2 **ESHB 1662** - S COMM AMD

- 3 By Committee on Trade, Technology & Economic Development
- 4 ADOPTED WITH FLR AMD 000611 4/16/93
- 5 Strike everything after the enacting clause and insert the 6 following:
- 7 "Sec. 1. RCW 43.160.020 and 1992 c 21 s 3 are each amended to read 8 as follows:
- 9 Unless the context clearly requires otherwise, the definitions in 10 this section apply throughout this chapter.
- 11 (1) "Board" means the community economic revitalization board.
- 12 (2) "Bond" means any bond, note, debenture, interim certificate, or 13 other evidence of financial indebtedness issued by the board pursuant 14 to this chapter.
- 15 (3) "Department" means the department of trade and economic 16 development or its successor with respect to the powers granted by this 17 chapter.
- 18 (4) "Financial institution" means any bank, savings and loan 19 association, credit union, development credit corporation, insurance 20 company, investment company, trust company, savings institution, or 21 other financial institution approved by the board and maintaining an 22 office in the state.
- 23 (5) "Industrial development facilities" means "industrial 24 development facilities" as defined in RCW 39.84.020.
- 25 (6) "Industrial development revenue bonds" means tax-exempt revenue 26 bonds used to fund industrial development facilities.
- (7) "Local government" or "political subdivision" means any port district, county, city, ((or)) town, or special utility district.
- 29 (8) "Sponsor" means any of the following entities which customarily 30 provide service or otherwise aid in industrial or other financing and 31 are approved as a sponsor by the board: A bank, trust company, savings 32 bank, investment bank, national banking association, savings and loan 33 association, building and loan association, credit union, insurance 34 company, or any other financial institution, governmental agency, or 35 holding company of any entity specified in this subsection.

- 1 (9) "Umbrella bonds" means industrial development revenue bonds 2 from which the proceeds are loaned, transferred, or otherwise made 3 available to two or more users under this chapter.
 - (10) "User" means one or more persons acting as lessee, purchaser, mortgagor, or borrower under a financing document and receiving or applying to receive revenues from bonds issued under this chapter.
 - (11) "Timber impact area" means:

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- 8 (a) A county having a population of less than five hundred 9 thousand, or a city or town located within a county having a population 10 of less than five hundred thousand, and meeting two of the following three criteria, as determined by the employment security department, 11 12 for the most recent year such data is available: (i) A lumber and wood 13 products employment location quotient at or above the state average; (ii) projected or actual direct lumber and wood products job losses of 14 15 one hundred positions or more, except counties having a population 16 greater than two hundred thousand but less than five hundred thousand 17 must have direct lumber and wood products job losses of one thousand positions or more; or (iii) an annual unemployment rate twenty percent 18 19 or more above the state average; or
- (b) Additional communities as the economic recovery coordinating board, established in RCW 43.31.631, designates based on a finding by the board that each designated community is socially and economically integrated with areas that meet the definition of a timber impact area under (a) of this subsection.
- 25 **Sec. 2.** RCW 43.160.030 and 1987 c 422 s 2 are each amended to read 26 as follows:
- 27 (1) The community economic revitalization board is hereby created 28 to exercise the powers granted under this chapter.
- 29 (2) The board shall consist of the chairman of and one minority 30 member appointed by the speaker of the house of representatives from the committee on ((trade and economic development)) trade, economic 31 32 development, and housing of the house of representatives, the chairman of and one minority member appointed by the president of the senate 33 34 from the committee on ((commerce and labor of the senate, or the equivalent standing committees)) trade, technology, and economic 35 36 development of the senate, and the following members appointed by the 37 governor: A recognized private or public sector economist; one port 38 district official; one county official; one city official; one

- representative of the public; one representative of small businesses 1 (a) The area west of Puget Sound, (b) the area east of 2 Puget Sound and west of the Cascade range, (c) the area east of the 3 4 Cascade range and west of the Columbia river, and (d) the area east of 5 the Columbia river; one executive from large businesses each from the area west of the Cascades and the area east of the Cascades. 6 7 appointive members shall initially be appointed to terms as follows: 8 Three members for one-year terms, three members for two-year terms, and 9 three members for three-year terms which shall include the chair. 10 Thereafter each succeeding term shall be for three years. The chair of the board shall be selected by the governor ((and should be a member of 11 the governor's council of economic advisors)). The members of the 12 board shall elect one of their members to serve as vice-chair. 13 The director of trade and economic development, the director of community 14 15 development, the director of revenue, the commissioner of employment 16 security, and the secretary of transportation shall serve as nonvoting 17 advisory members of the board.
- 18 (3) Staff support shall be provided by the department of trade and 19 economic development to assist the board in implementing this chapter 20 and the allocation of private activity bonds.
- 21 (4) All appointive members of the board shall be compensated in 22 accordance with RCW 43.03.240 and shall be reimbursed for travel 23 expenses as provided in RCW 43.03.050 and 43.03.060.

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- (5) If a vacancy occurs by death, resignation, or otherwise of appointive members of the board, the governor shall fill the same for the unexpired term. Any members of the board, appointive or otherwise, may be removed for malfeasance or misfeasance in office, upon specific written charges by the governor, under chapter 34.05 RCW.
- 29 **Sec. 3.** RCW 43.160.035 and 1987 c 422 s 3 are each amended to read 30 as follows:
- Each member of the house of representatives who is appointed to the 31 community economic revitalization board under RCW 43.160.030 may 32 designate another member of the trade ((and)), economic development, 33 34 and housing committee of the house of representatives to take his or her place on the board for meetings at which the member will be absent. 35 The designee shall have all powers to vote and participate in board 36 deliberations as have the other board members. Each member of the 37 38 senate who is appointed to the community economic revitalization board

- 1 under RCW 43.160.030 may designate another member of the ((commerce and
- 2 labor)) trade, technology, and economic development committee of the
- 3 senate to take his or her place on the board for meetings at which the
- 4 member will be absent. The designee shall have all powers to vote and
- 5 participate in board deliberations as have the other board members.
- 6 Each agency head of an executive agency who is appointed to serve as a
- 7 nonvoting advisory member of the community economic revitalization
- 8 board under RCW 43.160.030 may designate an agency employee to take his
- 9 or her place on the board for meetings at which the agency head will be
- 10 absent. The designee will have all powers to participate in board
- 11 deliberations as have the other board members but shall not have voting
- 12 powers.

- 13 **Sec. 4.** RCW 43.160.060 and 1990 1st ex.s. c 17 s 73 are each 14 amended to read as follows:
- The board is authorized to make direct loans to political
- 16 subdivisions of the state and federally recognized Indian tribes for
- 17 the purposes of assisting the political subdivisions in financing the
- 18 cost of public facilities, including development of land and
- 19 improvements for public facilities, as well as the ((acquisition,))
- 20 construction, rehabilitation, alteration, expansion, or improvement of
- 21 the facilities. A grant may also be authorized for purposes designated
- 22 in this chapter, but only when, and to the extent that, a loan is not
- 23 reasonably possible, given the limited resources of the political
- 24 subdivision or tribe.
- 25 Application for funds shall be made in the form and manner as the
- 26 board may prescribe. In making grants or loans the board shall conform
- 27 to the following requirements:
 - (1) The board shall not make a grant or loan:
- 29 (a) For a project the primary purpose of which is to facilitate or
- 30 promote a retail shopping development or expansion.
- 31 (b) For any project that evidence exists would result in a
- 32 development or expansion that would displace existing jobs in any other
- 33 community in the state.
- 34 (c) For the acquisition of real property, including buildings and
- 35 other fixtures which are a part of real property.
- 36 (2) The board shall only make grants or loans:
- 37 (a) For those projects which would result in specific private
- 38 developments or expansions (i) in manufacturing, production, food

- 1 processing, assembly, warehousing, and industrial distribution; (ii)
- 2 for processing recyclable materials or for facilities that support
- 3 recycling, including processes not currently provided in the state,
- 4 including but not limited to, de-inking facilities, mixed waste paper,
- 5 plastics, yard waste, and problem-waste processing; (iii) for
- 6 manufacturing facilities that rely significantly on recyclable
- 7 materials, including but not limited to waste tires and mixed waste
- 8 paper; (iv) which support the relocation of businesses from
- 9 nondistressed urban areas to distressed rural areas; or (v) which
- 10 substantially support the trading of goods or services outside of the
- 11 state's borders.
- 12 (b) For projects which it finds will improve the opportunities for
- 13 the successful maintenance, establishment, or expansion of industrial
- 14 or commercial plants or will otherwise assist in the creation or
- 15 retention of long-term economic opportunities.
- 16 (c) When the application includes convincing evidence that a
- 17 specific private development or expansion is ready to occur and will
- 18 occur only if the grant or loan is made.
- 19 (3) The board shall prioritize each proposed project according to
- 20 the relative benefits provided to the community by the jobs the project
- 21 would create, not just the total number of jobs it would create after
- 22 the project is completed and according to the unemployment rate in the
- 23 area in which the jobs would be located. As long as there is more
- 24 demand for loans or grants than there are funds available for loans or
- 25 grants, the board is instructed to fund projects in order of their
- 26 priority.
- 27 (4) A responsible official of the political subdivision or tribe
- 28 shall be present during board deliberations and provide information
- 29 that the board requests.
- 30 Before any loan or grant application is approved, the political
- 31 subdivision or tribe seeking the loan or grant must demonstrate to the
- 32 community economic revitalization board that no other timely source of
- 33 funding is available to it at costs reasonably similar to financing
- 34 available from the community economic revitalization board.
- 35 **Sec. 5.** RCW 43.160.074 and 1985 c 433 s 5 are each amended to read
- 36 as follows:
- 37 (1) An application to the board from a political subdivision or
- 38 <u>federally recognized Indian tribe</u> may also include a request for

- improvements to an existing state highway or highways. The application 1 2 is subject to all of the applicable criteria relative to qualifying 3 types of development set forth in this chapter, as well as procedures 4 and criteria established by the board.
- 5 (2) Before board consideration of an application from a political subdivision or federally recognized Indian tribe that includes a 7 request for improvements to an existing state highway or highways, the application shall be forwarded by the board to the transportation commission.

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- 10 (3) The board may not make its final determination on any application made under subsection (1) of this section before receiving 11 12 approval, as submitted or amended or disapproval from 13 transportation commission specified RCW 47.01.280. as in Notwithstanding its disposition of the remainder of 14 any 15 application, the board may not approve a request for improvements to an 16 existing state highway or highways without the approval as submitted or 17 amended of the transportation commission as specified in RCW 47.01.280.
- 18 (4) The board shall notify the transportation commission of its 19 decision regarding any application made under this section.
- **Sec. 6.** RCW 43.160.076 and 1991 c 314 s 24 are each amended to 20 21 read as follows:
 - (1) Except as authorized to the contrary under subsection (2) of this section, from all funds available to the board for loans and grants in a biennium, the board shall spend at least fifty percent for grants and loans for projects in distressed counties or timber impact areas. For purposes of this section, the term "distressed counties" includes any county, in which the average level of unemployment for the three years before the year in which an application for a loan or grant is filed, exceeds the average state employment for those years by twenty percent.
- (2) If at any time during the last six months of a biennium the 31 board finds that the actual and anticipated applications for qualified 32 projects in distressed counties or timber impact areas are clearly 33 34 insufficient to use up the fifty percent allocation, then the board shall estimate the amount of the insufficiency and during the remainder 35 36 of the biennium may use that amount of the allocation for loans and grants for projects not located in distressed counties or timber impact 37 38 areas.

- 1 **Sec. 7.** RCW 43.160.077 and 1989 c 431 s 63 are each amended to 2 read as follows:
- (1) ((Before)) When the board ((consideration of)) receives an application from a political subdivision or federally recognized Indian tribe that includes a request for assistance in financing the cost of public facilities to encourage the development of a private facility to process recyclable materials, a copy of the application shall be ((forwarded)) sent by the board to the department of ecology.
- 9 (2) ((The department of ecology shall submit a recommendation on 10 all applications related to processing recyclable materials to the 11 board for their consideration.
- (3) Upon receiving an application for assistance in financing the cost of public facilities to encourage the development of a private facility to process recyclable materials from the board, the department of ecology shall, within thirty days, determine whether or not the proposed assistance:
- 17 (a) Has a significant impact on the residential and commercial 18 waste stream;
- 19 (b) Results in a product that has a ready market;
- 20 (c) Does not jeopardize any other planned market development 21 projects; and
- 22 (d) Results in a product that would otherwise be purchased out-of-23 state.
- 24 (4) Upon completion of its determination of the factors contained 25 in subsection (3) of this section and any other factors it deems 26 pertinent, the department of ecology shall forward its recommended approval, as submitted or amended, or recommended disapproval of the 27 proposed improvements to the board, along with any recommendation it 28 29 may wish to make concerning the desirability and feasibility of the 30 proposed market development. If the department of ecology recommends 31 disapproval of any proposed project, it shall specify its reasons for recommending disapproval. 32
- (5)) The board shall notify the department of ecology of its decision regarding any application made under this section.
- 35 **Sec. 8.** RCW 43.160.200 and 1991 c 314 s 23 are each amended to 36 read as follows:
- 37 (1) The economic development account is created within the public 38 facilities construction loan revolving fund under RCW 43.160.080.

- Moneys in the account may be spent only after appropriation. 1
- Expenditures from the account may be used only for the purposes of RCW 2
- 43.160.010(4) and this section. The account is subject to allotment 3
- procedures under chapter 43.88 RCW. 4

- 5 (2) Applications under this section for assistance from the economic development account are subject to all of the applicable 6 7 criteria set forth under this chapter, as well as procedures and 8 criteria established by the board, except as otherwise provided.
- 9 (3) Eligible applicants under this section are limited to political subdivisions and federally recognized Indian tribes of the state in 10 timber impact areas that demonstrate, to the satisfaction of the board, 11 the local economy's dependence on the forest products industry. 12
- 13 (4) Applicants must demonstrate that their request is part of an 14 economic development plan consistent with applicable state planning 15 requirements. Applicants must demonstrate that tourism projects have 16 been approved by the local government ((and are part of a regional tourism plan approved by the local and regional tourism 17 organizations)). Industrial projects must be approved by the local 18 19 government and the associate development organization.
- 20 (5) Publicly owned projects may be financed under this section upon proof by the applicant that the public project is a necessary component 21 of, or constitutes in whole, a tourism project. 22
- (6) Applications must demonstrate local match and participation. 24 Such match may include: Land donation, other public or private funds or both, or other means of local commitment to the project.
- 26 (7) Board financing for feasibility studies shall not exceed twenty-five thousand dollars per study. Board funds for feasibility 27 28 studies may be provided as a grant and require a dollar for dollar match with up to one-half in-kind match allowed. 29
- 30 (8) Board financing for tourism projects shall not exceed two hundred fifty thousand dollars. Other public facility projects under 31 this section shall not exceed five hundred thousand dollars. 32 with flexible terms and conditions to meet the needs of the applicants 33 34 shall be provided. Grants may also be authorized, but only when, and 35 to the extent that, a loan is not reasonably possible, given the limited resources of the political subdivision or tribe. 36
- 37 (9) The board shall develop guidelines for allowable local match 38 and feasibility studies.

- 1 (10) Applications under this section need not demonstrate evidence 2 that specific private development or expansion is ready to occur or 3 will occur if funds are provided.
- 4 (11) The board shall establish guidelines for making grants and 5 loans under this section to ensure that the requirements of this 6 chapter are complied with. The guidelines shall include:
- 7 (a) A process to equitably compare and evaluate applications from 8 competing communities.
- 9 (b) Criteria to ensure that approved projects will have a high probability of success and are likely to provide long-term economic 10 benefits to the community. The criteria shall include: (i) A minimum 11 amount of local participation, determined by the board per application, 12 to verify community support for the project; (ii) an analysis that 13 establishes the project is feasible using standard economic principles; 14 15 and (iii) an explanation from the applicant regarding how the project is consistent with the communities' economic strategy and goals. 16
- 17 (c) A method of evaluating the impact of the loans or grants on the 18 economy of the community and whether the loans or grants achieved their 19 purpose.
- 20 **Sec. 9.** RCW 43.160.900 and 1987 c 422 s 10 are each amended to 21 read as follows:

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((The community economic revitalization board and its powers and duties shall be terminated on June 30, 1993, and shall be subject to the procedures required by chapter 43.131 RCW. This chapter expires June 30, 1994. Any remaining duties of the community economic revitalization board after June 30, 1993, regarding repayment of loans made by the community economic revitalization board are transferred to the department of revenue on June 30, 1993)) The community economic revitalization board shall report to the appropriate standing committees of the legislature biennially on the implementation of this chapter. The report shall include information on the number of applications for community economic revitalization board assistance, the number and types of projects approved, the grant or loan amount awarded each project, the projected number of jobs created or retained by each project, the actual number of jobs created or retained by each project, the number of delinquent loans, and the number of project terminations. The report may also include additional performance

- 1 measures and recommendations for programmatic changes. The first
- 2 report shall be submitted by December 1, 1994.

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- 3 **Sec. 10.** RCW 42.17.310 and 1992 c 139 s 5 and 1992 c 71 s 12 are 4 each reenacted and amended to read as follows:
 - (1) The following are exempt from public inspection and copying:
- 6 (a) Personal information in any files maintained for students in 7 public schools, patients or clients of public institutions or public 8 health agencies, or welfare recipients.
- 9 (b) Personal information in files maintained for employees, 10 appointees, or elected officials of any public agency to the extent 11 that disclosure would violate their right to privacy.
- (c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.
 - (d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.
 - (e) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.
- 33 (f) Test questions, scoring keys, and other examination data used 34 to administer a license, employment, or academic examination.
- 35 (g) Except as provided by chapter 8.26 RCW, the contents of real 36 estate appraisals, made for or by any agency relative to the 37 acquisition or sale of property, until the project or prospective sale 38 is abandoned or until such time as all of the property has been

acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years 2 after the appraisal. 3

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- (h) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.
- 7 (i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.
- (j) Records which are relevant to a controversy to which an agency 11 is a party but which records would not be available to another party 12 13 under the rules of pretrial discovery for causes pending in the superior courts. 14
- 15 (k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of 16 17 such sites.
 - (1) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.
 - (m) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for $((\frac{a}{a}))$ <u>(i)</u> a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or $((\frac{b}{b}))$ (ii) highway construction or improvement as required by RCW 47.28.070.
- 26 (n) Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under *RCW 81.34.070, 27 except that the summaries of the contracts are open to public 28 inspection and copying as otherwise provided by this chapter. 29
- 30 (o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to 31 chapter 43.163 RCW and chapter 53.31 RCW. 32
- (p) Financial disclosures filed by private vocational schools under 33 34 chapter 28C.10 RCW.
- 35 (q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are 36 37 confidential under RCW 80.04.095.

- 1 (r) Financial and commercial information and records supplied by 2 businesses during application for loans or program services provided by 3 chapter 43.163 RCW and chapters 43.31, 43.63A, 43.160, and 43.168 RCW.
- 4 (s) Membership lists or lists of members or owners of interests of 5 units in timeshare projects, subdivisions, camping resorts, 6 condominiums, land developments, or common-interest communities 7 affiliated with such projects, regulated by the department of 8 licensing, in the files or possession of the department.
- 9 (t) All applications for public employment, including the names of 10 applicants, resumes, and other related materials submitted with respect 11 to an applicant.
- 12 (u) The residential addresses and residential telephone numbers of 13 employees or volunteers of a public agency which are held by the agency 14 in personnel records, employment or volunteer rosters, or mailing lists 15 of employees or volunteers.
- (v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers.
- 19 (w) Information obtained by the board of pharmacy as provided in 20 RCW 69.45.090.
- 21 (x) Information obtained by the board of pharmacy or the department 22 of health and its representatives as provided in RCW 69.41.044, 23 69.41.280, and 18.64.420.
- (y) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW.
- 28 (z) Financial and commercial information supplied to the state 29 investment board by any person when the information relates to the 30 investment of public trust or retirement funds and when disclosure 31 would result in loss to such funds or in private loss to the providers 32 of this information.
- 33 (aa) Financial and valuable trade information under RCW 51.36.120.
- (bb) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or a rape crisis center as defined in RCW 70.125.030.
- 37 (cc) Information that identifies a person who, while an agency 38 employee: (i) Seeks advice, under an informal process established by 39 the employing agency, in order to ascertain his or her rights in

- 1 connection with a possible unfair practice under chapter 49.60 RCW 2 against the person; and (ii) requests his or her identity or any 3 identifying information not be disclosed.
- 4 (dd) Business related information protected from public inspection 5 and copying under RCW 15.86.110.
- (2) Except for information described in subsection (1)(c)(i) of 6 7 this section and confidential income data exempted from public 8 inspection pursuant to RCW 84.40.020, the exemptions of this section 9 are inapplicable to the extent that information, the disclosure of 10 which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be 11 construed to permit the nondisclosure of statistical information not 12 descriptive of any readily identifiable person or persons. 13
- 14 (3) Inspection or copying of any specific records exempt under the 15 provisions of this section may be permitted if the superior court in 16 the county in which the record is maintained finds, after a hearing 17 with notice thereof to every person in interest and the agency, that 18 the exemption of such records is clearly unnecessary to protect any 19 individual's right of privacy or any vital governmental function.
- (4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.
- Sec. 11. 1991 c 314 s 32 (uncodified) is amended to read as follows:
- 26 RCW 43.160.076 and 1991 c 314 s 24 & 1985 c 446 s 6 are each 27 repealed effective June 30, ((1993)) <u>1995</u>.
- 28 **Sec. 12.** 1991 c 314 s 34 (uncodified) is amended to read as 29 follows:
- 30 ((Section 25 of this act)) RCW 43.160.210 shall take effect July 1, 31 ((1993)) 1995.
- NEW SECTION. Sec. 13. Section 9 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately."

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ESHB 1662 - S COMM AMD

By Committee on Trade, Technology & Economic Development

On page 1, line 1 of the title, after "board;" strike the remainder of the title and insert "amending RCW 43.160.020, 43.160.030, 43.160.035, 43.160.074, 43.160.060, 43.160.076, 43.160.077, 43.160.200, and 43.160.900; amending 1991 c 314 s 32 (uncodified); amending 1991 c 314 s 34 (uncodified); reenacting and amending RCW 42.17.310; and declaring an emergency."
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