
SUBSTITUTE SENATE BILL 6111

State of Washington**53rd Legislature****1994 Regular Session**

By Senate Committee on Government Operations (originally sponsored by Senators Drew, McCaslin, Gaspard, Sellar, Haugen, Snyder, Fraser, Franklin, Sheldon, Bauer, Owen, Spanel, Pelz, M. Rasmussen, Winsley, Oke and Skratek; by request of Commission on Ethics in Government & Campaign Financing, Governor Lowry and Attorney General)

Read first time 02/04/94.

1 AN ACT Relating to ethics in public service; amending RCW
2 42.18.270, 42.18.217, 42.18.230, 42.18.260, 27.26.070, 28B.50.060,
3 28C.18.040, 35.02.130, 35.21.418, 43.33A.110, 43.72.020, 51.36.110,
4 66.08.080, 67.16.160, 80.50.030, and 86.09.286; adding a new section to
5 chapter 42.23 RCW; adding a new chapter to Title 42 RCW; creating new
6 sections; recodifying RCW 42.18.217, 42.18.230, 42.18.260, 42.18.270,
7 42.18.330, and 42.22.050; repealing RCW 42.18.010, 42.18.020,
8 42.18.030, 42.18.040, 42.18.050, 42.18.060, 42.18.070, 42.18.080,
9 42.18.090, 42.18.100, 42.18.110, 42.18.120, 42.18.130, 42.18.140,
10 42.18.150, 42.18.170, 42.18.180, 42.18.190, 42.18.200, 42.18.210,
11 42.18.213, 42.18.215, 42.18.221, 42.18.240, 42.18.250, 42.18.280,
12 42.18.290, 42.18.300, 42.18.310, 42.18.320, 42.18.900, 42.20.010,
13 42.21.010, 42.21.020, 42.21.030, 42.21.040, 42.21.050, 42.21.080,
14 42.21.090, 42.22.010, 42.22.020, 42.22.030, 42.22.040, 42.22.060,
15 42.22.070, 42.22.120, 44.60.010, 44.60.020, 44.60.030, 44.60.040,
16 44.60.050, 44.60.070, 44.60.080, 44.60.090, 44.60.100, 44.60.110,
17 44.60.120, and 44.60.130; prescribing penalties; and providing an
18 effective date.

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

1 executive, or judicial branch of state government. "Agency" includes
2 all elective offices, the state legislature, those institutions of
3 higher education created and supported by the state government, and
4 those courts that are parts of state government.

5 (2) "Head of agency" means the chief executive officer of an
6 agency. In the case of an agency headed by a commission, board,
7 committee, or other body consisting of more than one natural person,
8 agency head means the person or board authorized to appoint agency
9 employees and regulate their conduct.

10 (3) "Assist" means to act, or offer or agree to act, in such a way
11 as to help, aid, advise, furnish information to, or otherwise provide
12 assistance to another person, believing that the action is of help,
13 aid, advice, or assistance to the person and with intent so to assist
14 such person.

15 (4) "Beneficial interest" means the right to receive any income or
16 other advantage pursuant to a contract, sale, lease, purchase, or
17 grant. An ownership interest in a mutual fund or similar investment
18 pooling fund in which the owner has no management powers does not
19 constitute a beneficial interest in the entities in which the fund or
20 pool invests.

21 (5) "Compensation" means anything of economic value, however
22 designated, that is paid, loaned, granted, or transferred, or to be
23 paid, loaned, granted, or transferred for, or in consideration of,
24 personal services to any person.

25 (6) "Confidential information" means (a) specific information,
26 rather than generalized knowledge, that is not available to the general
27 public on request or (b) information made confidential by law.

28 (7) "Ethics boards" means the commission on judicial conduct, the
29 legislative ethics board, and the executive ethics board.

30 (8) "Family" has the same meaning as "immediate family" in RCW
31 42.17.020.

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

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

1 (b) Items related to the outside business of the recipient that are
2 customary and not related to the recipient's performance of official
3 duties;

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

6 (d) Payments by a governmental or nongovernmental entity of
7 reasonable expenses incurred in connection with a speech, presentation,
8 appearance, or trade mission made in an official capacity. As used in
9 this subsection, "reasonable expenses" are limited to travel, lodging,
10 and subsistence expenses incurred the day before through the day after
11 the event;

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

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

20 (g) Items returned by the recipient to the donor within thirty days
21 of receipt or donated to a charitable organization within thirty days
22 of receipt;

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

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

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

30 (11) "Participate" means to participate in state action or a
31 proceeding personally and substantially as a state officer or state
32 employee, through approval, disapproval, decision, recommendation, the
33 rendering of advice, investigation, or otherwise.

34 (12) "Person" means any individual, partnership, association,
35 corporation, firm, institution, or other entity, whether or not
36 operated for profit.

37 (13) "Regulatory agency" means any state board, commission,
38 department, or officer, except those in the legislative or judicial
39 branches, authorized by law to conduct adjudicative proceedings, issue

1 permits or licenses, or to control or affect interests of identified
2 persons.

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

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

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

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

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

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

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

33 (a) A loan, property interest, interest in a contract or other
34 chose in action, and employment or another arrangement involving a
35 right to compensation;

36 (b) An option, irrespective of the conditions to the exercise of
37 the option; and

38 (c) A promise or undertaking for the present or future delivery or
39 procurement.

1 (19) "Transaction involving the state" means a proceeding,
2 application, submission, request for a ruling or other determination,
3 contract, claim, case, or other similar matter that the state officer,
4 state employee, or former state officer or state employee in question
5 believes, or has reason to believe:

6 (a) Is, or will be, the subject of state action; or

7 (b) Is one to which the state is or will be a party; or

8 (c) Is one in which the state has a direct and substantial
9 proprietary interest.

10 "Transaction involving the state" does not include legislation or
11 proposed legislation.

12 NEW SECTION. **Sec. 102.** ACTIVITIES INCOMPATIBLE WITH PUBLIC
13 DUTIES. No state officer or state employee may have an interest,
14 financial or otherwise, direct or indirect, or engage in a business or
15 transaction or professional activity, or incur an obligation of any
16 nature, that is in conflict with the proper discharge of the state
17 officer's or state employee's duties.

18 NEW SECTION. **Sec. 103.** FINANCIAL INTERESTS IN TRANSACTIONS. No
19 state officer or state employee may be beneficially interested,
20 directly or indirectly, in a contract, sale, lease, purchase, or grant
21 that may be made by, through, or is under the supervision of the
22 officer or employee, in whole or in part, or accept, directly or
23 indirectly, any compensation, gratuity, or reward from any other person
24 beneficially interested in the contract, sale, lease, purchase, or
25 grant.

26 (2) No state officer or state employee may transact business in his
27 or her official capacity with a person of which the officer or employee
28 is an officer, agent, employee, or member, or in which the officer or
29 employee owns an interest.

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

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

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

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

7 (3) A business entity of which a state officer or state employee is
8 a partner, managing officer, or employee shall not assist another
9 person in a transaction involving the state if the state officer or
10 state employee is prohibited from doing so by subsection (1) of this
11 section.

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

14 (a) The state officer's or state employee's parent, spouse, or
15 child, or a child thereof for whom the officer or employee is serving
16 as guardian, executor, administrator, trustee, or other personal
17 fiduciary, if the state officer or state employee did not participate
18 in the transaction; or

19 (b) Another state employee involved in disciplinary or other
20 personnel administration proceedings.

21 NEW SECTION. **Sec. 105.** CONFIDENTIAL INFORMATION. No state
22 officer or state employee may accept employment or engage in any
23 business or professional activity that the officer or employee might
24 reasonably expect would require or induce him or her to disclose
25 confidential information acquired by the official or employee by reason
26 of the official's or employee's official position.

27 (2) No state officer or state employee may disclose confidential
28 information gained by reason of the officer's or employee's official
29 position or otherwise use the information for his or her personal gain
30 or benefit or the gain or benefit of another.

31 (3) No state officer or state employee may disclose confidential
32 information to any person not entitled or authorized to receive the
33 information.

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

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

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

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

14 (a) The officer or employee, during the two years immediately
15 preceding termination of state employment, was engaged in the
16 negotiation or administration on behalf of the state or agency of one
17 or more contracts with that employer and was in a position to make
18 discretionary decisions affecting the outcome of such negotiation or
19 the nature of such administration;

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

22 (c) The duties of the employment with the employer or the
23 activities for which the compensation would be received include
24 fulfilling or implementing, in whole or in part, the provisions of such
25 a contract or contracts or include the supervision or control of
26 actions taken to fulfill or implement, in whole or in part, the
27 provisions of such a contract or contracts. This subsection shall not
28 be construed to prohibit a state officer or state employee from
29 accepting employment with a state employee organization.

30 (2) No person who has served as a state officer or state employee
31 may, within a period of two years following the termination of state
32 employment, have a direct or indirect beneficial interest in a contract
33 or grant that was expressly authorized or funded by specific
34 legislative or executive action in which the former state officer or
35 state employee participated.

36 (3) No former state officer or state employee may accept an offer
37 of employment or receive compensation from an employer if the officer

1 or employee knows or has reason to believe that the offer of employment
2 or compensation was intended, in whole or in part, directly or
3 indirectly, to influence the officer or employee or as compensation or
4 reward for the performance or nonperformance of a duty by the officer
5 or employee during the course of state employment.

6 (4) No former state officer or state employee may accept an offer
7 of employment or receive compensation from an employer if the
8 circumstances would lead a reasonable person to believe the offer has
9 been made, or compensation given, for the purpose of influencing the
10 performance or nonperformance of duties by the officer or employee
11 during the course of state employment.

12 (5) No former state officer or state employee may at any time
13 subsequent to his or her state employment assist another person,
14 whether or not for compensation, in any transaction involving the state
15 in which the former state officer or state employee at any time
16 participated during state employment. This subsection shall not be
17 construed to prohibit any employee or officer of a state employee
18 organization from rendering assistance to state officers or state
19 employees in the course of employee organization business.

20 (6) As used in this section, "employer" means a person as defined
21 in section 101 of this act or an affiliate of such employer.

22 NEW SECTION. Sec. 109. FORMER STATE OFFICERS AND STATE EMPLOYEES.
23 This chapter shall not be construed to prevent a former state officer
24 or state employee from rendering assistance to others if the assistance
25 is provided without compensation in any form and is limited to one or
26 more of the following:

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

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

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

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

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

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

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

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

12 (2) Findings of violations referred to in subsection (1)(b) of this
13 section shall be made on record after notice and hearing, conducted in
14 accordance with the Washington Administrative Procedure Act, chapter
15 34.05 RCW. Such findings and orders are subject to judicial review.

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

18 NEW SECTION. Sec. 111. COMPENSATION FOR OFFICIAL DUTIES. No
19 state officer or state employee may, directly or indirectly, ask for or
20 give or receive or agree to receive any compensation, gift, reward, or
21 gratuity from a source except the state of Washington for performing or
22 omitting or deferring the performance of any official duty, unless
23 otherwise authorized by law.

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

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

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

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

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

4 (e) The contract or grant is not one expressly created or
5 authorized by the officer or employee or his or her agency;

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

8 (2) In addition to satisfying the requirements of subsection (1) of
9 this section, a state officer or state employee may have a beneficial
10 interest in a grant or contract with the state, a state agency, or a
11 local government in connection with a program receiving substantial
12 funding from the state only if:

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

16 (b) The contract or grant is awarded or issued as a result of an
17 open and competitive bidding or selection process in which the
18 officer's or employee's bid or proposal was the only bid or proposal
19 received and the officer or employee has been advised by the
20 appropriate ethics board, before execution of the contract or grant,
21 that the contract or grant would not present an unacceptable conflict
22 with the officer's or employee's official duties; or

23 (c) The process for awarding the contract or issuing the grant is
24 not open and competitive, but the officer or employee has been advised
25 by the appropriate ethics board that the contract or grant would not
26 present an unacceptable conflict with the officer's or employee's
27 official duties.

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

32 (4) This section does not prevent a state officer or state employee
33 from receiving compensation contributed from the treasury of the United
34 States, another state, county, or municipality if the compensation is
35 received pursuant to arrangements entered into between such state,
36 county, municipality, or the United States and the officer's or
37 employee's agency. This section does not prohibit a state officer or
38 state employee from serving or performing any duties under an
39 employment contract with a governmental entity.

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

7 NEW SECTION. **Sec. 113.** HONORARIA. (1) No state officer or state
8 employee may receive honoraria unless specifically authorized by
9 policies that have been adopted by the agencies where they serve as
10 state officers or state employees and that have been approved by the
11 appropriate ethics board.

12 (2) An ethics board may disapprove a policy that permits honoraria
13 under the following circumstances, among others:

14 (a) The person offering the honoraria is seeking or is reasonably
15 expected to seek contractual relations with or a grant from the
16 employer of the state officer or state employee, and the officer or
17 employee is in a position to participate in the terms or the award of
18 the contract or grant;

19 (b) The person offering the honoraria is regulated by the employer
20 of the state officer or state employee and the officer or employee is
21 in a position to participate in the regulation; or

22 (c) The person offering the honoraria (i) is seeking or opposing or
23 is reasonably likely to seek or oppose enactment of legislation or
24 adoption of administrative rules or actions, or policy changes by the
25 state officer's or state employee's agency; and (ii) the officer or
26 employee may participate in the enactment or adoption.

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

33 NEW SECTION. **Sec. 115.** LIMITATIONS ON GIFTS. (1) No state
34 officer or state employee may accept gifts, other than those specified
35 in subsections (2) and (5) of this section, with an aggregate value in
36 excess of fifty dollars from a single source in a calendar year or a

1 single gift from multiple sources with a value in excess of fifty
2 dollars. For purposes of this section, "single source" means any
3 person, as defined in section 101 of this act, whether acting directly
4 or through any agent or other intermediary, and "single gift" includes
5 any event, item, or group of items used in conjunction with each other
6 or any trip including transportation, lodging, and attendant costs, not
7 excluded from the definition of gift under section 101 of this act.
8 The value of gifts given to an officer's or employee's family member
9 shall be attributed to the official or employee for the purpose of
10 determining whether the limit has been exceeded, unless an independent
11 business, family, or social relationship exists between the donor and
12 the family member.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (ii) Payments for seminars and educational programs sponsored by a
30 bona fide nonprofit professional, educational, or trade association, or
31 charitable institution; and

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

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

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

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

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

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

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

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

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

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

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

28 ~~Exceptions to this subsection (2) may be made by regulations issued~~
29 ~~pursuant to RCW 42.18.240 in situations referred to in RCW~~
30 ~~42.18.200(3).)~~

31 NEW SECTION. **Sec. 118.** USE OF PUBLIC RESOURCES FOR POLITICAL
32 CAMPAIGNS. (1) No state officer or state employee may use or authorize
33 the use of facilities of an agency, directly or indirectly, for the
34 purpose of assisting a campaign for election of a person to an office
35 or for the promotion of or opposition to a ballot proposition. Knowing
36 acquiescence by a person with authority to direct, control, or
37 influence the actions of the state officer or state employee using

1 public resources in violation of this section constitutes a violation
2 of this section. Facilities of an agency include, but are not limited
3 to, use of stationery, postage, machines, and equipment, use of state
4 employees of the agency during working hours, vehicles, office space,
5 publications of the agency, and clientele lists of persons served by
6 the agency.

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

8 (a) Action taken at an open public meeting by members of an elected
9 legislative body to express a collective decision, or to actually vote
10 upon a motion, proposal, resolution, order, or ordinance, or to support
11 or oppose a ballot proposition as long as (i) required notice of the
12 meeting includes the title and number of the ballot proposition, and
13 (ii) members of the legislative body or members of the public are
14 afforded an approximately equal opportunity for the expression of an
15 opposing view;

16 (b) A statement by an elected official in support of or in
17 opposition to any ballot proposition at an open press conference or in
18 response to a specific inquiry. For the purposes of this subsection,
19 it is not a violation of this section for an elected official to
20 respond to an inquiry regarding a ballot proposition, to make
21 incidental remarks concerning a ballot proposition in an official
22 communication, or otherwise comment on a ballot proposition without an
23 actual, measurable expenditure of public funds. The public disclosure
24 commission shall, after consultation with the ethics boards, adopt by
25 rule a definition of measurable expenditure;

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

28 (d) Initiation of written and verbal communications by state-wide
29 elected officials and legislators of their views on ballot propositions
30 that foreseeably may affect a matter that falls within their
31 constitutional or statutory responsibilities; and

32 (e) De minimis use of public facilities by state-wide elected
33 officials and legislators incidental to the preparation or delivery of
34 permissible communications.

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

37 NEW SECTION. **Sec. 119.** INVESTMENTS. (1) Except for permissible
38 investments as defined in this section, no state officer or state

1 employee of any agency responsible for the investment of funds, who
2 acts in a decision-making, advisory, or policy-influencing capacity
3 with respect to investments, may have a direct or indirect interest in
4 any property, security, equity, or debt instrument of a person, without
5 prior written approval of the agency.

6 (2) Agencies responsible for the investment of funds shall adopt
7 policies governing approval of investments and establishing criteria to
8 be considered in the approval process. Criteria shall include the
9 relationship between the proposed investment and investments held or
10 under consideration by the state, the size and timing of the proposed
11 investment, access by the state officer or state employee to nonpublic
12 information relative to the proposed investment, and the availability
13 of the investment in the public market. Agencies responsible for the
14 investment of funds also shall adopt policies consistent with this
15 chapter governing use by their officers and employees of financial
16 information acquired by virtue of their state positions. A violation
17 of such policies adopted to implement this subsection shall constitute
18 a violation of this chapter.

19 (3) As used in this section, "permissible investments" means any
20 mutual fund, deposit account, certificate of deposit, or money market
21 fund maintained with a bank, broker, or other financial institution, a
22 security publicly traded in an organized market if the interest in the
23 security at acquisition is ten thousand dollars or less, or an interest
24 in real estate, except if the real estate interest is in or with a
25 party in whom the agency holds an investment.

26 NEW SECTION. **Sec. 120.** AGENCY POLICIES. (1) Each agency may
27 establish policies consistent with law, for use within the agency to
28 protect against violations of this chapter.

29 (2) Policies adopted under this section shall be approved by the
30 appropriate ethics board before they may take effect. The board may
31 disapprove agency policies if the board determines that the policies
32 conflict or are inconsistent with this chapter or rules adopted by the
33 board.

34 NEW SECTION. **Sec. 121.** A new section is added to chapter 42.23
35 RCW to read as follows:

36 (1) No municipal officer may use his or her position to secure
37 special privileges or exemptions for himself, herself, or others.

1 (2) No municipal officer may, directly or indirectly, give or
2 receive or agree to receive any compensation, gift, reward, or gratuity
3 from a source except the employing municipality, for a matter connected
4 with or related to the officer's services as such an officer unless
5 otherwise provided for by law.

6 (3) No municipal officer may accept employment or engage in
7 business or professional activity that the officer might reasonably
8 expect would require or induce him or her by reason of his or her
9 official position to disclose confidential information acquired by
10 reason of his or her official position.

11 (4) No municipal officer may disclose confidential information
12 gained by reason of the officer's position, nor may the officer
13 otherwise use such information for his or her personal gain or benefit.

14 **PART II**

15 **ETHICS ENFORCEMENT BOARDS**

16 NEW SECTION. **Sec. 201.** LEGISLATIVE ETHICS BOARD. (1) The
17 legislative ethics board is created, composed of nine members, selected
18 as follows:

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

21 (b) Two members of the house of representatives, one from each of
22 the two largest caucuses, appointed by the speaker of the house of
23 representatives;

24 (c) Five citizen members:

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

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

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

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

33 (4) Terms of initial nonlegislative board members shall be
34 staggered as follows: One member shall be appointed to a one-year
35 term; one member shall be appointed to a two-year term; one member
36 shall be appointed to a three-year term; one member shall be appointed

1 to a four-year term; and one member shall be appointed for a five-year
2 term.

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

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

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

10 (8) The citizen members shall annually select a chair from among
11 themselves.

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

13 (1) The legislative ethics board shall hear all matters related to the
14 statutes, rules, and policies that establish standards of ethical
15 conduct by members and employees of the legislature. Subject to the
16 limitations in section 223 of this act, the legislative ethics board
17 has jurisdiction over matters involving any alleged violation occurring
18 before January 1, 1995, based on the statutes, rules, and policies in
19 effect at the time of the violation.

20 (2) The legislative ethics board shall:

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

23 (b) Issue advisory opinions;

24 (c) Adopt rules or policies, including but not limited to defining
25 working hours;

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

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

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

31 (g) Establish criteria regarding the levels of civil penalties
32 appropriate for different types of violations of this chapter and rules
33 and policies adopted under it.

34 (3) The board may:

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

38 (b) Administer oaths and affirmations;

- 1 (c) Examine witnesses; and
- 2 (d) Receive evidence.

3 NEW SECTION. **Sec. 203.** TRANSFER OF JURISDICTION. On the
4 effective date of this section, any complaints or other matters under
5 investigation or consideration by the boards of legislative ethics in
6 the house of representatives and the senate operating pursuant to
7 chapter 44.60 RCW shall be transferred to the legislative ethics board
8 created by this act. All files, including but not limited to minutes
9 of meetings, investigative files, records of proceedings, exhibits, and
10 expense records, shall be transferred to the legislative ethics board
11 created in this act pursuant to their direction and the legislative
12 ethics board created in this act shall assume full jurisdiction over
13 all pending complaints, investigations, and proceedings.

14 NEW SECTION. **Sec. 204.** EXECUTIVE ETHICS BOARD. (1) The executive
15 ethics board is created, composed of five members, appointed by the
16 governor as follows:

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

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

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

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

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

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

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

31 (4) Terms of initial board members shall be staggered as follows:
32 One member shall be appointed to a one-year term; one member shall be
33 appointed to a two-year term; one member shall be appointed to a three-
34 year term; one member shall be appointed to a four-year term; and one
35 member shall be appointed to a five-year term.

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

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

3 (7) The members shall annually select a chair from among
4 themselves.

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

6 NEW SECTION. **Sec. 205.** AUTHORITY OF EXECUTIVE ETHICS BOARD. (1)
7 The executive ethics board shall hear all matters related to the
8 statutes, rules, and policies that establish standards of ethical
9 conduct for state-wide elected officers and all other officers and
10 employees in the executive branch, boards and commissions, and
11 institutions of higher education. Subject to the limitations in
12 section 223 of this act, the executive ethics board has jurisdiction
13 over matters involving any alleged violation occurring before January
14 1, 1995, based on the statutes, rules, and policies in effect at the
15 time of the violation.

16 (2) The executive ethics board shall:

17 (a) Develop educational materials and training;

18 (b) Adopt rules or policies, including but not limited to defining
19 working hours;

20 (c) Issue advisory opinions;

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

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

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

26 (g) Establish criteria regarding the levels of civil penalties
27 appropriate for violations of this chapter and rules and policies
28 adopted under it.

29 (3) The board may:

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

33 (b) Administer oaths and affirmations;

34 (c) Examine witnesses; and

35 (d) Receive evidence.

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

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

3 NEW SECTION. **Sec. 206.** AUTHORITY OF COMMISSION ON JUDICIAL
4 CONDUCT. The commission on judicial conduct shall enforce this chapter
5 and rules and policies adopted under it with respect to state officers
6 and employees of the judicial branch and may do so according to
7 procedures prescribed in Article IV, section 31 of the state
8 Constitution. In addition to the sanctions authorized in Article IV,
9 section 31 of the state Constitution, the commission may impose
10 sanctions authorized by this chapter.

11 NEW SECTION. **Sec. 207.** POLITICAL ACTIVITIES OF CITIZEN BOARD
12 MEMBERS. No member of the executive ethics board and none of the five
13 citizen members of the legislative ethics board may (1) hold or
14 campaign for partisan elective office other than the position of
15 precinct committeeperson, or any full-time nonpartisan office; (2) be
16 an officer of any political party or political committee as defined in
17 chapter 42.17 RCW other than the position of precinct committeeperson;
18 (3) permit his or her name to be used, or make contributions, in
19 support of or in opposition to any state candidate or state ballot
20 measure; or (4) lobby or control, direct, or assist a lobbyist except
21 that such member may appear before any committee of the legislature on
22 matters pertaining to this chapter.

23 NEW SECTION. **Sec. 208.** HEARING AND SUBPOENA AUTHORITY. Except as
24 otherwise provided by law, the ethics boards may hold hearings,
25 subpoena witnesses, compel their attendance, administer oaths, take the
26 testimony of a person under oath, and in connection therewith, to
27 require the production for examination of any books or papers relating
28 to any matter under investigation or in question before the ethics
29 board. The ethics board may make rules as to the issuance of subpoenas
30 by individual members, as to service of complaints, decisions, orders,
31 recommendations, and other process or papers of the ethics board.

32 NEW SECTION. **Sec. 209.** ENFORCEMENT OF SUBPOENA AUTHORITY. In
33 case of refusal to obey a subpoena issued to a person, the superior
34 court of a county within the jurisdiction of which the investigation,
35 proceeding, or hearing under this chapter is carried on or within the

1 jurisdiction of which the person refusing to obey is found or resides
2 or transacts business, upon application by the appropriate ethics board
3 shall have jurisdiction to issue to the person an order requiring the
4 person to appear before the ethics board or its member to produce
5 evidence if so ordered, or to give testimony touching the matter under
6 investigation or in question. Failure to obey such order of the court
7 may be punished by the court as contempt.

8 NEW SECTION. **Sec. 210.** FILING COMPLAINT. (1) A person may,
9 personally or by his or her attorney, make, sign, and file with the
10 appropriate ethics board a complaint on a form provided by the
11 appropriate ethics board. The complaint shall state the name of the
12 person alleged to have violated this chapter or rules or policies
13 adopted under it and the particulars thereof, and contain such other
14 information as may be required by the appropriate ethics board.

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

18 NEW SECTION. **Sec. 211.** INVESTIGATION. After the filing of any
19 complaint, except as provided in section 214 of this act, the staff of
20 the appropriate ethics board shall investigate the complaint. The
21 investigation shall be limited to the alleged facts contained in the
22 complaint. The results of the investigation shall be reduced to
23 writing and a determination shall be made that there is or that there
24 is not reasonable cause to believe that a violation of this chapter or
25 rules or policies adopted under it has been or is being committed. A
26 copy of the written determination shall be provided to the complainant
27 and to the person named in such complaint.

28 NEW SECTION. **Sec. 212.** PUBLIC HEARING--FINDINGS. (1) If the
29 ethics board determines there is reasonable cause under section 211 of
30 this act that a violation of this chapter or rules or policies adopted
31 under it occurred, a public hearing on the merits of the complaint
32 shall be held.

33 (2) The ethics board shall designate the location of the hearing.
34 The case in support of the complaint shall be presented at the hearing
35 by staff of the ethics board.

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

5 (4) Testimony taken at the hearing shall be under oath and
6 recorded.

7 (5) If, based upon a preponderance of the evidence, the ethics
8 board finds that the respondent has violated this chapter or rules or
9 policies adopted under it, the board shall file an order stating
10 findings of fact and enforcement action as authorized under this
11 chapter.

12 (6) If, upon all the evidence, the ethics board finds that the
13 respondent has not engaged in an alleged violation of this chapter or
14 rules or policies adopted under it, the ethics board shall state
15 findings of fact and shall similarly issue and file an order dismissing
16 the complaint.

17 NEW SECTION. **Sec. 213.** REVIEW OF ORDER. Except as otherwise
18 provided by law, reconsideration or judicial review of an ethics
19 board's order that a violation of this chapter or rules or policies
20 adopted under it has occurred shall be governed by the provisions of
21 chapter 34.05 RCW applicable to review of adjudicative proceedings.

22 NEW SECTION. **Sec. 214.** COMPLAINT AGAINST LEGISLATOR OR STATE-WIDE
23 ELECTED OFFICIAL. (1) If a complaint alleges a violation of section
24 118 of this act by a legislator or state-wide elected official other
25 than the attorney general, the attorney general shall conduct the
26 investigation under section 211 of this act and recommend action to the
27 appropriate ethics board.

28 (2) If a complaint alleges a violation of section 118 of this act
29 by the attorney general, the state auditor shall conduct the
30 investigation under section 211 of this act and recommend action to the
31 appropriate ethics board.

32 NEW SECTION. **Sec. 215.** CITIZEN ACTIONS. Any person who has
33 notified the appropriate ethics board and the attorney general in
34 writing that there is reason to believe that some provision of this
35 chapter is being or has been violated may, in the name of the state,
36 bring a citizen action for any of the actions authorized under this

1 chapter. A citizen action may be brought only if the appropriate
2 ethics board or the attorney general have failed to commence an action
3 under this chapter within forty-five days after notice from the person,
4 the person has thereafter notified the appropriate ethics board and the
5 attorney general that the person will commence a citizen's action
6 within ten days upon their failure to commence an action, and the
7 appropriate ethics board and the attorney general have in fact failed
8 to bring an action within ten days of receipt of the second notice.

9 If the person who brings the citizen's action prevails, the
10 judgment awarded shall escheat to the state, but the person shall be
11 entitled to be reimbursed by the state of Washington for costs and
12 attorneys' fees incurred. If a citizen's action that the court finds
13 was brought without reasonable cause is dismissed, the court may order
14 the person commencing the action to pay all costs of trial and
15 reasonable attorneys' fees incurred by the defendant.

16 NEW SECTION. Sec. 216. REFERRAL FOR ENFORCEMENT. As appropriate,
17 an ethics board may refer a complaint:

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

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

23 NEW SECTION. Sec. 217. ACTION BY BOARDS. (1) Except as otherwise
24 provided by law, an ethics board may order payment of the following
25 amounts if it finds a violation of this chapter or rules or policies
26 adopted under it after a hearing under section 206 of this act or other
27 applicable law:

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

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

34 (c) Costs, including reasonable investigative costs, which shall be
35 included as part of the limit under (b) of this subsection.

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

1 NEW SECTION. **Sec. 218.** ACTION BY ATTORNEY GENERAL. 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 or policies adopted under it. In such action the attorney
10 general may recover the following amounts on behalf of the state of
11 Washington:

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

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

18 (3) Costs, including reasonable investigative costs, which shall be
19 included as part of the limit under subsection (2) of this section.

20 NEW SECTION. **Sec. 219.** HEARINGS CONDUCTED BY ADMINISTRATIVE LAW
21 JUDGE. If the appropriate ethics board determines that a civil penalty
22 exceeding five hundred dollars is possible, at the option of the ethics
23 board enforcing this chapter or at the request of the person subject to
24 the enforcement action, an administrative law judge shall be requested
25 by the appropriate ethics board to conduct the hearing and rule on
26 procedural and evidentiary matters.

27 NEW SECTION. **Sec. 220.** RESCISSION OF STATE ACTION. (1) The
28 attorney general may, on request of the governor or the appropriate
29 agency, and in addition to other available rights of rescission, bring
30 an action in the superior court of Thurston county to cancel or rescind
31 state action taken by a state officer or state employee, without
32 liability to the state of Washington, contractual or otherwise, if the
33 governor or ethics board has reason to believe that: (a) A violation
34 of this chapter or rules or policies adopted under it has substantially
35 influenced the state action, and (b) the interest of the state requires
36 the cancellation or rescission. The governor may suspend state action
37 pending the determination of the merits of the controversy under this

1 section. The court may permit persons affected by the governor's
2 actions to post an adequate bond pending such resolution to ensure
3 compliance by the defendant with the final judgment, decree, or other
4 order of the court.

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

6 **Sec. 221.** RCW 42.18.260 and 1969 ex.s. c 234 s 26 are each amended
7 to read as follows:

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

15 (2) The procedures for any such action shall correspond to those
16 applicable for disciplinary action for employee misconduct generally;
17 for those state officers and state employees not specifically exempted
18 ~~((therein))~~ in chapter 41.06 RCW, the rules set forth in ~~((the state~~
19 ~~civil service law,))~~ chapter 41.06 RCW~~((7))~~ shall apply. Any action
20 against the state officer or state employee shall be subject to
21 judicial review to the extent provided by law for disciplinary action
22 for misconduct of state officers and state employees of the same
23 category and grade.

24 NEW SECTION. **Sec. 222.** ADDITIONAL INVESTIGATIVE AUTHORITY. In
25 addition to other authority under this chapter, the attorney general
26 may investigate persons not under the jurisdiction of an ethics board
27 whom the attorney general has reason to believe were involved in
28 transactions in violation of this chapter or rules or policies adopted
29 under it.

30 NEW SECTION. **Sec. 223.** LIMITATIONS PERIOD. Any action taken
31 under this chapter must be commenced within the later of (1) five years
32 from the date of the violation or (2)(a) two years from the date the
33 violation was discovered or reasonably should have been discovered by
34 any person with direct or indirect supervisory responsibilities over
35 the person who allegedly committed the violation; or (b) if no person
36 has direct or indirect supervisory authority over the person who

1 allegedly committed the violation, two years from the date the
2 violation was discovered or reasonably should have been discovered by
3 the appropriate ethics board.

4 NEW SECTION. **Sec. 224.** The members of the legislative ethics
5 board created by section 201 of this act and the executive ethics board
6 created by section 203 of this act shall be appointed no later than
7 October 1, 1994. Notwithstanding the authority granted to these boards
8 by sections 202 and 204 of this act, until January 1, 1995, the
9 authority of each board shall be limited to conducting meetings and
10 incurring expenses solely for administrative and organizational
11 purposes.

12 This section shall expire January 1, 1995.

13 **PART III**

14 **MISCELLANEOUS PROVISIONS**

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

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

20 NEW SECTION. **Sec. 303.** The following sections are each recodified
21 as sections in chapter 42.-- RCW (sections 101 through 109, 111 through
22 115, 118 through 120, 201, 202, 204 through 220, 222, 223, 301, and 302
23 of this act):

24 RCW 42.18.217

25 RCW 42.18.230

26 RCW 42.18.260

27 RCW 42.18.270

28 RCW 42.18.330

29 RCW 42.22.050

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

32 (1) RCW 42.18.010 and 1969 ex.s. c 234 s 1;

33 (2) RCW 42.18.020 and 1969 ex.s. c 234 s 2;

- 1 (3) RCW 42.18.030 and 1969 ex.s. c 234 s 3;
- 2 (4) RCW 42.18.040 and 1969 ex.s. c 234 s 4;
- 3 (5) RCW 42.18.050 and 1969 ex.s. c 234 s 5;
- 4 (6) RCW 42.18.060 and 1969 ex.s. c 234 s 6;
- 5 (7) RCW 42.18.070 and 1969 ex.s. c 234 s 7;
- 6 (8) RCW 42.18.080 and 1969 ex.s. c 234 s 8;
- 7 (9) RCW 42.18.090 and 1969 ex.s. c 234 s 9;
- 8 (10) RCW 42.18.100 and 1969 ex.s. c 234 s 10;
- 9 (11) RCW 42.18.110 and 1969 ex.s. c 234 s 11;
- 10 (12) RCW 42.18.120 and 1969 ex.s. c 234 s 12;
- 11 (13) RCW 42.18.130 and 1973 c 137 s 1 & 1969 ex.s. c 234 s 13;
- 12 (14) RCW 42.18.140 and 1969 ex.s. c 234 s 14;
- 13 (15) RCW 42.18.150 and 1969 ex.s. c 234 s 15;
- 14 (16) RCW 42.18.170 and 1969 ex.s. c 234 s 17;
- 15 (17) RCW 42.18.180 and 1969 ex.s. c 234 s 18;
- 16 (18) RCW 42.18.190 and 1969 ex.s. c 234 s 19;
- 17 (19) RCW 42.18.200 and 1969 ex.s. c 234 s 20;
- 18 (20) RCW 42.18.210 and 1969 ex.s. c 234 s 21;
- 19 (21) RCW 42.18.213 and 1987 c 426 s 1;
- 20 (22) RCW 42.18.215 and 1987 c 426 s 2;
- 21 (23) RCW 42.18.221 and 1989 c 96 s 6 & 1987 c 426 s 4;
- 22 (24) RCW 42.18.240 and 1969 ex.s. c 234 s 24;
- 23 (25) RCW 42.18.250 and 1969 ex.s. c 234 s 25;
- 24 (26) RCW 42.18.280 and 1969 ex.s. c 234 s 28;
- 25 (27) RCW 42.18.290 and 1973 c 137 s 2 & 1969 ex.s. c 234 s 29;
- 26 (28) RCW 42.18.300 and 1973 c 137 s 3 & 1969 ex.s. c 234 s 30;
- 27 (29) RCW 42.18.310 and 1969 ex.s. c 234 s 31;
- 28 (30) RCW 42.18.320 and 1969 ex.s. c 234 s 32;
- 29 (31) RCW 42.18.900 and 1969 ex.s. c 234 s 40;
- 30 (32) RCW 42.20.010 and 1969 ex.s. c 234 s 34 & 1909 c 249 s 82;
- 31 (33) RCW 42.21.010 and 1965 ex.s. c 150 s 1;
- 32 (34) RCW 42.21.020 and 1989 c 175 s 93, 1971 c 81 s 106, & 1965
- 33 ex.s. c 150 s 2;
- 34 (35) RCW 42.21.030 and 1965 ex.s. c 150 s 3;
- 35 (36) RCW 42.21.040 and 1965 ex.s. c 150 s 4;
- 36 (37) RCW 42.21.050 and 1965 ex.s. c 150 s 5;
- 37 (38) RCW 42.21.080 and 1965 ex.s. c 150 s 8;
- 38 (39) RCW 42.21.090 and 1969 ex.s. c 234 s 36;
- 39 (40) RCW 42.22.010 and 1959 c 320 s 1;

- 1 (41) RCW 42.22.020 and 1959 c 320 s 2;
- 2 (42) RCW 42.22.030 and 1961 c 268 s 8 & 1959 c 320 s 3;
- 3 (43) RCW 42.22.040 and 1989 c 11 s 13 & 1959 c 320 s 4;
- 4 (44) RCW 42.22.060 and 1959 c 320 s 6;
- 5 (45) RCW 42.22.070 and 1959 c 320 s 7;
- 6 (46) RCW 42.22.120 and 1969 ex.s. c 234 s 37;
- 7 (47) RCW 44.60.010 and 1977 ex.s. c 218 s 1 & 1967 ex.s. c 150 s 1;
- 8 (48) RCW 44.60.020 and 1980 c 87 s 43, 1977 ex.s. c 218 s 2, & 1967
9 ex.s. c 150 s 2;
- 10 (49) RCW 44.60.030 and 1967 ex.s. c 150 s 3;
- 11 (50) RCW 44.60.040 and 1977 ex.s. c 218 s 3 & 1967 ex.s. c 150 s 4;
- 12 (51) RCW 44.60.050 and 1984 c 287 s 92, 1979 c 151 s 159, 1977
13 ex.s. c 218 s 4, 1975-'76 2nd ex.s. c 34 s 135, & 1967 ex.s. c 150 s 5;
- 14 (52) RCW 44.60.070 and 1980 c 165 s 1, 1977 ex.s. c 218 s 5, & 1967
15 ex.s. c 150 s 6;
- 16 (53) RCW 44.60.080 and 1977 ex.s. c 218 s 6 & 1967 ex.s. c 150 s 8;
- 17 (54) RCW 44.60.090 and 1967 ex.s. c 150 s 9;
- 18 (55) RCW 44.60.100 and 1977 ex.s. c 218 s 7;
- 19 (56) RCW 44.60.110 and 1980 c 165 s 2 & 1977 ex.s. c 218 s 8;
- 20 (57) RCW 44.60.120 and 1977 ex.s. c 218 s 9; and
- 21 (58) RCW 44.60.130 and 1977 ex.s. c 218 s 10.

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

24 (1) The commission may cooperate with other agencies both inside
25 and outside the state of Washington to establish a private, nonprofit
26 corporation for the purpose of providing automated bibliographic,
27 computer-based telecommunications, interlibrary, reference, and
28 referral systems, computer network services, and related library
29 services that are equivalent to the services provided by the western
30 library network on June 1, 1989. The commission may adopt policies and
31 rules consistent with the purposes and provisions of RCW 27.26.070
32 through 27.26.090 and section 11, chapter 96, Laws of 1989 and ((RCW
33 ~~42.18.221~~)) chapter 42.--- RCW (sections 101 through 109, 111 through
34 115, 118 through 120, 201, 202, 204 through 220, 222, 223, 301, and 302
35 of this act) pursuant to the administrative procedure act.

36 (2) The commission may terminate the services provided by the
37 western library network before June 30, 1997, if a successor
38 organization agrees to assume full responsibility for providing

1 services that are equivalent to the services provided by the western
2 library network on June 1, 1989, to the state library, other agencies
3 of state and local government, and other users of the western library
4 network. The commission may not terminate western library network
5 services within six months after June 1, 1989. The commission may not
6 enter into a contract with a successor organization for the delivery of
7 network services after five and one-half years from June 1, 1989.

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

10 A director of the state system of community and technical colleges
11 shall be appointed by the college board and shall serve at the pleasure
12 of the college board. The director shall be appointed with due regard
13 to the applicant's fitness and background in education, and knowledge
14 of and recent practical experience in the field of educational
15 administration particularly in institutions beyond the high school
16 level. The college board may also take into consideration an
17 applicant's proven management background even though not particularly
18 in the field of education.

19 The director shall devote his or her time to the duties of his or
20 her office and shall not have any direct pecuniary interest in or any
21 stock or bonds of any business connected with or selling supplies to
22 the field of education within this state, in keeping with chapter
23 (~~(42.18 RCW, the executive conflict of interest act)~~) 42.--- RCW
24 (sections 101 through 109, 111 through 115, 118 through 120, 201, 202,
25 204 through 220, 222, 223, 301, and 302 of this act).

26 The director shall receive a salary to be fixed by the college
27 board and shall be reimbursed for travel expenses incurred in the
28 discharge of his or her official duties in accordance with RCW
29 43.03.050 and 43.03.060(~~(, as now existing or hereafter amended)~~).

30 The director shall be the executive officer of the college board
31 and serve as its secretary and under its supervision shall administer
32 the provisions of this chapter and the rules(~~(, regulations)~~) and
33 orders established thereunder and all other laws of the state. The
34 director shall attend, but not vote at, all meetings of the college
35 board. The director shall be in charge of offices of the college board
36 and responsible to the college board for the preparation of reports and
37 the collection and dissemination of data and other public information
38 relating to the state system of community and technical colleges. At

1 the direction of the college board, the director shall, together with
2 the chairman of the college board, execute all contracts entered into
3 by the college board.

4 The director shall, with the approval of the college board: (1)
5 Employ necessary assistant directors of major staff divisions who shall
6 serve at the director's pleasure on such terms and conditions as the
7 director determines, and (2) subject to the provisions of chapter
8 ((28B.16)) 41.06 RCW((, ~~the higher education personnel law,~~) the
9 director shall, with the approval of the college board, appoint and
10 employ such field and office assistants, clerks and other employees as
11 may be required and authorized for the proper discharge of the
12 functions of the college board and for whose services funds have been
13 appropriated.

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

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

20 (1) The director shall serve as chief executive officer of the
21 board who shall administer the provisions of this chapter, employ such
22 personnel as may be necessary to implement the purposes of this
23 chapter, and utilize staff of existing operating agencies to the
24 fullest extent possible.

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

26 (3) Subject to the approval of the board, the director shall
27 appoint necessary deputy and assistant directors and other staff who
28 shall be exempt from the provisions of chapter 41.06 RCW. The
29 director's appointees shall serve at the director's pleasure on such
30 terms and conditions as the director determines but subject to ((~~the~~
31 ~~code of ethics contained in chapter 42.18 RCW~~) chapter 42.--- RCW
32 (sections 101 through 109, 111 through 115, 118 through 120, 201, 202,
33 204 through 220, 222, 223, 301, and 302 of this act).

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

36 (5) The director shall, as permissible under P.L. 101-392, as
37 amended, integrate the staff of the council on vocational education,
38 and contract with the state board for community and technical colleges

1 for assistance for adult basic skills and literacy policy development
2 and planning as required by P.L. 100-297, as amended.

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

5 The city or town officially shall become incorporated at a date
6 from one hundred eighty days to three hundred sixty days after the date
7 of the election on the question of incorporation. An interim period
8 shall exist between the time the newly elected officials have been
9 elected and qualified and this official date of incorporation. During
10 this interim period, the newly elected officials are authorized to
11 adopt ordinances and resolutions which shall become effective on or
12 after the official date of incorporation, and to enter into contracts
13 and agreements to facilitate the transition to becoming a city or town
14 and to ensure a continuation of governmental services after the
15 official date of incorporation. Periods of time that would be required
16 to elapse between the enactment and effective date of such ordinances,
17 including but not limited to times for publication or for filing
18 referendums, shall commence upon the date of such enactment as though
19 the city or town were officially incorporated.

20 During this interim period, the city or town governing body may
21 adopt rules establishing policies and procedures under the state
22 environmental policy act, chapter 43.21C RCW, and may use these rules
23 and procedures in making determinations under the state environmental
24 policy act, chapter 43.21C RCW.

25 During this interim period, the newly formed city or town and its
26 governing body shall be subject to the following as though the city or
27 town were officially incorporated: RCW 4.24.470 relating to immunity;
28 chapter 42.17 RCW relating to open government; chapter 40.14 RCW
29 relating to the preservation and disposition of public records;
30 chapters 42.20(~~(, 42.22,)~~) and 42.23 RCW relating to ethics and
31 conflicts of interest; chapters 42.30 and 42.32 RCW relating to open
32 public meetings and minutes; RCW 35.22.288, 35.23.310, 35.24.220,
33 35.27.300, 35A.12.160, as appropriate, and chapter 35A.65 RCW relating
34 to the publication of notices and ordinances; RCW 35.21.875 and
35 35A.21.230 relating to the designation of an official newspaper; RCW
36 36.16.138 relating to liability insurance; RCW 35.22.620, 35.23.352,
37 and 35A.40.210, as appropriate, and statutes referenced therein
38 relating to public contracts and bidding; and chapter 39.34 RCW

1 relating to interlocal cooperation. Tax anticipation or revenue
2 anticipation notes or warrants and other short-term obligations may be
3 issued and funds may be borrowed on the security of these instruments
4 during this interim period, as provided in chapter 39.50 RCW. Funds
5 also may be borrowed from federal, state, and other governmental
6 agencies in the same manner as if the city or town were officially
7 incorporated.

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

13 The governing body of the new city or town may acquire needed
14 facilities, supplies, equipment, insurance, and staff during this
15 interim period as if the city or town were in existence. An interim
16 city manager or administrator, who shall have such administrative
17 powers and duties as are delegated by the governing body, may be
18 appointed to serve only until the official date of incorporation.
19 After the official date of incorporation the governing body of such a
20 new city organized under the council manager form of government may
21 extend the appointment of such an interim manager or administrator with
22 such limited powers as the governing body determines, for up to ninety
23 days. This governing body may submit ballot propositions to the voters
24 of the city or town to authorize taxes to be collected on or after the
25 official date of incorporation, or authorize an annexation of the city
26 or town by a fire protection district or library district to be
27 effective immediately upon the effective date of the incorporation as
28 a city or town.

29 The boundaries of a newly incorporated city or town shall be deemed
30 to be established for purposes of RCW 84.09.030 on the date that the
31 results of the initial election on the question of incorporation are
32 certified or the first day of January following the date of this
33 election if the newly incorporated city or town does not impose
34 property taxes in the same year that the voters approve the
35 incorporation.

36 The newly elected officials shall take office immediately upon
37 their election and qualification with limited powers during this
38 interim period as provided in this section. They shall acquire their
39 full powers as of the official date of incorporation and shall continue

1 in office until their successors are elected and qualified at the next
2 general municipal election after the official date of incorporation:
3 PROVIDED, That if the date of the next general municipal election is
4 less than twelve months after the date of the first election of
5 councilmembers, those initially elected councilmembers shall serve
6 until their successors are elected and qualified at the next following
7 general municipal election as provided in RCW 29.04.170. For purposes
8 of this section, the general municipal election shall be the date on
9 which city and town general elections are held throughout the state of
10 Washington, pursuant to RCW 29.13.020.

11 The official date of incorporation shall be on a date from one
12 hundred eighty to three hundred sixty days after the date of the
13 election on the question of incorporation, as specified in a resolution
14 adopted by the governing body during this interim period. A copy of
15 the resolution shall be filed with the county legislative authority of
16 the county in which all or the major portion of the newly incorporated
17 city or town is located. If the governing body fails to adopt such a
18 resolution, the official date of incorporation shall be three hundred
19 sixty days after the date of the election on the question of
20 incorporation. The county legislative authority of the county in which
21 all or the major portion of the newly incorporated city or town is
22 located shall file a notice with the county assessor that the city or
23 town has been authorized to be incorporated immediately after the
24 favorable results of the election on the question of incorporation have
25 been certified. The county legislative authority shall file a notice
26 with the secretary of state that the city or town is incorporated as of
27 the official date of incorporation.

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

30 A commission, established by an agreement between a Washington
31 municipality and the Province of British Columbia to carry out a treaty
32 between the United States of America and Canada as authorized in RCW
33 35.21.417, shall be public and shall have all powers and capacity
34 necessary and appropriate for the purposes of performing its functions
35 under the agreement, including, but not limited to, the following
36 powers and capacity: To acquire and dispose of real property other
37 than by condemnation; to enter into contracts; to sue and be sued in
38 either Canada or the United States; to establish an endowment fund in

1 either or both the United States and Canada and to invest the endowment
2 fund in either or both countries; to solicit, accept, and use
3 donations, grants, bequests, or devises intended for furthering the
4 functions of the endowment; to adopt such rules or procedures as it
5 deems desirable for performing its functions; to engage advisors and
6 consultants; to establish committees and subcommittees; to adopt rules
7 for its governance; to enter into agreements with public and private
8 entities; and to engage in activities necessary and appropriate for
9 implementing the agreement and the treaty.

10 The endowment fund and commission may not be subject to state or
11 local taxation. A commission, so established, may not be subject to
12 statutes and laws governing Washington cities and municipalities in the
13 conduct of its internal affairs: PROVIDED, That all commission members
14 appointed by the municipality shall comply with chapter ((42.22 RCW))
15 42.--- RCW (sections 101 through 109, 111 through 115, 118 through 120,
16 201, 202, 204 through 220, 222, 223, 301, and 302 of this act), and:
17 PROVIDED FURTHER, That all commission meetings held within the state of
18 Washington shall be held in compliance with chapter 42.30 RCW. All
19 obligations or liabilities incurred by the commission shall be
20 satisfied exclusively from its own assets and insurance.

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

23 The state investment board may make appropriate rules and
24 regulations for the performance of its duties. The board shall
25 establish investment policies and procedures designed exclusively to
26 maximize return at a prudent level of risk. However, in the case of
27 the department of labor and industries' accident, medical aid, and
28 reserve funds, the board shall establish investment policies and
29 procedures designed to attempt to limit fluctuations in industrial
30 insurance premiums and, subject to this purpose, to maximize return at
31 a prudent level of risk. The board shall adopt rules to ensure that
32 its members perform their functions in compliance with chapter ((42.18
33 RCW)) 42.--- RCW (sections 101 through 109, 111 through 115, 118
34 through 120, 201, 202, 204 through 220, 222, 223, 301, and 302 of this
35 act). Rules adopted by the board shall be adopted pursuant to chapter
36 34.05 RCW.

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

3 (1) There is created an agency of state government to be known as
4 the Washington health services commission. The commission shall
5 consist of five members reflecting ethnic and racial diversity,
6 appointed by the governor, with the consent of the senate. One member
7 shall be designated by the governor as chair and shall serve at the
8 pleasure of the governor. The insurance commissioner shall serve as an
9 additional nonvoting member. Of the initial members, one shall be
10 appointed to a term of three years, two shall be appointed to a term of
11 four years, and two shall be appointed to a term of five years.
12 Thereafter, members shall be appointed to five-year terms. Vacancies
13 shall be filled by appointment for the remainder of the unexpired term
14 of the position being vacated.

15 (2) Members of the commission shall have no pecuniary interest in
16 any business subject to regulation by the commission and shall be
17 subject to chapter (~~42.18 RCW, the executive branch conflict of~~
18 ~~interest act~~) 42.--- RCW (sections 101 through 109, 111 through 115,
19 118 through 120, 201, 202, 204 through 220, 222, 223, 301, and 302 of
20 this act).

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

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

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

32 (1) Conduct audits and investigations of providers of medical,
33 chiropractic, dental, vocational, and other health services furnished
34 to industrially injured workers pursuant to Title 51 RCW. In the
35 conduct of such audits or investigations, the director or the
36 director's authorized representatives may examine all records, or
37 portions thereof, including patient records, for which services were
38 rendered by a health services provider and reimbursed by the

1 department, notwithstanding the provisions of any other statute which
2 may make or purport to make such records privileged or confidential:
3 PROVIDED, That no original patient records shall be removed from the
4 premises of the health services provider, and that the disclosure of
5 any records or information obtained under authority of this section by
6 the department of labor and industries is prohibited and constitutes a
7 violation of ((RCW 42.22.040)) section 105 of this act, unless such
8 disclosure is directly connected to the official duties of the
9 department: AND PROVIDED FURTHER, That the disclosure of patient
10 information as required under this section shall not subject any
11 physician or other health services provider to any liability for breach
12 of any confidential relationships between the provider and the patient:
13 AND PROVIDED FURTHER, That the director or the director's authorized
14 representative shall destroy all copies of patient medical records in
15 their possession upon completion of the audit, investigation, or
16 proceedings;

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

20 (3) Terminate or suspend eligibility to participate as a provider
21 of services furnished to industrially injured workers pursuant to Title
22 51 RCW.

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

25 Except as provided by chapter ((42.18-RCW)) 42.--- RCW (sections
26 101 through 109, 111 through 115, 118 through 120, 201, 202, 204
27 through 220, 222, 223, 301, and 302 of this act), no member of the
28 board and no employee of the board shall have any interest, directly or
29 indirectly, in the manufacture of liquor or in any liquor sold under
30 this title, or derive any profit or remuneration from the sale of
31 liquor, other than the salary or wages payable to him in respect of his
32 office or position, and shall receive no gratuity from any person in
33 connection with such business.

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

36 No later than ninety days after July 16, 1973 the horse racing
37 commission shall promulgate, pursuant to chapter 34.05 RCW, reasonable

1 rules (~~(and regulations)~~) implementing to the extent applicable to the
2 circumstances of the horse racing commission the conflict of interest
3 laws of the state of Washington as set forth in chapters (~~(42.18,)~~)
4 42.21 and (~~(42.22 RCW)~~) 42.--- RCW (sections 101 through 109, 111
5 through 115, 118 through 120, 201, 202, 204 through 220, 222, 223, 301,
6 and 302 of this act).

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

9 (1) There is created and established the energy facility site
10 evaluation council.

11 (2)(a) The chairman of the council shall be appointed by the
12 governor with the advice and consent of the senate, shall have a vote
13 on matters before the council, shall serve for a term coextensive with
14 the term of the governor, and is removable for cause. The chairman may
15 designate a member of the council to serve as acting chairman in the
16 event of the chairman's absence. The chairman is a "state employee"
17 for the purposes of chapter (~~(42.18 RCW)~~) 42.--- RCW (sections 101
18 through 109, 111 through 115, 118 through 120, 201, 202, 204 through
19 220, 222, 223, 301, and 302 of this act). As applicable, when
20 attending meetings of the council(~~(+)~~), members may receive
21 reimbursement for travel expenses in accordance with RCW 43.03.050 and
22 43.03.060, and are eligible for compensation under RCW 43.03.240.

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

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

33 (a) Department of ecology;

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

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

36 (~~(d)~~) (c) Parks and recreation commission;

37 (~~(e)~~) (d) Department of health;

38 (~~(f)~~) (e) State energy office;

1 (~~(g)~~) (f) Department of community, trade, and economic
2 development;
3 (~~(h)~~) (g) Utilities and transportation commission;
4 (~~(i)~~) (h) Office of financial management;
5 (~~(j)~~) (i) Department of natural resources;
6 (~~(k) Department of community development;~~
7 (~~l~~) (j) Department of agriculture;
8 (~~(m)~~) (k) Department of transportation.

9 (4) The appropriate county legislative authority of every county
10 wherein an application for a proposed site is filed shall appoint a
11 member or designee as a voting member to the council. The member or
12 designee so appointed shall sit with the council only at such times as
13 the council considers the proposed site for the county which he or she
14 represents, and such member or designee shall serve until there has
15 been a final acceptance or rejection of the proposed site;

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

23 (6) For any port district wherein an application for a proposed
24 port facility is filed subject to this chapter, the port district shall
25 appoint a member or designee as a nonvoting member to the council. The
26 member or designee so appointed shall sit with the council only at such
27 times as the council considers the proposed site for the port district
28 which he or she represents, and such member or designee shall serve
29 until there has been a final acceptance or rejection of the proposed
30 site. The provisions of this subsection shall not apply if the port
31 district is the applicant, either singly or in partnership or
32 association with any other person.

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

35 No director or any other officer named in this chapter shall in any
36 manner be interested, directly or indirectly, in any contract awarded
37 or to be awarded by the board, or in the profits to be derived
38 therefrom; and for any violation of this provision, such officer shall

1 be deemed guilty of a misdemeanor, and such conviction shall work a
2 forfeiture of his office, and he shall be punished by a fine not
3 exceeding five hundred dollars, or by imprisonment in the county jail
4 not exceeding six months, or by both fine and imprisonment: PROVIDED,
5 That nothing in this section contained shall be construed to prevent
6 any district officer from being employed by the district as foreman or
7 as a day laborer: PROVIDED FURTHER, That this section shall have no
8 application to any person who is a state employee as defined in ((RCW
9 42.18.130)) section 101 of this act.

10 NEW SECTION. Sec. 317. Sections 101 through 109, 111 through 115,
11 118 through 120, 201, 202, 204 through 220, 222, 223, 301, and 302 of
12 this act shall constitute a new chapter in Title 42 RCW.

13 NEW SECTION. Sec. 318. Sections 101 through 121, 206 through 223,
14 and 301 through 316 of this act shall take effect January 1, 1995.

15 NEW SECTION. Sec. 319. If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

--- END ---