this section, the
24 following items are presumed not to influence under section 114 of this
25 act, and may be accepted without regard to the limit established by
26 subsection (1) of this section:

27 (a) Unsolicited flowers, plants, and floral arrangements;

28 (b) Unsolicited advertising or promotional items of nominal value,
29 such as pens and note pads;

30 (c) Unsolicited tokens or awards of appreciation in the form of a
31 plaque, trophy, desk item, wall memento, or similar item;

32 (d) Unsolicited items received by a state officer or state employee
33 for the purpose of evaluation or review, if the officer or employee has
34 no personal beneficial interest in the eventual use or acquisition of
35 the item by the officer's or employee's agency;

36 (e) Informational material, publications, or subscriptions related
37 to the recipient's performance of official duties;

1 (f) Food and beverages consumed at hosted receptions where
2 attendance is related to the state officer's or state employee's
3 official duties;

4 (g) Admission to, and the cost of food and beverages consumed at,
5 events sponsored by or in conjunction with a civic, charitable,
6 governmental, or community organization; and

7 (h) Unsolicited gifts from dignitaries from another state or a
8 foreign country that are intended to be personal in nature.

9 (3) The presumption in subsection (2) of this section is rebuttable
10 and may be overcome based on the circumstances surrounding the giving
11 and acceptance of the item.

12 (4) Notwithstanding subsections (2) and (5) of this section, a
13 state officer or state employee of a regulatory agency or of an agency
14 that seeks to acquire goods or services who participates in those
15 regulatory or contractual matters may receive, accept, take, or seek,
16 directly or indirectly, only the following items from a person
17 regulated by the agency or from a person who seeks to provide goods or
18 services to the agency:

19 (a) Unsolicited advertising or promotional items of nominal value,
20 such as pens and note pads;

21 (b) Unsolicited tokens or awards of appreciation in the form of a
22 plaque, trophy, desk item, wall memento, or similar item;

23 (c) Unsolicited items received by a state officer or state employee
24 for the purpose of evaluation or review, if the officer or employee has
25 no personal beneficial interest in the eventual use or acquisition of
26 the item by the officer's or employee's agency;

27 (d) Informational material, publications, or subscriptions related
28 to the recipient's performance of official duties;

29 (e) Food and beverages consumed at hosted receptions where
30 attendance is related to the state officer's or state employee's
31 official duties;

32 (f) Admission to, and the cost of food and beverages consumed at,
33 events sponsored by or in conjunction with a civic, charitable,
34 governmental, or community organization; and

35 (g) Those items excluded from the definition of gift in section 101
36 of this act except:

37 (i) Payments by a governmental or nongovernmental entity of
38 reasonable expenses incurred in connection with a speech, presentation,
39 appearance, or trade mission made in an official capacity;

1 (ii) Payments for seminars and educational programs sponsored by a
2 bona fide nonprofit professional, educational, or trade association, or
3 charitable institution; and

4 (iii) Flowers, plants, and floral arrangements.

5 (5) A state officer or state employee may accept gifts in the form
6 of food and beverage on infrequent occasions in the ordinary course of
7 meals where attendance by the officer or employee is related to the
8 performance of official duties. Gifts in the form of food and beverage
9 that exceed fifty dollars on a single occasion shall be reported as
10 provided in chapter 42.17 RCW.

11 **Sec. 116.** RCW 42.18.217 and 1987 c 426 s 3 are each amended to
12 read as follows:

13 (1) No state officer or state employee may employ or use any
14 person, money, or property under the officer's or employee's official
15 control or direction, or in his or her official custody, for the
16 private benefit or gain of the officer, employee, or another.

17 (2) This section does not prohibit the use of public resources to
18 benefit others as part of a state officer's or state employee's public
19 duties.

20 (3) The appropriate ethics boards may adopt rules providing
21 exceptions to this section for occasional use of the state officer or
22 state employee, of de minimis cost and value, if the activity does not
23 result in interference with the proper performance of public duties.

24 **Sec. 117.** RCW 42.18.230 and 1987 c 426 s 5 are each amended to
25 read as follows:

26 ~~((1))~~ No person shall give, pay, loan, transfer, or deliver,
27 directly or indirectly, to any other person any thing of economic value
28 believing or having reason to believe that there exist circumstances
29 making the receipt thereof a violation of ~~((RCW 42.18.170, 42.18.190,~~
30 ~~and 42.18.213))~~ section 104, 111, 112, 114, or 115 of this act.

31 ~~((2) No person shall give, transfer, or deliver, directly or~~
32 ~~indirectly, to a state employee, any thing of economic value as a gift,~~
33 ~~gratuity, or favor if either:~~

34 ~~(a) Such person would not give the gift, gratuity, or favor but for~~
35 ~~such employee's office or position with the state; or~~

36 ~~(b) Such person is in a status specified in clause (a), (b), or (c)~~
37 ~~of RCW 42.18.200(2).~~

1 ~~Exceptions to this subsection (2) may be made by regulations issued~~
2 ~~pursuant to RCW 42.18.240 in situations referred to in RCW~~
3 ~~42.18.200(3).))~~

4 NEW SECTION. **Sec. 118.** USE OF PUBLIC RESOURCES FOR POLITICAL
5 CAMPAIGNS. (1) No state officer or state employee may use or authorize
6 the use of facilities of an agency, directly or indirectly, for the
7 purpose of assisting a campaign for election of a person to an office
8 or for the promotion of or opposition to a ballot proposition. Knowing
9 acquiescence by a person with authority to direct, control, or
10 influence the actions of the state officer or state employee using
11 public resources in violation of this section constitutes a violation
12 of this section. Facilities of an agency include, but are not limited
13 to, use of stationery, postage, machines, and equipment, use of state
14 employees of the agency during working hours, vehicles, office space,
15 publications of the agency, and clientele lists of persons served by
16 the agency.

17 (2) This section shall not apply to the following activities:

18 (a) Action taken at an open public meeting by members of an elected
19 legislative body to express a collective decision, or to actually vote
20 upon a motion, proposal, resolution, order, or ordinance, or to support
21 or oppose a ballot proposition as long as (i) required notice of the
22 meeting includes the title and number of the ballot proposition, and
23 (ii) members of the legislative body or members of the public are
24 afforded an approximately equal opportunity for the expression of an
25 opposing view;

26 (b) A statement by an elected official in support of or in
27 opposition to any ballot proposition at an open press conference or in
28 response to a specific inquiry. For the purposes of this subsection,
29 it is not a violation of this section for an elected official to
30 respond to an inquiry regarding a ballot proposition, to make
31 incidental remarks concerning a ballot proposition in an official
32 communication, or otherwise comment on a ballot proposition without an
33 actual, measurable expenditure of public funds. The public disclosure
34 commission shall, after consultation with the ethics boards, adopt by
35 rule a definition of measurable expenditure;

36 (c) Activities that are part of the normal and regular conduct of
37 the office or agency; and

1 (d) De minimis use of public facilities by state-wide elected
2 officials and legislators incidental to the preparation or delivery of
3 permissible communications, including written and verbal communications
4 initiated by them of their views on ballot propositions that
5 foreseeably may affect a matter that falls within their constitutional
6 or statutory responsibilities.

7 (3) As to state officers and employees, this section operates to
8 the exclusion of RCW 42.17.130.

9 NEW SECTION. **Sec. 119.** INVESTMENTS. (1) Except for permissible
10 investments as defined in this section, no state officer or state
11 employee of any agency responsible for the investment of funds, who
12 acts in a decision-making, advisory, or policy-influencing capacity
13 with respect to investments, may have a direct or indirect interest in
14 any property, security, equity, or debt instrument of a person, without
15 prior written approval of the agency.

16 (2) Agencies responsible for the investment of funds shall adopt
17 policies governing approval of investments and establishing criteria to
18 be considered in the approval process. Criteria shall include the
19 relationship between the proposed investment and investments held or
20 under consideration by the state, the size and timing of the proposed
21 investment, access by the state officer or state employee to nonpublic
22 information relative to the proposed investment, and the availability
23 of the investment in the public market. Agencies responsible for the
24 investment of funds also shall adopt policies consistent with this
25 chapter governing use by their officers and employees of financial
26 information acquired by virtue of their state positions. A violation
27 of such policies adopted to implement this subsection shall constitute
28 a violation of this chapter.

29 (3) As used in this section, "permissible investments" means any
30 mutual fund, deposit account, certificate of deposit, or money market
31 fund maintained with a bank, broker, or other financial institution, a
32 security publicly traded in an organized market if the interest in the
33 security at acquisition is ten thousand dollars or less, or an interest
34 in real estate, except if the real estate interest is in or with a
35 party in whom the agency holds an investment.

1 (a) Two senators, one from each of the two largest caucuses,
2 appointed by the president of the senate;

3 (b) Two members of the house of representatives, one from each of
4 the two largest caucuses, appointed by the speaker of the house of
5 representatives;

6 (c) Five citizen members:

7 (i) One citizen member chosen by the governor from a list of three
8 individuals submitted by each of the four legislative caucuses; and

9 (ii) One citizen member selected by three of the four other citizen
10 members of the legislative ethics board.

11 (2) Except for initial members and members completing partial
12 terms, nonlegislative members shall serve a single five-year term.

13 (3) No more than three of the public members may be identified with
14 the same political party.

15 (4) Terms of initial nonlegislative board members shall be
16 staggered as follows: One member shall be appointed to a one-year
17 term; one member shall be appointed to a two-year term; one member
18 shall be appointed to a three-year term; one member shall be appointed
19 to a four-year term; and one member shall be appointed for a five-year
20 term.

21 (5) A vacancy on the board shall be filled in the same manner as
22 the original appointment.

23 (6) Legislative members shall serve two-year terms, from January
24 31st of an odd-numbered year until January 31st of the next
25 odd-numbered year.

26 (7) Each member shall serve for the term of his or her appointment
27 and until his or her successor is appointed.

28 (8) The citizen members shall annually select a chair from among
29 themselves.

30 NEW SECTION. **Sec. 202.** AUTHORITY OF LEGISLATIVE ETHICS BOARD.

31 (1) The legislative ethics board shall enforce this chapter and rules
32 adopted under it with respect to members and employees of the
33 legislature.

34 (2) The legislative ethics board shall:

35 (a) Develop educational materials and training with regard to
36 legislative ethics for legislators and legislative employees;

37 (b) Issue advisory opinions;

1 (c) Adopt rules or policies governing the conduct of business by
2 the board, and adopt rules defining working hours for purposes of
3 section 118 of this act and where otherwise authorized under chapter
4 . . . , Laws of 1994 (this act);

5 (d) Investigate, hear, and determine complaints by any person or on
6 its own motion;

7 (e) Impose sanctions including reprimands and monetary penalties;

8 (f) Recommend suspension or removal to the appropriate legislative
9 entity, or recommend prosecution to the appropriate authority; and

10 (g) Establish criteria regarding the levels of civil penalties
11 appropriate for different types of violations of this chapter and rules
12 adopted under it.

13 (3) The board may:

14 (a) Issue subpoenas for the attendance and testimony of witnesses
15 and the production of documentary evidence relating to any matter under
16 examination by the board or involved in any hearing;

17 (b) Administer oaths and affirmations;

18 (c) Examine witnesses; and

19 (d) Receive evidence.

20 (4) Subject to section 224 of this act, the board has jurisdiction
21 over any alleged violation that occurred before January 1, 1995, and
22 that was within the jurisdiction of any of the boards established under
23 chapter 44.60 RCW. The board's jurisdiction with respect to any such
24 alleged violation shall be based on the statutes and rules in effect at
25 time of the violation.

26 NEW SECTION. **Sec. 203.** By constitutional design, the legislature
27 consists of citizen-legislators who bring to bear on the legislative
28 process their individual experience and expertise. The provisions of
29 this act shall be interpreted in light of this constitutional
30 principle.

31 NEW SECTION. **Sec. 204.** TRANSFER OF JURISDICTION. On the
32 effective date of this section, any complaints or other matters under
33 investigation or consideration by the boards of legislative ethics in
34 the house of representatives and the senate operating pursuant to
35 chapter 44.60 RCW shall be transferred to the legislative ethics board
36 created by this act. All files, including but not limited to minutes
37 of meetings, investigative files, records of proceedings, exhibits, and

1 expense records, shall be transferred to the legislative ethics board
2 created in this act pursuant to their direction and the legislative
3 ethics board created in this act shall assume full jurisdiction over
4 all pending complaints, investigations, and proceedings.

5 NEW SECTION. **Sec. 205.** EXECUTIVE ETHICS BOARD. (1) The executive
6 ethics board is created, composed of five members, appointed by the
7 governor as follows:

8 (a) One member shall be a classified service employee as defined in
9 chapter 41.06 RCW;

10 (b) One member shall be a state officer or state employee in an
11 exempt position;

12 (c) One member shall be a citizen selected from a list of three
13 names submitted by the attorney general;

14 (d) One member shall be a citizen selected from a list of three
15 names submitted by the state auditor; and

16 (e) One member shall be a citizen selected at large by the
17 governor.

18 (2) Except for initial members and members completing partial
19 terms, members shall serve a single five-year term.

20 (3) No more than three members may be identified with the same
21 political party.

22 (4) Terms of initial board members shall be staggered as follows:
23 One member shall be appointed to a one-year term; one member shall be
24 appointed to a two-year term; one member shall be appointed to a three-
25 year term; one member shall be appointed to a four-year term; and one
26 member shall be appointed to a five-year term.

27 (5) A vacancy on the board shall be filled in the same manner as
28 the original appointment.

29 (6) Each member shall serve for the term of his or her appointment
30 and until his or her successor is appointed.

31 (7) The members shall annually select a chair from among
32 themselves.

33 (8) Staff shall be provided by the office of the attorney general.

34 NEW SECTION. **Sec. 206.** AUTHORITY OF EXECUTIVE ETHICS BOARD. (1)
35 The executive ethics board shall enforce this chapter and rules adopted
36 under it with respect to state-wide elected officers and all other

1 officers and employees in the executive branch, boards and commissions,
2 and institutions of higher education.

3 (2) The executive ethics board shall:

4 (a) Develop educational materials and training;

5 (b) Adopt rules and policies governing the conduct of business by
6 the board, and adopt rules defining working hours for purposes of
7 section 118 of this act and where otherwise authorized under chapter
8 . . . , Laws of 1994 (this act);

9 (c) Issue advisory opinions;

10 (d) Investigate, hear, and determine complaints by any person or on
11 its own motion;

12 (e) Impose sanctions including reprimands and monetary penalties;

13 (f) Recommend to the appropriate authorities suspension, removal
14 from position, prosecution, or other appropriate remedy; and

15 (g) Establish criteria regarding the levels of civil penalties
16 appropriate for violations of this chapter and rules adopted under it.

17 (3) The board may:

18 (a) Issue subpoenas for the attendance and testimony of witnesses
19 and the production of documentary evidence relating to any matter under
20 examination by the board or involved in any hearing;

21 (b) Administer oaths and affirmations;

22 (c) Examine witnesses; and

23 (d) Receive evidence.

24 (4) The executive ethics board may review and approve agency
25 policies as provided for in this chapter.

26 (5) This section does not apply to state officers and state
27 employees of the judicial branch.

28 NEW SECTION. **Sec. 207.** AUTHORITY OF COMMISSION ON JUDICIAL
29 CONDUCT. The commission on judicial conduct shall enforce this chapter
30 and rules adopted under it with respect to state officers and employees
31 of the judicial branch and may do so according to procedures prescribed
32 in Article IV, section 31 of the state Constitution. In addition to
33 the sanctions authorized in Article IV, section 31 of the state
34 Constitution, the commission may impose sanctions authorized by this
35 chapter.

36 NEW SECTION. **Sec. 208.** POLITICAL ACTIVITIES OF CITIZEN BOARD
37 MEMBERS. No member of the executive ethics board and none of the five

1 citizen members of the legislative ethics board may (1) hold or
2 campaign for partisan elective office other than the position of
3 precinct committeeperson, or any full-time nonpartisan office; (2) be
4 an officer of any political party or political committee as defined in
5 chapter 42.17 RCW other than the position of precinct committeeperson;
6 (3) permit his or her name to be used, or make contributions, in
7 support of or in opposition to any state candidate or state ballot
8 measure; or (4) lobby or control, direct, or assist a lobbyist except
9 that such member may appear before any committee of the legislature on
10 matters pertaining to this chapter.

11 NEW SECTION. **Sec. 209.** HEARING AND SUBPOENA AUTHORITY. Except as
12 otherwise provided by law, the ethics boards may hold hearings,
13 subpoena witnesses, compel their attendance, administer oaths, take the
14 testimony of a person under oath, and in connection therewith, to
15 require the production for examination of any books or papers relating
16 to any matter under investigation or in question before the ethics
17 board. The ethics board may make rules as to the issuance of subpoenas
18 by individual members, as to service of complaints, decisions, orders,
19 recommendations, and other process or papers of the ethics board.

20 NEW SECTION. **Sec. 210.** ENFORCEMENT OF SUBPOENA AUTHORITY. In
21 case of refusal to obey a subpoena issued to a person, the superior
22 court of a county within the jurisdiction of which the investigation,
23 proceeding, or hearing under this chapter is carried on or within the
24 jurisdiction of which the person refusing to obey is found or resides
25 or transacts business, upon application by the appropriate ethics board
26 shall have jurisdiction to issue to the person an order requiring the
27 person to appear before the ethics board or its member to produce
28 evidence if so ordered, or to give testimony touching the matter under
29 investigation or in question. Failure to obey such order of the court
30 may be punished by the court as contempt.

31 NEW SECTION. **Sec. 211.** FILING COMPLAINT. (1) A person may,
32 personally or by his or her attorney, make, sign, and file with the
33 appropriate ethics board a complaint on a form provided by the
34 appropriate ethics board. The complaint shall state the name of the
35 person alleged to have violated this chapter or rules adopted under it

1 and the particulars thereof, and contain such other information as may
2 be required by the appropriate ethics board.

3 (2) If it has reason to believe that any person has been engaged or
4 is engaging in a violation of this chapter or rules adopted under it,
5 an ethics board may issue a complaint.

6 NEW SECTION. **Sec. 212.** INVESTIGATION. After the filing of any
7 complaint, except as provided in section 215 of this act, the staff of
8 the appropriate ethics board shall investigate the complaint. The
9 investigation shall be limited to the alleged facts contained in the
10 complaint. The results of the investigation shall be reduced to
11 writing and a determination shall be made that there is or that there
12 is not reasonable cause to believe that a violation of this chapter or
13 rules adopted under it has been or is being committed. A copy of the
14 written determination shall be provided to the complainant and to the
15 person named in such complaint.

16 NEW SECTION. **Sec. 213.** PUBLIC HEARING--FINDINGS. (1) If the
17 ethics board determines there is reasonable cause under section 212 of
18 this act that a violation of this chapter or rules adopted under it
19 occurred, a public hearing on the merits of the complaint shall be
20 held.

21 (2) The ethics board shall designate the location of the hearing.
22 The case in support of the complaint shall be presented at the hearing
23 by staff of the ethics board.

24 (3) The respondent shall file a written answer to the complaint and
25 appear at the hearing in person or otherwise, with or without counsel,
26 and submit testimony and be fully heard. The respondent has the right
27 to cross-examine witnesses.

28 (4) Testimony taken at the hearing shall be under oath and
29 recorded.

30 (5) If, based upon a preponderance of the evidence, the ethics
31 board finds that the respondent has violated this chapter or rules
32 adopted under it, the board shall file an order stating findings of
33 fact and enforcement action as authorized under this chapter.

34 (6) If, upon all the evidence, the ethics board finds that the
35 respondent has not engaged in an alleged violation of this chapter or

1 rules adopted under it, the ethics board shall state findings of fact
2 and shall similarly issue and file an order dismissing the complaint.

3 (7) If the board makes a determination that there is not reasonable
4 cause to believe that a violation has been or is being committed or has
5 made a finding under subsection (6) of this section, the attorney
6 general shall represent the officer or employee in any action
7 subsequently commenced based on the alleged facts in the complaint.

8 NEW SECTION. **Sec. 214.** REVIEW OF ORDER. Except as otherwise
9 provided by law, reconsideration or judicial review of an ethics
10 board's order that a violation of this chapter or rules adopted under
11 it has occurred shall be governed by the provisions of chapter 34.05
12 RCW applicable to review of adjudicative proceedings.

13 NEW SECTION. **Sec. 215.** COMPLAINT AGAINST LEGISLATOR OR STATE-WIDE
14 ELECTED OFFICIAL. (1) If a complaint alleges a violation of section
15 118 of this act by a legislator or state-wide elected official other
16 than the attorney general, the attorney general shall conduct the
17 investigation under section 212 of this act and recommend action to the
18 appropriate ethics board.

19 (2) If a complaint alleges a violation of section 118 of this act
20 by the attorney general, the state auditor shall conduct the
21 investigation under section 212 of this act and recommend action to the
22 appropriate ethics board.

23 NEW SECTION. **Sec. 216.** CITIZEN ACTIONS. Any person who has
24 notified the appropriate ethics board and the attorney general in
25 writing that there is reason to believe that section 118 of this act is
26 being or has been violated may, in the name of the state, bring a
27 citizen action for any of the actions authorized under this chapter.
28 A citizen action may be brought only if the appropriate ethics board or
29 the attorney general have failed to commence an action under this
30 chapter within forty-five days after notice from the person, the person
31 has thereafter notified the appropriate ethics board and the attorney
32 general that the person will commence a citizen's action within ten
33 days upon their failure to commence an action, and the appropriate
34 ethics board and the attorney general have in fact failed to bring an
35 action within ten days of receipt of the second notice.

1 If the person who brings the citizen's action prevails, the
2 judgment awarded shall escheat to the state, but the person shall be
3 entitled to be reimbursed by the state of Washington for costs and
4 attorneys' fees incurred. If a citizen's action that the court finds
5 was brought without reasonable cause is dismissed, the court may order
6 the person commencing the action to pay all costs of trial and
7 reasonable attorneys' fees incurred by the defendant.

8 Upon commencement of a citizen action under this section, at the
9 request of a state officer or state employee who is a defendant, the
10 office of the attorney general shall represent the defendant if the
11 attorney general finds that the defendant's conduct complied with this
12 chapter and was within the scope of employment.

13 NEW SECTION. **Sec. 217.** REFERRAL FOR ENFORCEMENT. As appropriate,
14 an ethics board may refer a complaint:

15 (1) To an agency for initial investigation and proposed resolution
16 which shall be referred back to the appropriate ethics board for
17 action; or

18 (2) To the attorney general's office or prosecutor for appropriate
19 action.

20 NEW SECTION. **Sec. 218.** ACTION BY BOARDS. (1) Except as otherwise
21 provided by law, an ethics board may order payment of the following
22 amounts if it finds a violation of this chapter or rules adopted under
23 it after a hearing under section 207 of this act or other applicable
24 law:

25 (a) Any damages sustained by the state that are caused by the
26 conduct constituting the violation;

27 (b) From each such person, a civil penalty of up to five thousand
28 dollars per violation or three times the economic value of any thing
29 received or sought in violation of this chapter or rules adopted under
30 it, whichever is greater; and

31 (c) Costs, including reasonable investigative costs, which shall be
32 included as part of the limit under (b) of this subsection. The costs
33 may not exceed the penalty imposed. The payment owed on the penalty
34 shall be reduced by the amount of the costs paid.

35 (2) Damages under this section may be enforced in the same manner
36 as a judgment in a civil case.

1 NEW SECTION. **Sec. 219.** ACTION BY ATTORNEY GENERAL. (1) Upon a
2 written determination by the attorney general that the action of an
3 ethics board was clearly erroneous or if requested by an ethics board,
4 the attorney general may bring a civil action in the superior court of
5 the county in which the violation is alleged to have occurred against
6 a state officer, state employee, former state officer, former state
7 employee, or other person who has violated or knowingly assisted
8 another person in violating any of the provisions of this chapter or
9 the rules adopted under it. In such action the attorney general may
10 recover the following amounts on behalf of the state of Washington:

11 (a) Any damages sustained by the state that are caused by the
12 conduct constituting the violation;

13 (b) From each such person, a civil penalty of up to five thousand
14 dollars per violation or three times the economic value of any thing
15 received or sought in violation of this chapter or the rules adopted
16 under it, whichever is greater; and

17 (c) Costs, including reasonable investigative costs, which shall be
18 included as part of the limit under subsection (1)(b) of this section.
19 The costs may not exceed the penalty imposed. The payment owed on the
20 penalty shall be reduced by the amount of the costs paid.

21 (2) In any civil action brought by the attorney general upon the
22 basis that the attorney general has determined that the board's action
23 was clearly erroneous, the court shall not proceed with the action
24 unless the attorney general has first shown, and the court has found,
25 that the action of the board was clearly erroneous.

26 NEW SECTION. **Sec. 220.** HEARINGS CONDUCTED BY ADMINISTRATIVE LAW
27 JUDGE. If an ethics board finds that there is reasonable cause to
28 believe that a violation has occurred, the board shall consider the
29 possibility of the alleged violator having to pay a total amount of
30 penalty and costs of more than five hundred dollars. Based on such
31 consideration, the board may give the person who is the subject of the
32 complaint the option to have an administrative law judge conduct the
33 hearing and rule on procedural and evidentiary matters. The board may
34 also, on its own initiative, provide for retaining an administrative
35 law judge. An ethics board may not require total payment of more than
36 five hundred dollars in penalty and costs in any case where an
37 administrative law judge is not used and the board did not give such
38 option to the person who is the subject of the complaint.

1 NEW SECTION. **Sec. 221.** RESCISSION OF STATE ACTION. (1) The
2 attorney general may, on request of the governor or the appropriate
3 agency, and in addition to other available rights of rescission, bring
4 an action in the superior court of Thurston county to cancel or rescind
5 state action taken by a state officer or state employee, without
6 liability to the state of Washington, contractual or otherwise, if the
7 governor or ethics board has reason to believe that: (a) A violation
8 of this chapter or rules adopted under it has substantially influenced
9 the state action, and (b) the interest of the state requires the
10 cancellation or rescission. The governor may suspend state action
11 pending the determination of the merits of the controversy under this
12 section. The court may permit persons affected by the governor's
13 actions to post an adequate bond pending such resolution to ensure
14 compliance by the defendant with the final judgment, decree, or other
15 order of the court.

16 (2) This section does not limit other available remedies.

17 **Sec. 222.** RCW 42.18.260 and 1969 ex.s. c 234 s 26 are each amended
18 to read as follows:

19 (1) (~~The head of an agency may dismiss, suspend, or take such~~
20 ~~other action as may be appropriate in the circumstances in respect to~~
21 ~~any state employee of his agency upon finding that such employee has~~
22 ~~violated this chapter or regulations promulgated hereunder.— Such~~
23 ~~action may include the imposition of conditions of the nature described~~
24 ~~in RCW 42.18.270(1)) A violation of this chapter or rules adopted
25 under it is grounds for disciplinary action.~~

26 (2) The procedures for any such action shall correspond to those
27 applicable for disciplinary action for employee misconduct generally;
28 for those state officers and state employees not specifically exempted
29 (~~therein~~) in chapter 41.06 RCW, the rules set forth in (~~the state~~
30 ~~civil service law~~) chapter 41.06 RCW(~~)~~) shall apply. Any action
31 against the state officer or state employee shall be subject to
32 judicial review to the extent provided by law for disciplinary action
33 for misconduct of state officers and state employees of the same
34 category and grade.

35 NEW SECTION. **Sec. 223.** ADDITIONAL INVESTIGATIVE AUTHORITY. In
36 addition to other authority under this chapter, the attorney general
37 may investigate persons not under the jurisdiction of an ethics board

1 whom the attorney general has reason to believe were involved in
2 transactions in violation of this chapter or rules adopted under it.

3 NEW SECTION. **Sec. 224.** LIMITATIONS PERIOD. Any action taken
4 under this chapter must be commenced within five years from the date of
5 the violation. However, if it is shown that the violation was not
6 discovered because of concealment by the person charged, then the
7 action must be commenced within two years from the date the violation
8 was discovered or reasonably should have been discovered: (1) By any
9 person with direct or indirect supervisory responsibilities over the
10 person who allegedly committed the violation; or (2) if no person has
11 direct or indirect supervisory authority over the person who committed
12 the violation, by the appropriate ethics board.

13 NEW SECTION. **Sec. 225.** The members of the legislative ethics
14 board created by section 201 of this act and the executive ethics board
15 created by section 204 of this act shall be appointed no later than
16 October 1, 1994. Notwithstanding the authority granted to these boards
17 by sections 202 and 205 of this act, until January 1, 1995, the
18 authority of each board shall be limited to conducting meetings and
19 incurring expenses solely for administrative and organizational
20 purposes.

21 This section shall expire January 1, 1995.

22 NEW SECTION. **Sec. 226.** Any violations occurring prior to January
23 1, 1995, of any of the following laws shall be disposed of as if
24 chapter . . . , Laws of 1994 (this act) were not enacted and such laws
25 continued in full force and effect: RCW 42.17.130, chapter 42.18 RCW,
26 chapter 42.21 RCW, and chapter 42.22 RCW.

27 NEW SECTION. **Sec. 227.** The citizen members of the legislative
28 ethics board and the members of the executive ethics board shall be
29 compensated as provided in RCW 43.03.250 and reimbursed for travel
30 expenses as provided in RCW 43.03.050 and 43.03.060. Legislator
31 members of the legislative ethics board shall be reimbursed as provided
32 in RCW 44.04.120.

33 **PART III**
34 **MISCELLANEOUS PROVISIONS**

1 NEW SECTION. **Sec. 301.** LIBERAL CONSTRUCTION. This chapter shall
2 be construed liberally to effectuate its purposes and policy and to
3 supplement existing laws as may relate to the same subject.

4 NEW SECTION. **Sec. 302.** PARTS AND CAPTIONS NOT LAW. Parts and
5 captions used in this act do not constitute any part of the law.

6 NEW SECTION. **Sec. 303.** The following sections are each recodified
7 as sections in chapter 42.-- RCW (sections 101 through 109, 111 through
8 115, 118 through 120, 201, 202, 203, 205 through 221, 223, 224, 227,
9 301, and 302 of this act):

- 10 RCW 42.18.217
- 11 RCW 42.18.230
- 12 RCW 42.18.260
- 13 RCW 42.18.270
- 14 RCW 42.18.330
- 15 RCW 42.22.050

16 NEW SECTION. **Sec. 304.** The following acts or parts of acts are
17 each repealed:

- 18 (1) RCW 42.18.010 and 1969 ex.s. c 234 s 1;
- 19 (2) RCW 42.18.020 and 1969 ex.s. c 234 s 2;
- 20 (3) RCW 42.18.030 and 1969 ex.s. c 234 s 3;
- 21 (4) RCW 42.18.040 and 1969 ex.s. c 234 s 4;
- 22 (5) RCW 42.18.050 and 1969 ex.s. c 234 s 5;
- 23 (6) RCW 42.18.060 and 1969 ex.s. c 234 s 6;
- 24 (7) RCW 42.18.070 and 1969 ex.s. c 234 s 7;
- 25 (8) RCW 42.18.080 and 1969 ex.s. c 234 s 8;
- 26 (9) RCW 42.18.090 and 1969 ex.s. c 234 s 9;
- 27 (10) RCW 42.18.100 and 1969 ex.s. c 234 s 10;
- 28 (11) RCW 42.18.110 and 1969 ex.s. c 234 s 11;
- 29 (12) RCW 42.18.120 and 1969 ex.s. c 234 s 12;
- 30 (13) RCW 42.18.130 and 1973 c 137 s 1 & 1969 ex.s. c 234 s 13;
- 31 (14) RCW 42.18.140 and 1969 ex.s. c 234 s 14;
- 32 (15) RCW 42.18.150 and 1969 ex.s. c 234 s 15;
- 33 (16) RCW 42.18.170 and 1969 ex.s. c 234 s 17;
- 34 (17) RCW 42.18.180 and 1969 ex.s. c 234 s 18;
- 35 (18) RCW 42.18.190 and 1969 ex.s. c 234 s 19;
- 36 (19) RCW 42.18.200 and 1969 ex.s. c 234 s 20;

1 (20) RCW 42.18.210 and 1969 ex.s. c 234 s 21;
2 (21) RCW 42.18.213 and 1987 c 426 s 1;
3 (22) RCW 42.18.215 and 1987 c 426 s 2;
4 (23) RCW 42.18.221 and 1989 c 96 s 6 & 1987 c 426 s 4;
5 (24) RCW 42.18.240 and 1969 ex.s. c 234 s 24;
6 (25) RCW 42.18.250 and 1969 ex.s. c 234 s 25;
7 (26) RCW 42.18.280 and 1969 ex.s. c 234 s 28;
8 (27) RCW 42.18.290 and 1973 c 137 s 2 & 1969 ex.s. c 234 s 29;
9 (28) RCW 42.18.300 and 1973 c 137 s 3 & 1969 ex.s. c 234 s 30;
10 (29) RCW 42.18.310 and 1969 ex.s. c 234 s 31;
11 (30) RCW 42.18.320 and 1969 ex.s. c 234 s 32;
12 (31) RCW 42.18.900 and 1969 ex.s. c 234 s 40;
13 (32) RCW 42.20.010 and 1969 ex.s. c 234 s 34 & 1909 c 249 s 82;
14 (33) RCW 42.21.010 and 1965 ex.s. c 150 s 1;
15 (34) RCW 42.21.020 and 1989 c 175 s 93, 1971 c 81 s 106, & 1965
16 ex.s. c 150 s 2;
17 (35) RCW 42.21.030 and 1965 ex.s. c 150 s 3;
18 (36) RCW 42.21.040 and 1965 ex.s. c 150 s 4;
19 (37) RCW 42.21.050 and 1965 ex.s. c 150 s 5;
20 (38) RCW 42.21.080 and 1965 ex.s. c 150 s 8;
21 (39) RCW 42.21.090 and 1969 ex.s. c 234 s 36;
22 (40) RCW 42.22.010 and 1959 c 320 s 1;
23 (41) RCW 42.22.020 and 1959 c 320 s 2;
24 (42) RCW 42.22.030 and 1961 c 268 s 8 & 1959 c 320 s 3;
25 (43) RCW 42.22.040 and 1989 c 11 s 13 & 1959 c 320 s 4;
26 (44) RCW 42.22.060 and 1959 c 320 s 6;
27 (45) RCW 42.22.070 and 1959 c 320 s 7;
28 (46) RCW 42.22.120 and 1969 ex.s. c 234 s 37;
29 (47) RCW 44.60.010 and 1977 ex.s. c 218 s 1 & 1967 ex.s. c 150 s 1;
30 (48) RCW 44.60.020 and 1980 c 87 s 43, 1977 ex.s. c 218 s 2, & 1967
31 ex.s. c 150 s 2;
32 (49) RCW 44.60.030 and 1967 ex.s. c 150 s 3;
33 (50) RCW 44.60.040 and 1977 ex.s. c 218 s 3 & 1967 ex.s. c 150 s 4;
34 (51) RCW 44.60.050 and 1984 c 287 s 92, 1979 c 151 s 159, 1977
35 ex.s. c 218 s 4, 1975-'76 2nd ex.s. c 34 s 135, & 1967 ex.s. c 150 s 5;
36 (52) RCW 44.60.070 and 1980 c 165 s 1, 1977 ex.s. c 218 s 5, & 1967
37 ex.s. c 150 s 6;
38 (53) RCW 44.60.080 and 1977 ex.s. c 218 s 6 & 1967 ex.s. c 150 s 8;
39 (54) RCW 44.60.090 and 1967 ex.s. c 150 s 9;

- 1 (55) RCW 44.60.100 and 1977 ex.s. c 218 s 7;
2 (56) RCW 44.60.110 and 1980 c 165 s 2 & 1977 ex.s. c 218 s 8;
3 (57) RCW 44.60.120 and 1977 ex.s. c 218 s 9; and
4 (58) RCW 44.60.130 and 1977 ex.s. c 218 s 10.

5 **Sec. 305.** RCW 27.26.070 and 1989 c 96 s 3 are each amended to read
6 as follows:

7 (1) The commission may cooperate with other agencies both inside
8 and outside the state of Washington to establish a private, nonprofit
9 corporation for the purpose of providing automated bibliographic,
10 computer-based telecommunications, interlibrary, reference, and
11 referral systems, computer network services, and related library
12 services that are equivalent to the services provided by the western
13 library network on June 1, 1989. The commission may adopt policies and
14 rules consistent with the purposes and provisions of RCW 27.26.070
15 through 27.26.090 and section 11, chapter 96, Laws of 1989 and ((RCW
16 ~~42.18.221~~)) chapter 42.--- RCW (sections 101 through 109, 111 through
17 115, 118 through 120, 201, 202, 203, 205 through 221, 223, 224, 227,
18 301, and 302 of this act) pursuant to the administrative procedure act.

19 (2) The commission may terminate the services provided by the
20 western library network before June 30, 1997, if a successor
21 organization agrees to assume full responsibility for providing
22 services that are equivalent to the services provided by the western
23 library network on June 1, 1989, to the state library, other agencies
24 of state and local government, and other users of the western library
25 network. The commission may not terminate western library network
26 services within six months after June 1, 1989. The commission may not
27 enter into a contract with a successor organization for the delivery of
28 network services after five and one-half years from June 1, 1989.

29 **Sec. 306.** RCW 28B.50.060 and 1991 c 238 s 31 are each amended to
30 read as follows:

31 A director of the state system of community and technical colleges
32 shall be appointed by the college board and shall serve at the pleasure
33 of the college board. The director shall be appointed with due regard
34 to the applicant's fitness and background in education, and knowledge
35 of and recent practical experience in the field of educational
36 administration particularly in institutions beyond the high school
37 level. The college board may also take into consideration an

1 applicant's proven management background even though not particularly
2 in the field of education.

3 The director shall devote his or her time to the duties of his or
4 her office and shall not have any direct pecuniary interest in or any
5 stock or bonds of any business connected with or selling supplies to
6 the field of education within this state, in keeping with chapter
7 (~~(42.18 RCW, the executive conflict of interest act)~~) 42.--- RCW
8 (sections 101 through 109, 111 through 115, 118 through 120, 201, 202,
9 203, 205 through 221, 223, 224, 227, 301, and 302 of this act).

10 The director shall receive a salary to be fixed by the college
11 board and shall be reimbursed for travel expenses incurred in the
12 discharge of his or her official duties in accordance with RCW
13 43.03.050 and 43.03.060(~~(, as now existing or hereafter amended)~~).

14 The director shall be the executive officer of the college board
15 and serve as its secretary and under its supervision shall administer
16 the provisions of this chapter and the rules(~~(, regulations)~~) and
17 orders established thereunder and all other laws of the state. The
18 director shall attend, but not vote at, all meetings of the college
19 board. The director shall be in charge of offices of the college board
20 and responsible to the college board for the preparation of reports and
21 the collection and dissemination of data and other public information
22 relating to the state system of community and technical colleges. At
23 the direction of the college board, the director shall, together with
24 the chairman of the college board, execute all contracts entered into
25 by the college board.

26 The director shall, with the approval of the college board: (1)
27 Employ necessary assistant directors of major staff divisions who shall
28 serve at the director's pleasure on such terms and conditions as the
29 director determines, and (2) subject to the provisions of chapter
30 (~~(28B.16)~~) 41.06 RCW(~~(, the higher education personnel law,)~~) the
31 director shall, with the approval of the college board, appoint and
32 employ such field and office assistants, clerks and other employees as
33 may be required and authorized for the proper discharge of the
34 functions of the college board and for whose services funds have been
35 appropriated.

36 The board may, by written order filed in its office, delegate to
37 the director any of the powers and duties vested in or imposed upon it
38 by this chapter. Such delegated powers and duties may be exercised by
39 the director in the name of the college board.

1 **Sec. 307.** RCW 28C.18.040 and 1991 c 238 s 5 are each amended to
2 read as follows:

3 (1) The director shall serve as chief executive officer of the
4 board who shall administer the provisions of this chapter, employ such
5 personnel as may be necessary to implement the purposes of this
6 chapter, and utilize staff of existing operating agencies to the
7 fullest extent possible.

8 (2) The director shall not be the chair of the board.

9 (3) Subject to the approval of the board, the director shall
10 appoint necessary deputy and assistant directors and other staff who
11 shall be exempt from the provisions of chapter 41.06 RCW. The
12 director's appointees shall serve at the director's pleasure on such
13 terms and conditions as the director determines but subject to (~~the~~
14 ~~code of ethics contained in chapter 42.18 RCW~~) chapter 42.--- RCW
15 (sections 101 through 109, 111 through 115, 118 through 120, 201, 202,
16 203, 205 through 221, 223, 224, 227, 301, and 302 of this act).

17 (4) The director shall appoint and employ such other employees as
18 may be required for the proper discharge of the functions of the board.

19 (5) The director shall, as permissible under P.L. 101-392, as
20 amended, integrate the staff of the council on vocational education,
21 and contract with the state board for community and technical colleges
22 for assistance for adult basic skills and literacy policy development
23 and planning as required by P.L. 100-297, as amended.

24 **Sec. 308.** RCW 35.02.130 and 1991 c 360 s 3 are each amended to
25 read as follows:

26 The city or town officially shall become incorporated at a date
27 from one hundred eighty days to three hundred sixty days after the date
28 of the election on the question of incorporation. An interim period
29 shall exist between the time the newly elected officials have been
30 elected and qualified and this official date of incorporation. During
31 this interim period, the newly elected officials are authorized to
32 adopt ordinances and resolutions which shall become effective on or
33 after the official date of incorporation, and to enter into contracts
34 and agreements to facilitate the transition to becoming a city or town
35 and to ensure a continuation of governmental services after the
36 official date of incorporation. Periods of time that would be required
37 to elapse between the enactment and effective date of such ordinances,
38 including but not limited to times for publication or for filing

1 referendums, shall commence upon the date of such enactment as though
2 the city or town were officially incorporated.

3 During this interim period, the city or town governing body may
4 adopt rules establishing policies and procedures under the state
5 environmental policy act, chapter 43.21C RCW, and may use these rules
6 and procedures in making determinations under the state environmental
7 policy act, chapter 43.21C RCW.

8 During this interim period, the newly formed city or town and its
9 governing body shall be subject to the following as though the city or
10 town were officially incorporated: RCW 4.24.470 relating to immunity;
11 chapter 42.17 RCW relating to open government; chapter 40.14 RCW
12 relating to the preservation and disposition of public records;
13 chapters 42.20(~~(, 42.22,)~~) and 42.23 RCW relating to ethics and
14 conflicts of interest; chapters 42.30 and 42.32 RCW relating to open
15 public meetings and minutes; RCW 35.22.288, 35.23.310, 35.24.220,
16 35.27.300, 35A.12.160, as appropriate, and chapter 35A.65 RCW relating
17 to the publication of notices and ordinances; RCW 35.21.875 and
18 35A.21.230 relating to the designation of an official newspaper; RCW
19 36.16.138 relating to liability insurance; RCW 35.22.620, 35.23.352,
20 and 35A.40.210, as appropriate, and statutes referenced therein
21 relating to public contracts and bidding; and chapter 39.34 RCW
22 relating to interlocal cooperation. Tax anticipation or revenue
23 anticipation notes or warrants and other short-term obligations may be
24 issued and funds may be borrowed on the security of these instruments
25 during this interim period, as provided in chapter 39.50 RCW. Funds
26 also may be borrowed from federal, state, and other governmental
27 agencies in the same manner as if the city or town were officially
28 incorporated.

29 RCW 84.52.020 and 84.52.070 shall apply to the extent that they may
30 be applicable, and the governing body of such city or town may take
31 appropriate action by ordinance during the interim period to adopt the
32 property tax levy for its first full calendar year following the
33 interim period.

34 The governing body of the new city or town may acquire needed
35 facilities, supplies, equipment, insurance, and staff during this
36 interim period as if the city or town were in existence. An interim
37 city manager or administrator, who shall have such administrative
38 powers and duties as are delegated by the governing body, may be
39 appointed to serve only until the official date of incorporation.

1 After the official date of incorporation the governing body of such a
2 new city organized under the council manager form of government may
3 extend the appointment of such an interim manager or administrator with
4 such limited powers as the governing body determines, for up to ninety
5 days. This governing body may submit ballot propositions to the voters
6 of the city or town to authorize taxes to be collected on or after the
7 official date of incorporation, or authorize an annexation of the city
8 or town by a fire protection district or library district to be
9 effective immediately upon the effective date of the incorporation as
10 a city or town.

11 The boundaries of a newly incorporated city or town shall be deemed
12 to be established for purposes of RCW 84.09.030 on the date that the
13 results of the initial election on the question of incorporation are
14 certified or the first day of January following the date of this
15 election if the newly incorporated city or town does not impose
16 property taxes in the same year that the voters approve the
17 incorporation.

18 The newly elected officials shall take office immediately upon
19 their election and qualification with limited powers during this
20 interim period as provided in this section. They shall acquire their
21 full powers as of the official date of incorporation and shall continue
22 in office until their successors are elected and qualified at the next
23 general municipal election after the official date of incorporation:
24 PROVIDED, That if the date of the next general municipal election is
25 less than twelve months after the date of the first election of
26 councilmembers, those initially elected councilmembers shall serve
27 until their successors are elected and qualified at the next following
28 general municipal election as provided in RCW 29.04.170. For purposes
29 of this section, the general municipal election shall be the date on
30 which city and town general elections are held throughout the state of
31 Washington, pursuant to RCW 29.13.020.

32 The official date of incorporation shall be on a date from one
33 hundred eighty to three hundred sixty days after the date of the
34 election on the question of incorporation, as specified in a resolution
35 adopted by the governing body during this interim period. A copy of
36 the resolution shall be filed with the county legislative authority of
37 the county in which all or the major portion of the newly incorporated
38 city or town is located. If the governing body fails to adopt such a
39 resolution, the official date of incorporation shall be three hundred

1 sixty days after the date of the election on the question of
2 incorporation. The county legislative authority of the county in which
3 all or the major portion of the newly incorporated city or town is
4 located shall file a notice with the county assessor that the city or
5 town has been authorized to be incorporated immediately after the
6 favorable results of the election on the question of incorporation have
7 been certified. The county legislative authority shall file a notice
8 with the secretary of state that the city or town is incorporated as of
9 the official date of incorporation.

10 **Sec. 309.** RCW 35.21.418 and 1984 c 1 s 2 are each amended to read
11 as follows:

12 A commission, established by an agreement between a Washington
13 municipality and the Province of British Columbia to carry out a treaty
14 between the United States of America and Canada as authorized in RCW
15 35.21.417, shall be public and shall have all powers and capacity
16 necessary and appropriate for the purposes of performing its functions
17 under the agreement, including, but not limited to, the following
18 powers and capacity: To acquire and dispose of real property other
19 than by condemnation; to enter into contracts; to sue and be sued in
20 either Canada or the United States; to establish an endowment fund in
21 either or both the United States and Canada and to invest the endowment
22 fund in either or both countries; to solicit, accept, and use
23 donations, grants, bequests, or devises intended for furthering the
24 functions of the endowment; to adopt such rules or procedures as it
25 deems desirable for performing its functions; to engage advisors and
26 consultants; to establish committees and subcommittees; to adopt rules
27 for its governance; to enter into agreements with public and private
28 entities; and to engage in activities necessary and appropriate for
29 implementing the agreement and the treaty.

30 The endowment fund and commission may not be subject to state or
31 local taxation. A commission, so established, may not be subject to
32 statutes and laws governing Washington cities and municipalities in the
33 conduct of its internal affairs: PROVIDED, That all commission members
34 appointed by the municipality shall comply with chapter ((42.22-RCW))
35 42.--- RCW (sections 101 through 109, 111 through 115, 118 through 120,
36 201, 202, 203, 205 through 221, 223, 224, 227, 301, and 302 of this
37 act), and: PROVIDED FURTHER, That all commission meetings held within
38 the state of Washington shall be held in compliance with chapter 42.30

1 RCW. All obligations or liabilities incurred by the commission shall
2 be satisfied exclusively from its own assets and insurance.

3 **Sec. 310.** RCW 43.33A.110 and 1989 c 179 s 1 are each amended to
4 read as follows:

5 The state investment board may make appropriate rules and
6 regulations for the performance of its duties. The board shall
7 establish investment policies and procedures designed exclusively to
8 maximize return at a prudent level of risk. However, in the case of
9 the department of labor and industries' accident, medical aid, and
10 reserve funds, the board shall establish investment policies and
11 procedures designed to attempt to limit fluctuations in industrial
12 insurance premiums and, subject to this purpose, to maximize return at
13 a prudent level of risk. The board shall adopt rules to ensure that
14 its members perform their functions in compliance with chapter ((42.18
15 RCW)) 42.--- RCW (sections 101 through 109, 111 through 115, 118
16 through 120, 201, 202, 203, 205 through 221, 223, 224, 227, 301, and
17 302 of this act). Rules adopted by the board shall be adopted pursuant
18 to chapter 34.05 RCW.

19 **Sec. 311.** RCW 43.72.020 and 1993 c 492 s 403 are each amended to
20 read as follows:

21 (1) There is created an agency of state government to be known as
22 the Washington health services commission. The commission shall
23 consist of five members reflecting ethnic and racial diversity,
24 appointed by the governor, with the consent of the senate. One member
25 shall be designated by the governor as chair and shall serve at the
26 pleasure of the governor. The insurance commissioner shall serve as an
27 additional nonvoting member. Of the initial members, one shall be
28 appointed to a term of three years, two shall be appointed to a term of
29 four years, and two shall be appointed to a term of five years.
30 Thereafter, members shall be appointed to five-year terms. Vacancies
31 shall be filled by appointment for the remainder of the unexpired term
32 of the position being vacated.

33 (2) Members of the commission shall have no pecuniary interest in
34 any business subject to regulation by the commission and shall be
35 subject to chapter ((42.18 RCW, the executive branch conflict of
36 interest act)) 42.--- RCW (sections 101 through 109, 111 through 115,

1 118 through 120, 201, 202, 203, 205 through 221, 223, 224, 227, 301,
2 and 302 of this act).

3 (3) Members of the commission shall occupy their positions on a
4 full-time basis and are exempt from the provisions of chapter 41.06
5 RCW. Commission members and the professional commission staff are
6 subject to the public disclosure provisions of chapter 42.17 RCW.
7 Members shall be paid a salary to be fixed by the governor in
8 accordance with RCW 43.03.040. A majority of the members of the
9 commission constitutes a quorum for the conduct of business.

10 **Sec. 312.** RCW 51.36.110 and 1993 c 515 s 6 are each amended to
11 read as follows:

12 The director of the department of labor and industries or the
13 director's authorized representative shall have the authority to:

14 (1) Conduct audits and investigations of providers of medical,
15 chiropractic, dental, vocational, and other health services furnished
16 to industrially injured workers pursuant to Title 51 RCW. In the
17 conduct of such audits or investigations, the director or the
18 director's authorized representatives may examine all records, or
19 portions thereof, including patient records, for which services were
20 rendered by a health services provider and reimbursed by the
21 department, notwithstanding the provisions of any other statute which
22 may make or purport to make such records privileged or confidential:
23 PROVIDED, That no original patient records shall be removed from the
24 premises of the health services provider, and that the disclosure of
25 any records or information obtained under authority of this section by
26 the department of labor and industries is prohibited and constitutes a
27 violation of (~~RCW 42.22.040~~) section 105 of this act, unless such
28 disclosure is directly connected to the official duties of the
29 department: AND PROVIDED FURTHER, That the disclosure of patient
30 information as required under this section shall not subject any
31 physician or other health services provider to any liability for breach
32 of any confidential relationships between the provider and the patient:
33 AND PROVIDED FURTHER, That the director or the director's authorized
34 representative shall destroy all copies of patient medical records in
35 their possession upon completion of the audit, investigation, or
36 proceedings;

1 (2) Approve or deny applications to participate as a provider of
2 services furnished to industrially injured workers pursuant to Title 51
3 RCW; and

4 (3) Terminate or suspend eligibility to participate as a provider
5 of services furnished to industrially injured workers pursuant to Title
6 51 RCW.

7 **Sec. 313.** RCW 66.08.080 and 1981 1st ex.s. c 5 s 3 are each
8 amended to read as follows:

9 Except as provided by chapter (~~(42.18-RCW)~~) 42.--- RCW (sections
10 101 through 109, 111 through 115, 118 through 120, 201, 202, 203, 205
11 through 221, 223, 224, 227, 301, and 302 of this act), no member of the
12 board and no employee of the board shall have any interest, directly or
13 indirectly, in the manufacture of liquor or in any liquor sold under
14 this title, or derive any profit or remuneration from the sale of
15 liquor, other than the salary or wages payable to him in respect of his
16 office or position, and shall receive no gratuity from any person in
17 connection with such business.

18 **Sec. 314.** RCW 67.16.160 and 1973 1st ex.s. c 216 s 5 are each
19 amended to read as follows:

20 No later than ninety days after July 16, 1973 the horse racing
21 commission shall promulgate, pursuant to chapter 34.05 RCW, reasonable
22 rules (~~(and regulations)~~) implementing to the extent applicable to the
23 circumstances of the horse racing commission the conflict of interest
24 laws of the state of Washington as set forth in chapters (~~(42.18,)~~)
25 42.21 and (~~(42.22-RCW)~~) 42.--- RCW (sections 101 through 109, 111
26 through 115, 118 through 120, 201, 202, 203, 205 through 221, 223, 224,
27 227, 301, and 302 of this act).

28 **Sec. 315.** RCW 80.50.030 and 1990 c 12 s 3 are each amended to read
29 as follows:

30 (1) There is created and established the energy facility site
31 evaluation council.

32 (2)(a) The chairman of the council shall be appointed by the
33 governor with the advice and consent of the senate, shall have a vote
34 on matters before the council, shall serve for a term coextensive with
35 the term of the governor, and is removable for cause. The chairman may
36 designate a member of the council to serve as acting chairman in the

1 event of the chairman's absence. The chairman is a "state employee"
2 for the purposes of chapter ~~((42.18 RCW))~~ 42.--- RCW (sections 101
3 through 109, 111 through 115, 118 through 120, 201, 202, 203, 205
4 through 221, 223, 224, 227, 301, and 302 of this act). As applicable,
5 when attending meetings of the council~~((+,+))~~, members may receive
6 reimbursement for travel expenses in accordance with RCW 43.03.050 and
7 43.03.060, and are eligible for compensation under RCW 43.03.240.

8 (b) The chairman or a designee shall execute all official
9 documents, contracts, and other materials on behalf of the council.
10 The Washington state energy office shall provide all administrative and
11 staff support for the council. The director of the energy office has
12 supervisory authority over the staff of the council and shall employ
13 such personnel as are necessary to implement this chapter. Not more
14 than three such employees may be exempt from chapter 41.06 RCW.

15 (3) The council shall consist of the directors, administrators, or
16 their designees, of the following departments, agencies, commissions,
17 and committees or their statutory successors:

18 (a) Department of ecology;

19 (b) Department of ~~((fisheries;~~

20 ~~(c) Department of))~~ fish and wildlife;

21 ~~((+d))~~ (c) Parks and recreation commission;

22 ~~((+e))~~ (d) Department of health;

23 ~~((+f))~~ (e) State energy office;

24 ~~((+g))~~ (f) Department of community, trade, and economic
25 development;

26 ~~((+h))~~ (g) Utilities and transportation commission;

27 ~~((+i))~~ (h) Office of financial management;

28 ~~((+j))~~ (i) Department of natural resources;

29 ~~((+k) Department of community development;~~

30 ~~(+l))~~ (j) Department of agriculture;

31 ~~((+m))~~ (k) Department of transportation.

32 (4) The appropriate county legislative authority of every county
33 wherein an application for a proposed site is filed shall appoint a
34 member or designee as a voting member to the council. The member or
35 designee so appointed shall sit with the council only at such times as
36 the council considers the proposed site for the county which he or she
37 represents, and such member or designee shall serve until there has
38 been a final acceptance or rejection of the proposed site;

1 (5) The city legislative authority of every city within whose
2 corporate limits an energy plant is proposed to be located shall
3 appoint a member or designee as a voting member to the council. The
4 member or designee so appointed shall sit with the council only at such
5 times as the council considers the proposed site for the city which he
6 or she represents, and such member or designee shall serve until there
7 has been a final acceptance or rejection of the proposed site.

8 (6) For any port district wherein an application for a proposed
9 port facility is filed subject to this chapter, the port district shall
10 appoint a member or designee as a nonvoting member to the council. The
11 member or designee so appointed shall sit with the council only at such
12 times as the council considers the proposed site for the port district
13 which he or she represents, and such member or designee shall serve
14 until there has been a final acceptance or rejection of the proposed
15 site. The provisions of this subsection shall not apply if the port
16 district is the applicant, either singly or in partnership or
17 association with any other person.

18 **Sec. 316.** RCW 86.09.286 and 1969 ex.s. c 234 s 35 are each amended
19 to read as follows:

20 No director or any other officer named in this chapter shall in any
21 manner be interested, directly or indirectly, in any contract awarded
22 or to be awarded by the board, or in the profits to be derived
23 therefrom; and for any violation of this provision, such officer shall
24 be deemed guilty of a misdemeanor, and such conviction shall work a
25 forfeiture of his office, and he shall be punished by a fine not
26 exceeding five hundred dollars, or by imprisonment in the county jail
27 not exceeding six months, or by both fine and imprisonment: PROVIDED,
28 That nothing in this section contained shall be construed to prevent
29 any district officer from being employed by the district as foreman or
30 as a day laborer: PROVIDED FURTHER, That this section shall have no
31 application to any person who is a state employee as defined in ((RCW
32 42.18.130)) section 101 of this act.

33 NEW SECTION. **Sec. 317.** A new section is added to chapter 42.17
34 RCW to read as follows:

35 RCW 42.17.130 does not apply to any person who is a state officer
36 or state employee as defined in section 101 of this act.

1 NEW SECTION. **Sec. 318.** Sections 101 through 109, 111 through 115,
2 118 through 120, 201, 202, 203, 205 through 221, 223, 224, 227, 301,
3 and 302 of this act shall constitute a new chapter in Title 42 RCW.

4 NEW SECTION. **Sec. 319.** Sections 101 through 121, 203, 204, 207
5 through 224, and 301 through 317 of this act shall take effect January
6 1, 1995.

7 NEW SECTION. **Sec. 320.** If any provision of this act or its
8 application to any person or circumstance is held invalid, the
9 remainder of the act or the application of the provision to other
10 persons or circumstances is not affected."

--- END ---