

ESB 5764 - S AMD 406

By Senators Kastama, Baumgartner

ADOPTED 04/27/2011

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

3 "NEW SECTION. **Sec. 1.** (1) Innovate Washington is hereby created
4 as a state agency exercising public and essential governmental
5 functions. Innovate Washington is created as the successor to the
6 Washington technology center and the Spokane intercollegiate research
7 and technology institute. Innovate Washington is created to be a
8 collaborative effort between the state's public and private
9 institutions of higher education, private industry, and government and
10 is to be the primary agency focused on growing the innovation-based
11 economic sectors of the state and responding to the technology transfer
12 needs of existing businesses in the state.

13 (2) The mission of innovate Washington is to make Washington the
14 best place to develop, build, and deploy innovative products, services,
15 and solutions to serve the world. To carry out this mission, innovate
16 Washington is to: Develop and strengthen academic-industry
17 relationships through research and assistance that is primarily of
18 interest to existing small and medium-sized Washington-based companies;
19 facilitate company growth through early stage financing; and leverage
20 state investments in sector-focused, innovation-based economic
21 development initiatives consistent with the state's economic
22 development strategic plan and export strategy. As funds are
23 available, innovate Washington shall:

24 (a) Facilitate leading edge collaborative research and technology
25 transfer opportunities to existing state businesses directly and by
26 working with industry associations and innovation partnership zones;

27 (b) Coordinate its activities with the commercialization and
28 technology transfer activities of the state's research institutions to
29 facilitate research that supports and develops state industries;

1 (c) Provide methods, systems, and venues for effective interaction
2 and collaboration between the state's technology-based industries and
3 its institutions of higher education;

4 (d) Provide assistance and support to businesses in:

5 (i) Securing federal and private funds to support product research
6 and commercialization;

7 (ii) Developing and integrating technology in new or enhanced
8 products and services; and

9 (iii) Launching those products and services in sustainable
10 businesses in the state;

11 (e) Establish programmatic activities that, through partnerships
12 with the private sector, increase the competitiveness of state
13 industries. This may include support provided to firms in innovation
14 partnership zones established under RCW 43.330.270;

15 (f) Provide opportunities for training undergraduate and graduate
16 students in technology transfer and commercialization processes through
17 direct involvement in research and industry interactions;

18 (g) Work with regional public and private utilities, district
19 energy providers, the utilities and transportation commission, and the
20 state energy office to improve the alignment of investments in clean
21 energy technologies with existing state policies. This may include
22 facilitating public-private partnerships to encourage research and
23 development of emerging clean and renewable energy technologies;

24 (h) Serve as the lead entity in the state for coordinating clean
25 energy-related initiatives and establishing a long-term funding
26 strategy for programs targeted at expanding the clean energy sector,
27 while maintaining existing energy policy and regulatory functions at
28 the department of commerce within the state energy office;

29 (i) Administer technology and innovation grant and loan programs
30 including bridge funding programs for the state's technology sector;

31 (j) Emphasize and develop nonstate support of program activities;
32 and

33 (k) Facilitate public-private partnerships that support the growth
34 of strategic, innovation-based sectors.

35 (3)(a) Administrative responsibilities for the Washington
36 technology center facilities located on the University of Washington
37 Seattle campus and the Spokane intercollegiate research and technology
38 institute facilities located on the Riverpoint campus operated by

1 Washington State University Spokane are hereby transferred to innovate
2 Washington except to the extent that such responsibilities are the
3 subject of an interagency agreement between the University of
4 Washington and the Washington technology center, in which case the
5 terms of that agreement control. The facilities shall be used for
6 purposes consistent with the obligations of innovate Washington under
7 this chapter. As initially established, the University of Washington
8 and Washington State University shall continue to provide the facility
9 support and maintenance for these facilities as required by innovate
10 Washington, except to the extent that such responsibilities are the
11 subject of an interagency agreement between the University of
12 Washington and the Washington technology center, in which case the
13 terms of that agreement control. Other institutions of higher
14 education may provide facility support and maintenance subsequently.

15 (b) The University of Washington, Washington State University, and
16 other institutions of higher education participating in innovate
17 Washington programs shall provide the affiliated staff and faculty
18 participating in these programs at their own expense.

19 (4) The facilities of innovate Washington may be made available to
20 any research institution or any public institution of higher education
21 within the state when this would benefit specific program needs
22 consistent with this chapter.

23 (5) Innovate Washington shall, by December 1, 2012, develop a
24 five-year business plan that must be updated by December 1st of every
25 even-numbered year and submitted to the appropriate committees of the
26 legislature. The plan must include:

27 (a) A plan for operating additional facilities in Vancouver, the
28 Tri-Cities, Bellingham, and such other locations as the innovate
29 Washington board identifies as appropriate;

30 (b) Identification and specification of activities to be undertaken
31 by those operating each of innovate Washington's facilities to include
32 potential collaboration with innovative programs at the state's
33 community and technical colleges and methods of working with the
34 centers of excellence established under RCW 28B.50.902 to identify
35 businesses that could benefit from innovate Washington services;

36 (c) The process to be followed, developed in collaboration with
37 impact Washington or any successor manufacturing extension partnership
38 program operating in the state, to ensure that impact Washington

1 clients have ready access to innovate Washington's services when
2 appropriate and that companies being assisted by innovate Washington
3 have ready access to impact Washington's services; and

4 (d) Mechanisms for outreach to firms operating in the state's
5 innovation partnership zones established under RCW 43.330.270 to ensure
6 such firms benefit from innovate Washington services.

7 (6) The five-year business plan required under this section must
8 include a clean energy component that includes:

9 (a) A strategy for implementation of the first three market-driving
10 initiatives identified by the clean energy leadership council in its
11 2010 report. These market-driving initiatives are in the areas of:

12 (i) Combined energy efficiency, green buildings, and smart grid;
13 (ii) Renewable energy resource optimization and smart grid
14 deployment; and

15 (iii) Bioenergy deployment acceleration.

16 (b) Recommendations on ways to improve policy alignment, streamline
17 regulatory requirements, and remove administrative barriers that limit
18 the growth of the clean energy sector in Washington.

19 (7) For the purposes of this section, "lead entity" means the
20 organization that all other state agencies must coordinate with and
21 receive approval from in order to award state funds in support of clean
22 energy initiatives.

23 NEW SECTION. **Sec. 2.** (1) The powers of innovate Washington are
24 vested in and shall be exercised by a board of directors consisting of:

25 (a) The governor of the state of Washington or the governor's
26 designee;

27 (b)(i) The president of the senate shall appoint one member from
28 each of the two largest caucuses of the senate;

29 (ii) The speaker of the house of representatives shall appoint one
30 member from each of the two largest caucuses of the house of
31 representatives;

32 (c) The president of the University of Washington or the
33 president's designee;

34 (d) The president of Washington State University or the president's
35 designee;

36 (e) The director of the department of commerce or the director's
37 designee;

1 (f) The chairs of the sector advisory committees created under this
2 chapter shall serve as ex officio voting members; and

3 (g) Seven members appointed by the governor from among individuals
4 who own or are executives at technology-based and innovative firms in
5 the state; of these members, at least four must be from firms
6 manufacturing in the state. The term of office for each board member
7 appointed by the governor shall be three years except, of the initial
8 appointees, three shall be appointed for one year and three shall be
9 appointed for two years. Members of the board may be appointed for
10 additional terms.

11 (2) The board shall meet at least biannually. The initial meeting
12 of the board must occur before December 31, 2011.

13 (3) A board member may be removed by the governor for cause under
14 RCW 43.06.070 and 43.06.080. The governor must fill any vacancy on the
15 board by appointment for the remainder of the unexpired term.

16 (4)(a) The appointed members of the board shall be compensated in
17 accordance with RCW 43.03.240 and may be reimbursed for expenses
18 incurred in the discharge of their duties under this chapter pursuant
19 to RCW 43.03.050 and 43.03.060.

20 (b) The ex officio members of the board under subsection (1)(a) and
21 (c) through (g) of this section may be reimbursed for expenses incurred
22 in the discharge of their duties under this chapter pursuant to RCW
23 43.03.050 and 43.03.060.

24 (c) Legislative members of the board may be reimbursed for expenses
25 incurred in the discharge of their duties under this chapter pursuant
26 to RCW 44.04.120.

27 (5) A majority of currently serving board members constitutes a
28 quorum.

29 (6) Meetings of the board shall be held in accordance with the open
30 public meetings act, chapter 42.30 RCW, and at the call of the chair or
31 when a majority of the board members so requests. Meetings of the
32 board may be held at any location within or out of the state, and board
33 members may participate in a meeting of the board by means of a
34 conference telephone or similar communication equipment under RCW
35 23B.08.200.

36 (7) The innovate Washington board must:

37 (a) Develop operating policies for innovate Washington programs;

- 1 (b) Appoint, and perform an annual performance review of, an
2 executive director;
- 3 (c) Approve an annual operating budget and ensure adequate funding
4 for operations;
- 5 (d) Approve a five-year business plan and its updates;
- 6 (e) Perform the duties required under chapter 70.210 RCW relating
7 to the investing in innovation program;
- 8 (f) Convene representatives of the commercialization and technology
9 transfer offices of private and public research institutions in the
10 state to determine the best methods for:
- 11 (i) Integrating existing databases into a single database of in-
12 state technologies and inventions;
- 13 (ii) Making the technologies in the integrated database accessible;
14 and
- 15 (iii) Promoting the integrated database to entrepreneurs and
16 investors for commercialization and licensing purposes;
- 17 (g) Set performance goals for each program or service established;
18 and
- 19 (h) Provide a report to the governor and the legislature detailing
20 the fund-raising activities and outcomes, operations, economic impact,
21 and performance of innovate Washington. The report is due by December
22 1st of every year and the first report is due by December 1, 2012. The
23 report must include measures related to customer satisfaction as well
24 as measures of results derived from assistance provided to businesses,
25 including but not limited to manufacturing facilities established in
26 Washington, job creation inside and outside of Washington, new product
27 development, new markets opened and other export measures, the adoption
28 of new production processes, revenue and sales growth, measures that
29 would be included in a balanced scorecard, and such other outcome-based
30 measures as the board determines is appropriate.
- 31 (8) The board may:
- 32 (a) Make and execute agreements, contracts, and other instruments
33 with any private, public, or nonprofit entity for the performance,
34 operation, administration, implementation, or advancement of any
35 program in accordance with this chapter;
- 36 (b) Employ, contract with, or engage staff, advisors, auditors,
37 other technical or professional assistants, and such other personnel as

1 are necessary or desirable to implement this chapter. Staff support
2 for innovate Washington programs may be provided through cooperative
3 agreements with any public or private institution of higher education;

4 (c) Solicit and receive gifts, grants, donations, sponsorships, or
5 contributions from any federal, state, or local governmental agency or
6 program or any private source, and expend the same for any purpose
7 consistent with this chapter;

8 (d) Establish such:

9 (i) Affiliated organizations, that may not be considered state
10 agencies as defined under chapter 43.88 RCW, to facilitate partnerships
11 and program delivery with the private sector;

12 (ii) Special funds consistent with the provisions of chapter 43.88
13 RCW; and

14 (iii) Controls as it finds convenient for the implementation of
15 this chapter;

16 (e) Create one or more advisory committees;

17 (f) Adopt rules consistent with this chapter;

18 (g) Delegate any of its powers and duties if consistent with the
19 purposes of this chapter; and

20 (h) Exercise any other power reasonably required to implement the
21 purposes of this chapter.

22 NEW SECTION. **Sec. 3.** (1) To increase participation by Washington
23 state small business innovators in federal small business research
24 programs, innovate Washington shall provide or contract for the
25 provision of a small business innovation assistance program. The
26 program must include a proposal review process and must train and
27 assist Washington small business innovators to win awards from federal
28 small business research programs. The program must collaborate with
29 small business development centers, entrepreneur-in-residence programs,
30 and other appropriate sources of technical assistance to ensure that
31 small business innovators also receive the planning, counseling, and
32 support services necessary to expand their businesses and protect their
33 intellectual property.

34 (2) In operating the program, innovate Washington must give
35 priority to first-time applicants to the federal small business
36 research programs, new businesses, and firms with fewer than ten
37 employees, and may charge a fee for its services.

1 (3) The definitions in this subsection apply throughout this
2 section unless the context clearly requires otherwise.

3 (a) "Federal small business research programs" means the programs,
4 operating pursuant to the small business innovation development act of
5 1982, P.L. 97-219, and the small business technology transfer act of
6 1992, P.L. 102-564, title II, that provide funds to small businesses to
7 conduct research having commercial application.

8 (b) "Small business" means a corporation, partnership, sole
9 proprietorship, or individual, operating a business for profit, with
10 two hundred fifty employees or fewer, including employees employed in
11 a subsidiary or affiliated corporation, that otherwise meets the
12 requirements of federal small business research programs.

13 NEW SECTION. **Sec. 4.** The investing in innovation account is
14 created in the custody of the state treasurer to receive state and
15 federal funds, grants, private gifts, or contributions to further the
16 purpose of innovate Washington. Expenditures from the account may be
17 used only for the purposes of the investing in innovation programs
18 established in chapter 70.210 RCW and any other purpose consistent with
19 this chapter. Only the executive director of innovate Washington or
20 the executive director's designee may authorize expenditures from the
21 account. The account is subject to allotment procedures under chapter
22 43.88 RCW, but an appropriation is not required for expenditures.

23 NEW SECTION. **Sec. 5.** A new section is added to chapter 41.06 RCW
24 to read as follows:

25 In addition to the exemptions in RCW 41.06.070, this chapter does
26 not apply to any position in or employee of innovate Washington under
27 chapter 43.--- RCW (the new chapter created in section 19 of this act).

28 **Sec. 6.** RCW 28B.50.902 and 2009 c 151 s 4 are each amended to read
29 as follows:

30 (1) The college board, in consultation with business, industry,
31 labor, the workforce training and education coordinating board, the
32 department of (~~community, trade, and economic development~~) commerce,
33 the employment security department, and community and technical
34 colleges, shall designate centers of excellence and allocate funds to
35 existing and new centers of excellence based on a competitive basis.

1 (2) Eligible applicants for the program established under this
2 section include community and technical colleges. Priority shall be
3 given to applicants that have an established education and training
4 program serving the targeted industry and that have in their home
5 district or region an industry cluster with the same targeted industry
6 at its core.

7 (3) It is the role of centers of excellence to employ strategies
8 to:

9 (a) Create educational efficiencies;

10 (b) Build a diverse, competitive workforce for strategic
11 industries;

12 (c) Maintain an institutional reputation for innovation and
13 responsiveness;

14 (d) Develop innovative curriculum and means of delivering education
15 and training;

16 (e) Act as brokers of information and resources related to
17 community and technical college education and training (~~for~~) and
18 assistance available for firms in a targeted industry, including
19 working with innovate Washington to develop methods to identify
20 businesses within a targeted industry that could benefit from the
21 services offered by innovate Washington under chapter 43.--- RCW (the
22 new chapter created in section 19 of this act); and

23 (f) Serve as partners with workforce development councils,
24 associate development organizations, and other workforce and economic
25 development organizations.

26 (4) Examples of strategies under subsection (3) of this section
27 include but are not limited to: Sharing curriculum and other
28 instructional resources, to ensure cost savings to the system;
29 delivering collaborative certificate and degree programs; and holding
30 statewide summits, seminars, conferences, and workshops on industry
31 trends and best practices in community and technical college education
32 and training.

33 **Sec. 7.** RCW 70.210.010 and 2003 c 403 s 1 are each amended to read
34 as follows:

35 It is the intent of the legislature to promote growth in the
36 technology sectors of our state's economy and to particularly focus

1 support on the ~~((creation and))~~ commercialization of intellectual
2 property ~~((in the technology, energy, and telecommunications~~
3 ~~industries))~~ and the manufacture of innovative products in the state.

4 **Sec. 8.** RCW 70.210.020 and 2003 c 403 s 2 are each amended to read
5 as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

8 (1) ~~((“Center” means the Washington technology center established~~
9 ~~under RCW 28B.20.283 through 28B.20.295.~~

10 ~~(2))~~ “Board” means the innovate Washington board of directors
11 ~~((for the center)).~~

12 (3) “Innovate Washington” means the agency created in section 1 of
13 this act.

14 **Sec. 9.** RCW 70.210.030 and 2003 c 403 s 4 are each amended to read
15 as follows:

16 (1) The investing in innovation ~~((grants))~~ program is established.

17 (2) ~~((The center))~~ Innovate Washington shall periodically make
18 strategic assessments of the types of ~~((state))~~ investments in research
19 ~~((and)),~~ technology, and industrial development in this state that
20 would likely create new products, jobs, and business opportunities and
21 produce the most beneficial long-term improvements to the lives and
22 health of the citizens of the state. The assessments shall be
23 available to the public and shall be used to guide decisions on
24 awarding ~~((grants))~~ funds under this chapter.

25 **Sec. 10.** RCW 70.210.040 and 2003 c 403 s 5 are each amended to
26 read as follows:

27 The board shall:

28 (1) Develop criteria for the awarding of loans or grants to
29 qualifying universities, institutions, businesses, or individuals;

30 (2) Make decisions regarding distribution of ~~((grant))~~ funds ~~((and~~
31 ~~make grant awards))~~; ~~((and))~~

32 (3) In making ~~((grant awards, seek to provide a balance between~~
33 ~~research grant awards and commercialization grant awards))~~ funding
34 decisions and to the extent that economic impact is not diminished,
35 provide priority to enterprises that:

1 (a) Were created through, and have existing intellectual property
2 agreements in place with, public and private research institutions in
3 the state; and

4 (b) Intend to produce new products or services, develop or expand
5 facilities, or manufacture in the state; and

6 (4) Specify in contracts awarding funds that recipients must
7 utilize funding received to support operations in the state of
8 Washington and must subsequently report on the impact of their
9 research, development, and any subsequent production activities within
10 Washington for a period of ten years following the award of funds, and
11 that a failure to comply with this requirement will obligate the
12 recipient to return the amount of the award plus interest as determined
13 by the board.

14 **Sec. 11.** RCW 70.210.050 and 2003 c 403 s 6 are each amended to
15 read as follows:

16 (1) The board may accept grant and loan proposals and establish a
17 competitive process for the awarding of grants and loans.

18 (2) The board shall establish a peer review committee to include
19 board members, scientists, engineers, and individuals with specific
20 recognized expertise. The peer review committee shall provide to the
21 board an independent peer review of all proposals determined to be
22 competitive for a loan or grant award that are submitted to the board.

23 (3) In the awarding of grants and loans, priority shall be given to
24 proposals that leverage additional private and public funding
25 resources.

26 (4) ~~((Up to fifty percent of available funds from the investing in~~
27 ~~innovation account may be used to support commercialization~~
28 ~~opportunities for research in Washington state through an organization~~
29 ~~with commercialization expertise such as the Spokane intercollegiate~~
30 ~~research and technology institute.~~

31 ~~(5) The center)) Innovate Washington may not be a direct recipient~~
32 ~~of ((grant awards)) funding under this chapter ((403, Laws of 2003))~~

33 **Sec. 12.** RCW 70.210.060 and 2003 c 403 s 7 are each amended to
34 read as follows:

35 The board shall establish performance benchmarks against which the
36 program will be evaluated. The ~~((grants))~~ program shall be reviewed

1 periodically by the board. The board shall report annually to the
2 appropriate standing committees of the legislature on loans made and
3 grants awarded and as appropriate on program reviews conducted by the
4 board.

5 **Sec. 13.** RCW 70.210.070 and 2003 c 403 s 8 are each amended to
6 read as follows:

7 (1) (~~The center~~) Innovate Washington shall administer the
8 investing in innovation (~~grants~~) program.

9 (2) Not more than one percent of the available funds from the
10 investing in innovation account may be used for administrative costs of
11 the program.

12 **Sec. 14.** RCW 42.30.110 and 2010 1st sp.s. c 33 s 5 are each
13 amended to read as follows:

14 (1) Nothing contained in this chapter may be construed to prevent
15 a governing body from holding an executive session during a regular or
16 special meeting:

17 (a) To consider matters affecting national security;

18 (b) To consider the selection of a site or the acquisition of real
19 estate by lease or purchase when public knowledge regarding such
20 consideration would cause a likelihood of increased price;

21 (c) To consider the minimum price at which real estate will be
22 offered for sale or lease when public knowledge regarding such
23 consideration would cause a likelihood of decreased price. However,
24 final action selling or leasing public property shall be taken in a
25 meeting open to the public;

26 (d) To review negotiations on the performance of publicly bid
27 contracts when public knowledge regarding such consideration would
28 cause a likelihood of increased costs;

29 (e) To consider, in the case of an export trading company,
30 financial and commercial information supplied by private persons to the
31 export trading company;

32 (f) To receive and evaluate complaints or charges brought against
33 a public officer or employee. However, upon the request of such
34 officer or employee, a public hearing or a meeting open to the public
35 shall be conducted upon such complaint or charge;

1 (g) To evaluate the qualifications of an applicant for public
2 employment or to review the performance of a public employee. However,
3 subject to RCW 42.30.140(4), discussion by a governing body of
4 salaries, wages, and other conditions of employment to be generally
5 applied within the agency shall occur in a meeting open to the public,
6 and when a governing body elects to take final action hiring, setting
7 the salary of an individual employee or class of employees, or
8 discharging or disciplining an employee, that action shall be taken in
9 a meeting open to the public;

10 (h) To evaluate the qualifications of a candidate for appointment
11 to elective office. However, any interview of such candidate and final
12 action appointing a candidate to elective office shall be in a meeting
13 open to the public;

14 (i) To discuss with legal counsel representing the agency matters
15 relating to agency enforcement actions, or to discuss with legal
16 counsel representing the agency litigation or potential litigation to
17 which the agency, the governing body, or a member acting in an official
18 capacity is, or is likely to become, a party, when public knowledge
19 regarding the discussion is likely to result in an adverse legal or
20 financial consequence to the agency.

21 This subsection (1)(i) does not permit a governing body to hold an
22 executive session solely because an attorney representing the agency is
23 present. For purposes of this subsection (1)(i), "potential
24 litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a)
25 concerning:

26 (i) Litigation that has been specifically threatened to which the
27 agency, the governing body, or a member acting in an official capacity
28 is, or is likely to become, a party;

29 (ii) Litigation that the agency reasonably believes may be
30 commenced by or against the agency, the governing body, or a member
31 acting in an official capacity; or

32 (iii) Litigation or legal risks of a proposed action or current
33 practice that the agency has identified when public discussion of the
34 litigation or legal risks is likely to result in an adverse legal or
35 financial consequence to the agency;

36 (j) To consider, in the case of the state library commission or its
37 advisory bodies, western library network prices, products, equipment,
38 and services, when such discussion would be likely to adversely affect

1 the network's ability to conduct business in a competitive economic
2 climate. However, final action on these matters shall be taken in a
3 meeting open to the public;

4 (k) To consider, in the case of the state investment board,
5 financial and commercial information when the information relates to
6 the investment of public trust or retirement funds and when public
7 knowledge regarding the discussion would result in loss to such funds
8 or in private loss to the providers of this information;

9 (l) To consider proprietary or confidential nonpublished
10 information related to the development, acquisition, or implementation
11 of state purchased health care services as provided in RCW 41.05.026;

12 (m) To consider in the case of the life sciences discovery fund
13 authority, the substance of grant applications and grant awards when
14 public knowledge regarding the discussion would reasonably be expected
15 to result in private loss to the providers of this information;

16 (n) To consider in the case of a health sciences and services
17 authority, the substance of grant applications and grant awards when
18 public knowledge regarding the discussion would reasonably be expected
19 to result in private loss to the providers of this information;

20 (o) To consider in the case of innovate Washington, the substance
21 of grant or loan applications and grant or loan awards if public
22 knowledge regarding the discussion would reasonably be expected to
23 result in private loss to the providers of this information.

24 (2) Before convening in executive session, the presiding officer of
25 a governing body shall publicly announce the purpose for excluding the
26 public from the meeting place, and the time when the executive session
27 will be concluded. The executive session may be extended to a stated
28 later time by announcement of the presiding officer.

29 **Sec. 15.** RCW 42.56.270 and 2009 c 394 s 3 are each amended to read
30 as follows:

31 The following financial, commercial, and proprietary information is
32 exempt from disclosure under this chapter:

33 (1) Valuable formulae, designs, drawings, computer source code or
34 object code, and research data obtained by any agency within five years
35 of the request for disclosure when disclosure would produce private
36 gain and public loss;

1 (2) Financial information supplied by or on behalf of a person,
2 firm, or corporation for the purpose of qualifying to submit a bid or
3 proposal for (a) a ferry system construction or repair contract as
4 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
5 or improvement as required by RCW 47.28.070;

6 (3) Financial and commercial information and records supplied by
7 private persons pertaining to export services provided under chapters
8 43.163 and 53.31 RCW, and by persons pertaining to export projects
9 under RCW 43.23.035;

10 (4) Financial and commercial information and records supplied by
11 businesses or individuals during application for loans or program
12 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
13 43.168 RCW, or during application for economic development loans or
14 program services provided by any local agency;

15 (5) Financial information, business plans, examination reports, and
16 any information produced or obtained in evaluating or examining a
17 business and industrial development corporation organized or seeking
18 certification under chapter 31.24 RCW;

19 (6) Financial and commercial information supplied to the state
20 investment board by any person when the information relates to the
21 investment of public trust or retirement funds and when disclosure
22 would result in loss to such funds or in private loss to the providers
23 of this information;

24 (7) Financial and valuable trade information under RCW 51.36.120;

25 (8) Financial, commercial, operations, and technical and research
26 information and data submitted to or obtained by the clean Washington
27 center in applications for, or delivery of, program services under
28 chapter 70.95H RCW;

29 (9) Financial and commercial information requested by the public
30 stadium authority from any person or organization that leases or uses
31 the stadium and exhibition center as defined in RCW 36.102.010;

32 (10)(a) Financial information, including but not limited to account
33 numbers and values, and other identification numbers supplied by or on
34 behalf of a person, firm, corporation, limited liability company,
35 partnership, or other entity related to an application for a horse
36 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
37 license, gambling license, or lottery retail license;

1 (b) Internal control documents, independent auditors' reports and
2 financial statements, and supporting documents: (i) Of house-banked
3 social card game licensees required by the gambling commission pursuant
4 to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes
5 with an approved tribal/state compact for class III gaming;

6 (11) Proprietary data, trade secrets, or other information that
7 relates to: (a) A vendor's unique methods of conducting business; (b)
8 data unique to the product or services of the vendor; or (c)
9 determining prices or rates to be charged for services, submitted by
10 any vendor to the department of social and health services for purposes
11 of the development, acquisition, or implementation of state purchased
12 health care as defined in RCW 41.05.011;

13 (12)(a) When supplied to and in the records of the department of
14 (~~community, trade, and economic development~~) commerce:

15 (i) Financial and proprietary information collected from any person
16 and provided to the department of (~~community, trade, and economic~~
17 ~~development~~) commerce pursuant to RCW 43.330.050(8); and

18 (ii) Financial or proprietary information collected from any person
19 and provided to the department of (~~community, trade, and economic~~
20 ~~development~~) commerce or the office of the governor in connection with
21 the siting, recruitment, expansion, retention, or relocation of that
22 person's business and until a siting decision is made, identifying
23 information of any person supplying information under this subsection
24 and the locations being considered for siting, relocation, or expansion
25 of a business;

26 (b) When developed by the department of (~~community, trade, and~~
27 ~~economic development~~) commerce based on information as described in
28 (a)(i) of this subsection, any work product is not exempt from
29 disclosure;

30 (c) For the purposes of this subsection, "siting decision" means
31 the decision to acquire or not to acquire a site;

32 (d) If there is no written contact for a period of sixty days to
33 the department of (~~community, trade, and economic development~~)
34 commerce from a person connected with siting, recruitment, expansion,
35 retention, or relocation of that person's business, information
36 described in (a)(ii) of this subsection will be available to the public
37 under this chapter;

1 (13) Financial and proprietary information submitted to or obtained
2 by the department of ecology or the authority created under chapter
3 70.95N RCW to implement chapter 70.95N RCW;

4 (14) Financial, commercial, operations, and technical and research
5 information and data submitted to or obtained by the life sciences
6 discovery fund authority in applications for, or delivery of, grants
7 under chapter 43.350 RCW, to the extent that such information, if
8 revealed, would reasonably be expected to result in private loss to the
9 providers of this information;

10 (15) Financial and commercial information provided as evidence to
11 the department of licensing as required by RCW 19.112.110 or
12 19.112.120, except information disclosed in aggregate form that does
13 not permit the identification of information related to individual fuel
14 licensees;

15 (16) Any production records, mineral assessments, and trade secrets
16 submitted by a permit holder, mine operator, or landowner to the
17 department of natural resources under RCW 78.44.085;

18 (17)(a) Farm plans developed by conservation districts, unless
19 permission to release the farm plan is granted by the landowner or
20 operator who requested the plan, or the farm plan is used for the
21 application or issuance of a permit;

22 (b) Farm plans developed under chapter 90.48 RCW and not under the
23 federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to
24 RCW 42.56.610 and 90.64.190;

25 (18) Financial, commercial, operations, and technical and research
26 information and data submitted to or obtained by a health sciences and
27 services authority in applications for, or delivery of, grants under
28 RCW 35.104.010 through 35.104.060, to the extent that such information,
29 if revealed, would reasonably be expected to result in private loss to
30 providers of this information;

31 (19) Information gathered under chapter 19.85 RCW or RCW 34.05.328
32 that can be identified to a particular business; (~~and~~)

33 (20) Financial and commercial information submitted to or obtained
34 by the University of Washington, other than information the university
35 is required to disclose under RCW 28B.20.150, when the information
36 relates to investments in private funds, to the extent that such
37 information, if revealed, would reasonably be expected to result in

1 loss to the University of Washington consolidated endowment fund or to
2 result in private loss to the providers of this information; and
3 (21) Financial, commercial, operations, and technical and research
4 information and data submitted to or obtained by innovate Washington in
5 applications for, or delivery of, grants and loans under chapter 43.---
6 RCW (the new chapter created in section 19 of this act), to the extent
7 that such information, if revealed, would reasonably be expected to
8 result in private loss to the providers of this information.

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

11 (1) RCW 28B.20.283 (Washington technology center--Findings) and
12 1995 c 399 s 25 & 1992 c 142 s 1;

13 (2) RCW 28B.20.285 (Washington technology center--Created--Purpose)
14 and 2004 c 151 s 3, 2003 c 403 s 10, 1992 c 142 s 3, & 1983 1st ex.s.
15 c 72 s 11;

16 (3) RCW 28B.20.287 (Washington technology center--Definitions) and
17 2004 c 151 s 4 & 1992 c 142 s 2;

18 (4) RCW 28B.20.289 (Washington technology center--Administration--
19 Board of directors) and 2003 c 403 s 11, 1995 c 399 s 26, & 1992 c 142
20 s 4;

21 (5) RCW 28B.20.291 (Washington technology center--Support from
22 participating institutions) and 1992 c 142 s 5;

23 (6) RCW 28B.20.293 (Washington technology center--Role of
24 department of community, trade, and economic development) and 1995 c
25 399 s 27 & 1992 c 142 s 6;

26 (7) RCW 28B.20.295 (Washington technology center--Availability of
27 facilities to other institutions) and 1992 c 142 s 7;

28 (8) RCW 28B.20.296 (Washington technology center--Renewable energy
29 and energy efficiency business development--Strategic plan) and 2004 c
30 151 s 2;

31 (9) RCW 28B.20.297 (Washington technology center--Small business
32 innovation research assistance program) and 2005 c 357 s 1;

33 (10) RCW 28B.38.010 (Spokane intercollegiate research and
34 technology institute) and 2004 c 275 s 55 & 1998 c 344 s 9;

35 (11) RCW 28B.38.020 (Administration--Board of directors--Powers and
36 duties) and 1998 c 344 s 10;

- 1 (12) RCW 28B.38.030 (Support from participating institutions) and
2 1998 c 344 s 11;
- 3 (13) RCW 28B.38.040 (Operating staff--Cooperative agreements for
4 programs and research) and 1998 c 344 s 12;
- 5 (14) RCW 28B.38.050 (Role of department of community, trade, and
6 economic development) and 1998 c 344 s 13;
- 7 (15) RCW 28B.38.060 (Availability of facilities to other
8 institutions) and 1998 c 344 s 14;
- 9 (16) RCW 28B.38.070 (Authority to receive and expend funds) and
10 1998 c 344 s 15; and
- 11 (17) RCW 28B.38.900 (Captions not law) and 1998 c 344 s 16.

12 NEW SECTION. **Sec. 17.** (1) The Spokane intercollegiate research
13 and technology institute and the Washington technology center are
14 hereby abolished and the powers, duties, and functions are hereby
15 transferred to innovate Washington. Once the board created in section
16 2 of this act has convened, all references to the Spokane
17 intercollegiate research and technology institute or the Washington
18 technology center in the Revised Code of Washington shall be construed
19 to mean innovate Washington.

20 (2)(a) All reports, documents, surveys, books, records, files,
21 papers, or written material in the possession of the Spokane
22 intercollegiate research and technology institute or the Washington
23 technology center shall be delivered to the custody of innovate
24 Washington. All cabinets, furniture, office equipment, motor vehicles,
25 and other tangible property employed by the Spokane intercollegiate
26 research and technology institute or the Washington technology center
27 shall be made available to innovate Washington. All funds, credits, or
28 other assets held by the Spokane intercollegiate research and
29 technology institute or the Washington technology center shall be
30 assigned to innovate Washington.

31 (b) Any appropriations made to the Spokane intercollegiate research
32 and technology institute or the Washington technology center shall, on
33 the effective date of this section, be transferred and credited to
34 innovate Washington.

35 (c) If any question arises as to the transfer of any personnel,
36 funds, books, documents, records, papers, files, equipment, or other
37 tangible property used or held in the exercise of the powers and the

1 performance of the duties and functions transferred, the director of
2 financial management shall make a determination as to the proper
3 allocation and certify the same to the state agencies concerned.

4 (3) All employees of the Spokane intercollegiate research and
5 technology institute or the Washington technology center are
6 transferred to the jurisdiction of innovate Washington. All employees
7 classified under chapter 41.06 RCW, the state civil service law, are
8 assigned to innovate Washington to perform their usual duties upon the
9 same terms as formerly, without any loss of rights, subject to any
10 action that may be appropriate thereafter in accordance with the laws
11 and rules governing state civil service.

12 (4) All rules and all pending business before the Spokane
13 intercollegiate research and technology institute or the Washington
14 technology center shall be continued and acted upon by innovate
15 Washington. All existing contracts and obligations shall remain in
16 full force and shall be performed by innovate Washington.

17 (5) The transfer of the powers, duties, functions, and personnel of
18 the Spokane intercollegiate research and technology institute and the
19 Washington technology center shall not affect the validity of any act
20 performed before the effective date of this section.

21 (6) If apportionments of budgeted funds are required because of the
22 transfers directed by this section, the director of financial
23 management shall certify the apportionments to the agencies affected,
24 the state auditor, and the state treasurer. Each of these shall make
25 the appropriate transfer and adjustments in funds and appropriation
26 accounts and equipment records in accordance with the certification.

27 (7) All classified employees of the Spokane intercollegiate
28 research and technology institute or the Washington technology center
29 assigned to innovate Washington under this section whose positions are
30 within an existing bargaining unit description at innovate Washington
31 shall become a part of the existing bargaining unit at innovate
32 Washington and shall be considered an appropriate inclusion or
33 modification of the existing bargaining unit under the provisions of
34 chapter 41.80 RCW.

35 NEW SECTION. **Sec. 18.** RCW 70.210.070 is recodified as a section
36 in chapter 43.--- RCW (the new chapter created in section 19 of this
37 act).

1 NEW SECTION. **Sec. 19.** Sections 1 through 4 and 17 of this act
2 constitute a new chapter in Title 43 RCW.

3 NEW SECTION. **Sec. 20.** This act takes effect August 1, 2011."

ESB 5764 - S AMD

By Senators Kastama, Baumgartner

ADOPTED 04/27/2011

4 On page 1, beginning on line 1 of the title, after "Washington;"
5 strike the remainder of the title and insert "amending RCW 28B.50.902,
6 70.210.010, 70.210.020, 70.210.030, 70.210.040, 70.210.050, 70.210.060,
7 70.210.070, 42.30.110, and 42.56.270; adding a new section to chapter
8 41.06 RCW; adding a new chapter to Title 43 RCW; recodifying RCW
9 70.210.070; repealing RCW 28B.20.283, 28B.20.285, 28B.20.287,
10 28B.20.289, 28B.20.291, 28B.20.293, 28B.20.295, 28B.20.296, 28B.20.297,
11 28B.38.010, 28B.38.020, 28B.38.030, 28B.38.040, 28B.38.050, 28B.38.060,
12 28B.38.070, and 28B.38.900; and providing an effective date."

EFFECT: Modifies the mission of Innovate Washington to be the primary agency focused on growing the innovation-based economic sectors of the state.

Clarifies that Innovate Washington's functions are contingent on available funds.

Replaces the requirement to provide research and technology opportunities with a requirement to facilitate research and technology transfer opportunities.

Directs that securing federal and private funds are to support product research and commercialization and not just research.

Adds to the duties of Innovate Washington to facilitate public-private partnerships that support the growth of strategic, innovation-based sectors.

Specifies that Innovate Washington will serve as the lead entity for coordinating clean energy initiatives in the state and establishing long-term funding.

Adds to the duties of Innovate Washington to work with utilities,

district energy providers, the Utilities and Transportation Commission, and the State Energy Office to improve the alignment of investments in clean energy technologies with existing state policies.

Replaces the legislative members on the Innovate Washington who are Chairs of the economic development committees with one member from each of the largest caucuses in the Senate and House appointed by the President of the Senate and the Speaker of the House respectively. Provides that four of the seven private sector appointees to the board must be from manufacturing firms.

Requires that the report to the governor and legislature must include measures of results related to manufacturing facilities established in Washington.

Removes provisions establishing the clean energy partnership and clean energy fund and adds a clean energy component to the 5-year business plan produced by Innovate Washington.

Removes the requirement that policies and procedures developed by the Department of Commerce for funding under the Energy Freedom Account, the Green Energy Incentive Account, and the Energy Recovery Act Account must be approved by the clean energy partnership and therefore the proposal does not change current law in this respect.

Specifies that the clean energy component of the 5-year business plan must include a strategy for implementation for three of the primary market-driving initiatives identified by the Clean Energy Leadership Council in their 2010 report.

Provides that administrative responsibilities, facility support, and maintenance for Washington Technology Center facilities shall transfer to Innovate Washington except to the extent that these are the subject of an interagency agreement between the University of Washington and the Washington Technology Center, in which case the agreement will control.

Replaces the requirement to make facilities available to any higher education institution in the state with permission to make facilities available to any research institution or any public institution of higher education in the state.

Removes the explicit mention of Washington State University and Western Washington University from the direction to create a plan for additional facilities in the Tri-Cities, Vancouver, and Bellingham.

Requires that the chairs of the sector advisory committees are ex officio, voting members.

Removes the contracting of legal counsel from a function of the board's powers.

Clarifies that affiliated organizations to facilitate partnerships and program delivery are not state agencies.

Clarifies that the innovation account is to receive state and federal funds, grants, private gifts, or contributions to further the purpose of Innovate Washington.

Adds priority criteria related funding awarded to enterprises by Innovate Washington.

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