

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6111

53rd Legislature
1994 Regular Session

Passed by the Senate March 9, 1994
YEAS 48 NAYS 1

President of the Senate

Passed by the House March 8, 1994
YEAS 91 NAYS 1

**Speaker of the
House of Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6111** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6111

AS AMENDED BY THE HOUSE

Passed Legislature - 1994 Regular Session

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 section to chapter 42.17. RCW; adding
6 a new chapter to Title 42 RCW; creating new sections; recodifying RCW
7 42.18.217, 42.18.230, 42.18.260, 42.18.270, 42.18.330, and 42.22.050;
8 repealing RCW 42.18.010, 42.18.020, 42.18.030, 42.18.040, 42.18.050,
9 42.18.060, 42.18.070, 42.18.080, 42.18.090, 42.18.100, 42.18.110,
10 42.18.120, 42.18.130, 42.18.140, 42.18.150, 42.18.170, 42.18.180,
11 42.18.190, 42.18.200, 42.18.210, 42.18.213, 42.18.215, 42.18.221,
12 42.18.240, 42.18.250, 42.18.280, 42.18.290, 42.18.300, 42.18.310,
13 42.18.320, 42.18.900, 42.20.010, 42.21.010, 42.21.020, 42.21.030,
14 42.21.040, 42.21.050, 42.21.080, 42.21.090, 42.22.010, 42.22.020,
15 42.22.030, 42.22.040, 42.22.060, 42.22.070, 42.22.120, 44.60.010,
16 44.60.020, 44.60.030, 44.60.040, 44.60.050, 44.60.070, 44.60.080,
17 44.60.090, 44.60.100, 44.60.110, 44.60.120, and 44.60.130; prescribing
18 penalties; and providing an effective date.

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

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

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

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

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

32 **PART I**
33 **GENERAL ETHICS PROVISIONS**

34 NEW SECTION. **Sec. 101.** DEFINITIONS. Unless the context clearly
35 requires otherwise, the definitions in this section apply throughout
36 this chapter.

1 (1) "Agency" means any state board, commission, bureau, committee,
2 department, institution, division, or tribunal in the legislative,
3 executive, or judicial branch of state government. "Agency" includes
4 all elective offices, the state legislature, those institutions of
5 higher education created and supported by the state government, and
6 those courts that are parts of state government.

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

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

17 (4) "Beneficial interest" has the meaning ascribed to it under the
18 Washington case law. However, an ownership interest in a mutual fund
19 or similar investment pooling fund in which the owner has no management
20 powers does not constitute a beneficial interest in the entities in
21 which the fund or pool invests.

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

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

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

31 (8) "Family" has the same meaning as "immediate family" in RCW
32 42.17.020.

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

35 (a) Items from family members or friends where it is clear beyond
36 a reasonable doubt that the gift was not made as part of any design to
37 gain or maintain influence in the agency of which the recipient is an
38 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 but does not include
34 preparation, consideration, or enactment of legislation or the
35 performance of legislative duties.

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

1 (13) "Regulatory agency" means any state board, commission,
2 department, or officer, except those in the legislative or judicial
3 branches, authorized by law to conduct adjudicative proceedings, issue
4 permits or licenses, or to control or affect interests of identified
5 persons.

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

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

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

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

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

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

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

36 (a) A loan, property interest, interest in a contract or other
37 chose in action, and employment or another arrangement involving a
38 right to compensation;

1 (b) An option, irrespective of the conditions to the exercise of
2 the option; and

3 (c) A promise or undertaking for the present or future delivery or
4 procurement.

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

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

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

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

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

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

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

35 (2) No state officer or state employee may participate in a
36 transaction involving the state in his or her official capacity with a
37 person of which the officer or employee is an officer, agent, employee,

1 or member, or in which the officer or employee owns a beneficial
2 interest.

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

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

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

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

16 (3) A business entity of which a state officer or state employee is
17 a partner, managing officer, or employee shall not assist another
18 person in a transaction involving the state if the state officer or
19 state employee is prohibited from doing so by subsection (1) of this
20 section.

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

23 (a) The state officer's or state employee's parent, spouse, or
24 child, or a child thereof for whom the officer or employee is serving
25 as guardian, executor, administrator, trustee, or other personal
26 fiduciary, if the state officer or state employee did not participate
27 in the transaction; or

28 (b) Another state employee involved in disciplinary or other
29 personnel administration proceedings.

30 NEW SECTION. **Sec. 105.** CONFIDENTIAL INFORMATION. No state
31 officer or state employee may accept employment or engage in any
32 business or professional activity that the officer or employee might
33 reasonably expect would require or induce him or her to disclose
34 confidential information acquired by the official or employee by reason
35 of the official's or employee's official position.

36 (2) No state officer or state employee may disclose confidential
37 information gained by reason of the officer's or employee's official

1 position or otherwise use the information for his or her personal gain
2 or benefit or the gain or benefit of another.

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

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

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

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

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

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

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

32 (c) The duties of the employment with the employer or the
33 activities for which the compensation would be received include
34 fulfilling or implementing, in whole or in part, the provisions of such
35 a contract or contracts or include the supervision or control of
36 actions taken to fulfill or implement, in whole or in part, the

1 provisions of such a contract or contracts. This subsection shall not
2 be construed to prohibit a state officer or state employee from
3 accepting employment with a state employee organization.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (2) Findings of violations referred to in subsection (1)(b) of this
23 section shall be made on record after notice and hearing, conducted in
24 accordance with the Washington Administrative Procedure Act, chapter
25 34.05 RCW. Such findings and orders are subject to judicial review.

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

28 NEW SECTION. **Sec. 111.** COMPENSATION FOR OFFICIAL DUTIES. No
29 state officer or state employee may, directly or indirectly, ask for or
30 give or receive or agree to receive any compensation, gift, reward, or
31 gratuity from a source except the state of Washington for performing or
32 omitting or deferring the performance of any official duty, unless
33 otherwise authorized by law.

34 NEW SECTION. **Sec. 112.** COMPENSATION FOR OUTSIDE ACTIVITIES. (1)
35 No state officer or state employee may receive any thing of economic
36 value under any contract or grant outside of his or her official

1 duties. The prohibition in this subsection does not apply where each
2 of the following conditions are met:

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

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

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

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

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

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

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

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

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

31 (c) The process for awarding the contract or issuing the grant is
32 not open and competitive, but the officer or employee has been advised
33 by the appropriate ethics board that the contract or grant would not be
34 in conflict with the proper discharge of the officer's or employee's
35 official duties.

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

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

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

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

18 (2) An agency may not permit honoraria under the following
19 circumstances:

20 (a) The person offering the honorarium is seeking or is reasonably
21 expected to seek contractual relations with or a grant from the
22 employer of the state officer or state employee, and the officer or
23 employee is in a position to participate in the terms or the award of
24 the contract or grant;

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

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

33 NEW SECTION. **Sec. 114.** GIFTS. No state officer or state employee
34 may receive, accept, take, seek, or solicit, directly or indirectly,
35 any thing of economic value as a gift, gratuity, or favor from a person
36 if it could be reasonably expected that the gift, gratuity, or favor

1 would influence the vote, action, or judgment of the officer or
2 employee, or be considered as part of a reward for action or inaction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (ii) Payments for seminars and educational programs sponsored by a
38 bona fide nonprofit professional, educational, or trade association, or
39 charitable institution; and

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

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

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

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

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

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

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

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

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

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

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

35 ~~Exceptions to this subsection (2) may be made by regulations issued~~
36 ~~pursuant to RCW 42.18.240 in situations referred to in RCW~~
37 ~~42.18.200(3).))~~

1 NEW SECTION. **Sec. 118.** USE OF PUBLIC RESOURCES FOR POLITICAL

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

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

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

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

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

35 (d) De minimis use of public facilities by state-wide elected
36 officials and legislators incidental to the preparation or delivery of
37 permissible communications, including written and verbal communications
38 initiated by them of their views on ballot propositions that

1 foreseeably may affect a matter that falls within their constitutional
2 or statutory responsibilities.

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

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

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

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

32 NEW SECTION. **Sec. 120.** AGENCY RULES. (1) Each agency may adopt
33 rules consistent with law, for use within the agency to protect against
34 violations of this chapter.

35 (2) Each agency proposing to adopt rules under this section shall
36 forward the rules to the appropriate ethics board before they may take

1 effect. The board may submit comments to the agency regarding the
2 proposed rules.

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

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

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

12 (3) No municipal officer may accept employment or engage in
13 business or professional activity that the officer might reasonably
14 expect would require or induce him or her by reason of his or her
15 official position to disclose confidential information acquired by
16 reason of his or her official position.

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

20 **PART II**
21 **ETHICS ENFORCEMENT BOARDS**

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

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

27 (b) Two members of the house of representatives, one from each of
28 the two largest caucuses, appointed by the speaker of the house of
29 representatives;

30 (c) Five citizen members:

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

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

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

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

3 (4) Terms of initial nonlegislative board members shall be
4 staggered as follows: One member shall be appointed to a one-year
5 term; one member shall be appointed to a two-year term; one member
6 shall be appointed to a three-year term; one member shall be appointed
7 to a four-year term; and one member shall be appointed for a five-year
8 term.

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

11 (6) Legislative members shall serve two-year terms, from January
12 31st of an odd-numbered year until January 31st of the next
13 odd-numbered year.

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

16 (8) The citizen members shall annually select a chair from among
17 themselves.

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

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

22 (2) The legislative ethics board shall:

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

25 (b) Issue advisory opinions;

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

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

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

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

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

38 (3) The board may:

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

4 (b) Administer oaths and affirmations;

5 (c) Examine witnesses; and

6 (d) Receive evidence.

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

13 NEW SECTION. **Sec. 203.** By constitutional design, the legislature
14 consists of citizen-legislators who bring to bear on the legislative
15 process their individual experience and expertise. The provisions of
16 this act shall be interpreted in light of this constitutional
17 principle.

18 NEW SECTION. **Sec. 204.** TRANSFER OF JURISDICTION. On the
19 effective date of this section, any complaints or other matters under
20 investigation or consideration by the boards of legislative ethics in
21 the house of representatives and the senate operating pursuant to
22 chapter 44.60 RCW shall be transferred to the legislative ethics board
23 created by this act. All files, including but not limited to minutes
24 of meetings, investigative files, records of proceedings, exhibits, and
25 expense records, shall be transferred to the legislative ethics board
26 created in this act pursuant to their direction and the legislative
27 ethics board created in this act shall assume full jurisdiction over
28 all pending complaints, investigations, and proceedings.

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

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

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

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

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

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

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

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

11 (4) Terms of initial board members shall be staggered as follows:
12 One member shall be appointed to a one-year term; one member shall be
13 appointed to a two-year term; one member shall be appointed to a three-
14 year term; one member shall be appointed to a four-year term; and one
15 member shall be appointed to a five-year term.

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

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

20 (7) The members shall annually select a chair from among
21 themselves.

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

23 NEW SECTION. **Sec. 206.** AUTHORITY OF EXECUTIVE ETHICS BOARD. (1)
24 The executive ethics board shall enforce this chapter and rules adopted
25 under it with respect to state-wide elected officers and all other
26 officers and employees in the executive branch, boards and commissions,
27 and institutions of higher education.

28 (2) The executive ethics board shall:

29 (a) Develop educational materials and training;

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

34 (c) Issue advisory opinions;

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

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

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

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

5 (3) The board may:

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

9 (b) Administer oaths and affirmations;

10 (c) Examine witnesses; and

11 (d) Receive evidence.

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

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

16 NEW SECTION. **Sec. 207.** AUTHORITY OF COMMISSION ON JUDICIAL
17 CONDUCT. The commission on judicial conduct shall enforce this chapter
18 and rules adopted under it with respect to state officers and employees
19 of the judicial branch and may do so according to procedures prescribed
20 in Article IV, section 31 of the state Constitution. In addition to
21 the sanctions authorized in Article IV, section 31 of the state
22 Constitution, the commission may impose sanctions authorized by this
23 chapter.

24 NEW SECTION. **Sec. 208.** POLITICAL ACTIVITIES OF CITIZEN BOARD
25 MEMBERS. No member of the executive ethics board and none of the five
26 citizen members of the legislative ethics board may (1) hold or
27 campaign for partisan elective office other than the position of
28 precinct committeeperson, or any full-time nonpartisan office; (2) be
29 an officer of any political party or political committee as defined in
30 chapter 42.17 RCW other than the position of precinct committeeperson;
31 (3) permit his or her name to be used, or make contributions, in
32 support of or in opposition to any state candidate or state ballot
33 measure; or (4) lobby or control, direct, or assist a lobbyist except
34 that such member may appear before any committee of the legislature on
35 matters pertaining to this chapter.

1 NEW SECTION. **Sec. 209.** HEARING AND SUBPOENA AUTHORITY. Except as
2 otherwise provided by law, the ethics boards may hold hearings,
3 subpoena witnesses, compel their attendance, administer oaths, take the
4 testimony of a person under oath, and in connection therewith, to
5 require the production for examination of any books or papers relating
6 to any matter under investigation or in question before the ethics
7 board. The ethics board may make rules as to the issuance of subpoenas
8 by individual members, as to service of complaints, decisions, orders,
9 recommendations, and other process or papers of the ethics board.

10 NEW SECTION. **Sec. 210.** ENFORCEMENT OF SUBPOENA AUTHORITY. In
11 case of refusal to obey a subpoena issued to a person, the superior
12 court of a county within the jurisdiction of which the investigation,
13 proceeding, or hearing under this chapter is carried on or within the
14 jurisdiction of which the person refusing to obey is found or resides
15 or transacts business, upon application by the appropriate ethics board
16 shall have jurisdiction to issue to the person an order requiring the
17 person to appear before the ethics board or its member to produce
18 evidence if so ordered, or to give testimony touching the matter under
19 investigation or in question. Failure to obey such order of the court
20 may be punished by the court as contempt.

21 NEW SECTION. **Sec. 211.** FILING COMPLAINT. (1) A person may,
22 personally or by his or her attorney, make, sign, and file with the
23 appropriate ethics board a complaint on a form provided by the
24 appropriate ethics board. The complaint shall state the name of the
25 person alleged to have violated this chapter or rules adopted under it
26 and the particulars thereof, and contain such other information as may
27 be required by the appropriate ethics board.

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

31 NEW SECTION. **Sec. 212.** INVESTIGATION. After the filing of any
32 complaint, except as provided in section 215 of this act, the staff of
33 the appropriate ethics board shall investigate the complaint. The
34 investigation shall be limited to the alleged facts contained in the
35 complaint. The results of the investigation shall be reduced to
36 writing and a determination shall be made that there is or that there

1 is not reasonable cause to believe that a violation of this chapter or
2 rules adopted under it has been or is being committed. A copy of the
3 written determination shall be provided to the complainant and to the
4 person named in such complaint.

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

10 (2) The ethics board shall designate the location of the hearing.
11 The case in support of the complaint shall be presented at the hearing
12 by staff of the ethics board.

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

17 (4) Testimony taken at the hearing shall be under oath and
18 recorded.

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

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

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

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

1 NEW SECTION. **Sec. 215.** COMPLAINT AGAINST LEGISLATOR OR STATE-WIDE
2 ELECTED OFFICIAL. (1) If a complaint alleges a violation of section
3 118 of this act by a legislator or state-wide elected official other
4 than the attorney general, the attorney general shall conduct the
5 investigation under section 212 of this act and recommend action to the
6 appropriate ethics board.

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

11 NEW SECTION. **Sec. 216.** CITIZEN ACTIONS. Any person who has
12 notified the appropriate ethics board and the attorney general in
13 writing that there is reason to believe that section 118 of this act is
14 being or has been violated may, in the name of the state, bring a
15 citizen action for any of the actions authorized under this chapter.
16 A citizen action may be brought only if the appropriate ethics board or
17 the attorney general have failed to commence an action under this
18 chapter within forty-five days after notice from the person, the person
19 has thereafter notified the appropriate ethics board and the attorney
20 general that the person will commence a citizen's action within ten
21 days upon their failure to commence an action, and the appropriate
22 ethics board and the attorney general have in fact failed to bring an
23 action within ten days of receipt of the second notice.

24 If the person who brings the citizen's action prevails, the
25 judgment awarded shall escheat to the state, but the person shall be
26 entitled to be reimbursed by the state of Washington for costs and
27 attorneys' fees incurred. If a citizen's action that the court finds
28 was brought without reasonable cause is dismissed, the court may order
29 the person commencing the action to pay all costs of trial and
30 reasonable attorneys' fees incurred by the defendant.

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

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

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

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

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

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

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

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

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

23 NEW SECTION. Sec. 219. ACTION BY ATTORNEY GENERAL. (1) Upon a
24 written determination by the attorney general that the action of an
25 ethics board was clearly erroneous or if requested by an ethics board,
26 the attorney general may bring a civil action in the superior court of
27 the county in which the violation is alleged to have occurred against
28 a state officer, state employee, former state officer, former state
29 employee, or other person who has violated or knowingly assisted
30 another person in violating any of the provisions of this chapter or
31 the rules adopted under it. In such action the attorney general may
32 recover the following amounts on behalf of the state of Washington:

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

35 (b) From each such person, a civil penalty of up to five thousand
36 dollars per violation or three times the economic value of any thing

1 received or sought in violation of this chapter or the rules adopted
2 under it, whichever is greater; and

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

7 (2) In any civil action brought by the attorney general upon the
8 basis that the attorney general has determined that the board's action
9 was clearly erroneous, the court shall not proceed with the action
10 unless the attorney general has first shown, and the court has found,
11 that the action of the board was clearly erroneous.

12 NEW SECTION. **Sec. 220.** HEARINGS CONDUCTED BY ADMINISTRATIVE LAW
13 JUDGE. If an ethics board finds that there is reasonable cause to
14 believe that a violation has occurred, the board shall consider the
15 possibility of the alleged violator having to pay a total amount of
16 penalty and costs of more than five hundred dollars. Based on such
17 consideration, the board may give the person who is the subject of the
18 complaint the option to have an administrative law judge conduct the
19 hearing and rule on procedural and evidentiary matters. The board may
20 also, on its own initiative, provide for retaining an administrative
21 law judge. An ethics board may not require total payment of more than
22 five hundred dollars in penalty and costs in any case where an
23 administrative law judge is not used and the board did not give such
24 option to the person who is the subject of the complaint.

25 NEW SECTION. **Sec. 221.** RESCISSION OF STATE ACTION. (1) The
26 attorney general may, on request of the governor or the appropriate
27 agency, and in addition to other available rights of rescission, bring
28 an action in the superior court of Thurston county to cancel or rescind
29 state action taken by a state officer or state employee, without
30 liability to the state of Washington, contractual or otherwise, if the
31 governor or ethics board has reason to believe that: (a) A violation
32 of this chapter or rules adopted under it has substantially influenced
33 the state action, and (b) the interest of the state requires the
34 cancellation or rescission. The governor may suspend state action
35 pending the determination of the merits of the controversy under this
36 section. The court may permit persons affected by the governor's
37 actions to post an adequate bond pending such resolution to ensure

1 compliance by the defendant with the final judgment, decree, or other
2 order of the court.

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

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

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

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

22 NEW SECTION. **Sec. 223.** ADDITIONAL INVESTIGATIVE AUTHORITY. In
23 addition to other authority under this chapter, the attorney general
24 may investigate persons not under the jurisdiction of an ethics board
25 whom the attorney general has reason to believe were involved in
26 transactions in violation of this chapter or rules adopted under it.

27 NEW SECTION. **Sec. 224.** LIMITATIONS PERIOD. Any action taken
28 under this chapter must be commenced within five years from the date of
29 the violation. However, if it is shown that the violation was not
30 discovered because of concealment by the person charged, then the
31 action must be commenced within two years from the date the violation
32 was discovered or reasonably should have been discovered: (1) By any
33 person with direct or indirect supervisory responsibilities over the
34 person who allegedly committed the violation; or (2) if no person has
35 direct or indirect supervisory authority over the person who committed
36 the violation, by the appropriate ethics board.

1 NEW SECTION. **Sec. 225.** The members of the legislative ethics
2 board created by section 201 of this act and the executive ethics board
3 created by section 204 of this act shall be appointed no later than
4 October 1, 1994. Notwithstanding the authority granted to these boards
5 by sections 202 and 205 of this act, until January 1, 1995, the
6 authority of each board shall be limited to conducting meetings and
7 incurring expenses solely for administrative and organizational
8 purposes.

9 This section shall expire January 1, 1995.

10 NEW SECTION. **Sec. 226.** Any violations occurring prior to January
11 1, 1995, of any of the following laws shall be disposed of as if
12 chapter . . . , Laws of 1994 (this act) were not enacted and such laws
13 continued in full force and effect: RCW 42.17.130, chapter 42.18 RCW,
14 chapter 42.21 RCW, and chapter 42.22 RCW.

15 NEW SECTION. **Sec. 227.** The citizen members of the legislative
16 ethics board and the members of the executive ethics board shall be
17 compensated as provided in RCW 43.03.250 and reimbursed for travel
18 expenses as provided in RCW 43.03.050 and 43.03.060. Legislator
19 members of the legislative ethics board shall be reimbursed as provided
20 in RCW 44.04.120.

21 **PART III**

22 **MISCELLANEOUS PROVISIONS**

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

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

28 NEW SECTION. **Sec. 303.** The following sections are each recodified
29 as sections in chapter 42.-- RCW (sections 101 through 109, 111 through
30 115, 118 through 120, 201, 202, 203, 205 through 221, 223, 224, 227,
31 301, and 302 of this act):

32 RCW 42.18.217

33 RCW 42.18.230

1 RCW 42.18.260
2 RCW 42.18.270
3 RCW 42.18.330
4 RCW 42.22.050

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

- 7 (1) RCW 42.18.010 and 1969 ex.s. c 234 s 1;
- 8 (2) RCW 42.18.020 and 1969 ex.s. c 234 s 2;
- 9 (3) RCW 42.18.030 and 1969 ex.s. c 234 s 3;
- 10 (4) RCW 42.18.040 and 1969 ex.s. c 234 s 4;
- 11 (5) RCW 42.18.050 and 1969 ex.s. c 234 s 5;
- 12 (6) RCW 42.18.060 and 1969 ex.s. c 234 s 6;
- 13 (7) RCW 42.18.070 and 1969 ex.s. c 234 s 7;
- 14 (8) RCW 42.18.080 and 1969 ex.s. c 234 s 8;
- 15 (9) RCW 42.18.090 and 1969 ex.s. c 234 s 9;
- 16 (10) RCW 42.18.100 and 1969 ex.s. c 234 s 10;
- 17 (11) RCW 42.18.110 and 1969 ex.s. c 234 s 11;
- 18 (12) RCW 42.18.120 and 1969 ex.s. c 234 s 12;
- 19 (13) RCW 42.18.130 and 1973 c 137 s 1 & 1969 ex.s. c 234 s 13;
- 20 (14) RCW 42.18.140 and 1969 ex.s. c 234 s 14;
- 21 (15) RCW 42.18.150 and 1969 ex.s. c 234 s 15;
- 22 (16) RCW 42.18.170 and 1969 ex.s. c 234 s 17;
- 23 (17) RCW 42.18.180 and 1969 ex.s. c 234 s 18;
- 24 (18) RCW 42.18.190 and 1969 ex.s. c 234 s 19;
- 25 (19) RCW 42.18.200 and 1969 ex.s. c 234 s 20;
- 26 (20) RCW 42.18.210 and 1969 ex.s. c 234 s 21;
- 27 (21) RCW 42.18.213 and 1987 c 426 s 1;
- 28 (22) RCW 42.18.215 and 1987 c 426 s 2;
- 29 (23) RCW 42.18.221 and 1989 c 96 s 6 & 1987 c 426 s 4;
- 30 (24) RCW 42.18.240 and 1969 ex.s. c 234 s 24;
- 31 (25) RCW 42.18.250 and 1969 ex.s. c 234 s 25;
- 32 (26) RCW 42.18.280 and 1969 ex.s. c 234 s 28;
- 33 (27) RCW 42.18.290 and 1973 c 137 s 2 & 1969 ex.s. c 234 s 29;
- 34 (28) RCW 42.18.300 and 1973 c 137 s 3 & 1969 ex.s. c 234 s 30;
- 35 (29) RCW 42.18.310 and 1969 ex.s. c 234 s 31;
- 36 (30) RCW 42.18.320 and 1969 ex.s. c 234 s 32;
- 37 (31) RCW 42.18.900 and 1969 ex.s. c 234 s 40;
- 38 (32) RCW 42.20.010 and 1969 ex.s. c 234 s 34 & 1909 c 249 s 82;

- 1 (33) RCW 42.21.010 and 1965 ex.s. c 150 s 1;
2 (34) RCW 42.21.020 and 1989 c 175 s 93, 1971 c 81 s 106, & 1965
3 ex.s. c 150 s 2;
4 (35) RCW 42.21.030 and 1965 ex.s. c 150 s 3;
5 (36) RCW 42.21.040 and 1965 ex.s. c 150 s 4;
6 (37) RCW 42.21.050 and 1965 ex.s. c 150 s 5;
7 (38) RCW 42.21.080 and 1965 ex.s. c 150 s 8;
8 (39) RCW 42.21.090 and 1969 ex.s. c 234 s 36;
9 (40) RCW 42.22.010 and 1959 c 320 s 1;
10 (41) RCW 42.22.020 and 1959 c 320 s 2;
11 (42) RCW 42.22.030 and 1961 c 268 s 8 & 1959 c 320 s 3;
12 (43) RCW 42.22.040 and 1989 c 11 s 13 & 1959 c 320 s 4;
13 (44) RCW 42.22.060 and 1959 c 320 s 6;
14 (45) RCW 42.22.070 and 1959 c 320 s 7;
15 (46) RCW 42.22.120 and 1969 ex.s. c 234 s 37;
16 (47) RCW 44.60.010 and 1977 ex.s. c 218 s 1 & 1967 ex.s. c 150 s 1;
17 (48) RCW 44.60.020 and 1980 c 87 s 43, 1977 ex.s. c 218 s 2, & 1967
18 ex.s. c 150 s 2;
19 (49) RCW 44.60.030 and 1967 ex.s. c 150 s 3;
20 (50) RCW 44.60.040 and 1977 ex.s. c 218 s 3 & 1967 ex.s. c 150 s 4;
21 (51) RCW 44.60.050 and 1984 c 287 s 92, 1979 c 151 s 159, 1977
22 ex.s. c 218 s 4, 1975-'76 2nd ex.s. c 34 s 135, & 1967 ex.s. c 150 s 5;
23 (52) RCW 44.60.070 and 1980 c 165 s 1, 1977 ex.s. c 218 s 5, & 1967
24 ex.s. c 150 s 6;
25 (53) RCW 44.60.080 and 1977 ex.s. c 218 s 6 & 1967 ex.s. c 150 s 8;
26 (54) RCW 44.60.090 and 1967 ex.s. c 150 s 9;
27 (55) RCW 44.60.100 and 1977 ex.s. c 218 s 7;
28 (56) RCW 44.60.110 and 1980 c 165 s 2 & 1977 ex.s. c 218 s 8;
29 (57) RCW 44.60.120 and 1977 ex.s. c 218 s 9; and
30 (58) RCW 44.60.130 and 1977 ex.s. c 218 s 10.

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

33 (1) The commission may cooperate with other agencies both inside
34 and outside the state of Washington to establish a private, nonprofit
35 corporation for the purpose of providing automated bibliographic,
36 computer-based telecommunications, interlibrary, reference, and
37 referral systems, computer network services, and related library
38 services that are equivalent to the services provided by the western

1 library network on June 1, 1989. The commission may adopt policies and
2 rules consistent with the purposes and provisions of RCW 27.26.070
3 through 27.26.090 and section 11, chapter 96, Laws of 1989 and ((RCW
4 ~~42.18.221~~)) chapter 42.--- RCW (sections 101 through 109, 111 through
5 115, 118 through 120, 201, 202, 203, 205 through 221, 223, 224, 227,
6 301, and 302 of this act) pursuant to the administrative procedure act.

7 (2) The commission may terminate the services provided by the
8 western library network before June 30, 1997, if a successor
9 organization agrees to assume full responsibility for providing
10 services that are equivalent to the services provided by the western
11 library network on June 1, 1989, to the state library, other agencies
12 of state and local government, and other users of the western library
13 network. The commission may not terminate western library network
14 services within six months after June 1, 1989. The commission may not
15 enter into a contract with a successor organization for the delivery of
16 network services after five and one-half years from June 1, 1989.

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

19 A director of the state system of community and technical colleges
20 shall be appointed by the college board and shall serve at the pleasure
21 of the college board. The director shall be appointed with due regard
22 to the applicant's fitness and background in education, and knowledge
23 of and recent practical experience in the field of educational
24 administration particularly in institutions beyond the high school
25 level. The college board may also take into consideration an
26 applicant's proven management background even though not particularly
27 in the field of education.

28 The director shall devote his or her time to the duties of his or
29 her office and shall not have any direct pecuniary interest in or any
30 stock or bonds of any business connected with or selling supplies to
31 the field of education within this state, in keeping with chapter
32 ((~~42.18 RCW, the executive conflict of interest act~~)) 42.--- RCW
33 (sections 101 through 109, 111 through 115, 118 through 120, 201, 202,
34 203, 205 through 221, 223, 224, 227, 301, and 302 of this act).

35 The director shall receive a salary to be fixed by the college
36 board and shall be reimbursed for travel expenses incurred in the
37 discharge of his or her official duties in accordance with RCW
38 43.03.050 and 43.03.060(~~(, as now existing or hereafter amended)~~)).

1 The director shall be the executive officer of the college board
2 and serve as its secretary and under its supervision shall administer
3 the provisions of this chapter and the rules(~~(, regulations)~~) and
4 orders established thereunder and all other laws of the state. The
5 director shall attend, but not vote at, all meetings of the college
6 board. The director shall be in charge of offices of the college board
7 and responsible to the college board for the preparation of reports and
8 the collection and dissemination of data and other public information
9 relating to the state system of community and technical colleges. At
10 the direction of the college board, the director shall, together with
11 the chairman of the college board, execute all contracts entered into
12 by the college board.

13 The director shall, with the approval of the college board: (1)
14 Employ necessary assistant directors of major staff divisions who shall
15 serve at the director's pleasure on such terms and conditions as the
16 director determines, and (2) subject to the provisions of chapter
17 (~~(28B.16)~~) 41.06 RCW(~~(, the higher education personnel law,)~~) the
18 director shall, with the approval of the college board, appoint and
19 employ such field and office assistants, clerks and other employees as
20 may be required and authorized for the proper discharge of the
21 functions of the college board and for whose services funds have been
22 appropriated.

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

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

29 (1) The director shall serve as chief executive officer of the
30 board who shall administer the provisions of this chapter, employ such
31 personnel as may be necessary to implement the purposes of this
32 chapter, and utilize staff of existing operating agencies to the
33 fullest extent possible.

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

35 (3) Subject to the approval of the board, the director shall
36 appoint necessary deputy and assistant directors and other staff who
37 shall be exempt from the provisions of chapter 41.06 RCW. The
38 director's appointees shall serve at the director's pleasure on such

1 terms and conditions as the director determines but subject to ((the
2 code of ethics contained in chapter 42.18 RCW)) chapter 42.--- RCW
3 (sections 101 through 109, 111 through 115, 118 through 120, 201, 202,
4 203, 205 through 221, 223, 224, 227, 301, and 302 of this act).

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

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

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

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

29 During this interim period, the city or town governing body may
30 adopt rules establishing policies and procedures under the state
31 environmental policy act, chapter 43.21C RCW, and may use these rules
32 and procedures in making determinations under the state environmental
33 policy act, chapter 43.21C RCW.

34 During this interim period, the newly formed city or town and its
35 governing body shall be subject to the following as though the city or
36 town were officially incorporated: RCW 4.24.470 relating to immunity;
37 chapter 42.17 RCW relating to open government; chapter 40.14 RCW
38 relating to the preservation and disposition of public records;

1 chapters 42.20(~~(, 42.22,)~~) and 42.23 RCW relating to ethics and
2 conflicts of interest; chapters 42.30 and 42.32 RCW relating to open
3 public meetings and minutes; RCW 35.22.288, 35.23.310, 35.24.220,
4 35.27.300, 35A.12.160, as appropriate, and chapter 35A.65 RCW relating
5 to the publication of notices and ordinances; RCW 35.21.875 and
6 35A.21.230 relating to the designation of an official newspaper; RCW
7 36.16.138 relating to liability insurance; RCW 35.22.620, 35.23.352,
8 and 35A.40.210, as appropriate, and statutes referenced therein
9 relating to public contracts and bidding; and chapter 39.34 RCW
10 relating to interlocal cooperation. Tax anticipation or revenue
11 anticipation notes or warrants and other short-term obligations may be
12 issued and funds may be borrowed on the security of these instruments
13 during this interim period, as provided in chapter 39.50 RCW. Funds
14 also may be borrowed from federal, state, and other governmental
15 agencies in the same manner as if the city or town were officially
16 incorporated.

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

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

38 The boundaries of a newly incorporated city or town shall be deemed
39 to be established for purposes of RCW 84.09.030 on the date that the

1 results of the initial election on the question of incorporation are
2 certified or the first day of January following the date of this
3 election if the newly incorporated city or town does not impose
4 property taxes in the same year that the voters approve the
5 incorporation.

6 The newly elected officials shall take office immediately upon
7 their election and qualification with limited powers during this
8 interim period as provided in this section. They shall acquire their
9 full powers as of the official date of incorporation and shall continue
10 in office until their successors are elected and qualified at the next
11 general municipal election after the official date of incorporation:
12 PROVIDED, That if the date of the next general municipal election is
13 less than twelve months after the date of the first election of
14 councilmembers, those initially elected councilmembers shall serve
15 until their successors are elected and qualified at the next following
16 general municipal election as provided in RCW 29.04.170. For purposes
17 of this section, the general municipal election shall be the date on
18 which city and town general elections are held throughout the state of
19 Washington, pursuant to RCW 29.13.020.

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

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

1 A commission, established by an agreement between a Washington
2 municipality and the Province of British Columbia to carry out a treaty
3 between the United States of America and Canada as authorized in RCW
4 35.21.417, shall be public and shall have all powers and capacity
5 necessary and appropriate for the purposes of performing its functions
6 under the agreement, including, but not limited to, the following
7 powers and capacity: To acquire and dispose of real property other
8 than by condemnation; to enter into contracts; to sue and be sued in
9 either Canada or the United States; to establish an endowment fund in
10 either or both the United States and Canada and to invest the endowment
11 fund in either or both countries; to solicit, accept, and use
12 donations, grants, bequests, or devises intended for furthering the
13 functions of the endowment; to adopt such rules or procedures as it
14 deems desirable for performing its functions; to engage advisors and
15 consultants; to establish committees and subcommittees; to adopt rules
16 for its governance; to enter into agreements with public and private
17 entities; and to engage in activities necessary and appropriate for
18 implementing the agreement and the treaty.

19 The endowment fund and commission may not be subject to state or
20 local taxation. A commission, so established, may not be subject to
21 statutes and laws governing Washington cities and municipalities in the
22 conduct of its internal affairs: PROVIDED, That all commission members
23 appointed by the municipality shall comply with chapter ((42.22-RCW))
24 42.--- RCW (sections 101 through 109, 111 through 115, 118 through 120,
25 201, 202, 203, 205 through 221, 223, 224, 227, 301, and 302 of this
26 act), and: PROVIDED FURTHER, That all commission meetings held within
27 the state of Washington shall be held in compliance with chapter 42.30
28 RCW. All obligations or liabilities incurred by the commission shall
29 be satisfied exclusively from its own assets and insurance.

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

32 The state investment board may make appropriate rules and
33 regulations for the performance of its duties. The board shall
34 establish investment policies and procedures designed exclusively to
35 maximize return at a prudent level of risk. However, in the case of
36 the department of labor and industries' accident, medical aid, and
37 reserve funds, the board shall establish investment policies and
38 procedures designed to attempt to limit fluctuations in industrial

1 insurance premiums and, subject to this purpose, to maximize return at
2 a prudent level of risk. The board shall adopt rules to ensure that
3 its members perform their functions in compliance with chapter ((42.18
4 RCW)) 42.--- RCW (sections 101 through 109, 111 through 115, 118
5 through 120, 201, 202, 203, 205 through 221, 223, 224, 227, 301, and
6 302 of this act). Rules adopted by the board shall be adopted pursuant
7 to chapter 34.05 RCW.

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

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

22 (2) Members of the commission shall have no pecuniary interest in
23 any business subject to regulation by the commission and shall be
24 subject to chapter ((42.18 RCW, the executive branch conflict of
25 interest act)) 42.--- RCW (sections 101 through 109, 111 through 115,
26 118 through 120, 201, 202, 203, 205 through 221, 223, 224, 227, 301,
27 and 302 of this act).

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

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

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

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

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

29 (3) Terminate or suspend eligibility to participate as a provider
30 of services furnished to industrially injured workers pursuant to Title
31 51 RCW.

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

34 Except as provided by chapter ((42.18-RCW)) 42.--- RCW (sections
35 101 through 109, 111 through 115, 118 through 120, 201, 202, 203, 205
36 through 221, 223, 224, 227, 301, and 302 of this act), no member of the
37 board and no employee of the board shall have any interest, directly or
38 indirectly, in the manufacture of liquor or in any liquor sold under

1 this title, or derive any profit or remuneration from the sale of
2 liquor, other than the salary or wages payable to him in respect of his
3 office or position, and shall receive no gratuity from any person in
4 connection with such business.

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

7 No later than ninety days after July 16, 1973 the horse racing
8 commission shall promulgate, pursuant to chapter 34.05 RCW, reasonable
9 rules (~~and regulations~~) implementing to the extent applicable to the
10 circumstances of the horse racing commission the conflict of interest
11 laws of the state of Washington as set forth in chapters (~~42.18,~~)
12 42.21 and (~~42.22~~ RCW) 42.--- RCW (sections 101 through 109, 111
13 through 115, 118 through 120, 201, 202, 203, 205 through 221, 223, 224,
14 227, 301, and 302 of this act).

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

17 (1) There is created and established the energy facility site
18 evaluation council.

19 (2)(a) The chairman of the council shall be appointed by the
20 governor with the advice and consent of the senate, shall have a vote
21 on matters before the council, shall serve for a term coextensive with
22 the term of the governor, and is removable for cause. The chairman may
23 designate a member of the council to serve as acting chairman in the
24 event of the chairman's absence. The chairman is a "state employee"
25 for the purposes of chapter (~~42.18~~ RCW) 42.--- RCW (sections 101
26 through 109, 111 through 115, 118 through 120, 201, 202, 203, 205
27 through 221, 223, 224, 227, 301, and 302 of this act). As applicable,
28 when attending meetings of the council(~~{,}~~), members may receive
29 reimbursement for travel expenses in accordance with RCW 43.03.050 and
30 43.03.060, and are eligible for compensation under RCW 43.03.240.

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

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

4 (a) Department of ecology;

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

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

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

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

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

10 ~~((g))~~ (f) Department of community, trade, and economic
11 development;

12 ~~((h))~~ (g) Utilities and transportation commission;

13 ~~((i))~~ (h) Office of financial management;

14 ~~((j))~~ (i) Department of natural resources;

15 ~~((k) Department of community development;~~

16 ~~(l))~~ (j) Department of agriculture;

17 ~~((m))~~ (k) Department of transportation.

18 (4) The appropriate county legislative authority of every county
19 wherein an application for a proposed site is filed shall appoint a
20 member or designee as a voting member to the council. The member or
21 designee so appointed shall sit with the council only at such times as
22 the council considers the proposed site for the county which he or she
23 represents, and such member or designee shall serve until there has
24 been a final acceptance or rejection of the proposed site;

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

32 (6) For any port district wherein an application for a proposed
33 port facility is filed subject to this chapter, the port district shall
34 appoint a member or designee as a nonvoting member to the council. The
35 member or designee so appointed shall sit with the council only at such
36 times as the council considers the proposed site for the port district
37 which he or she represents, and such member or designee shall serve
38 until there has been a final acceptance or rejection of the proposed
39 site. The provisions of this subsection shall not apply if the port

1 district is the applicant, either singly or in partnership or
2 association with any other person.

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

5 No director or any other officer named in this chapter shall in any
6 manner be interested, directly or indirectly, in any contract awarded
7 or to be awarded by the board, or in the profits to be derived
8 therefrom; and for any violation of this provision, such officer shall
9 be deemed guilty of a misdemeanor, and such conviction shall work a
10 forfeiture of his office, and he shall be punished by a fine not
11 exceeding five hundred dollars, or by imprisonment in the county jail
12 not exceeding six months, or by both fine and imprisonment: PROVIDED,
13 That nothing in this section contained shall be construed to prevent
14 any district officer from being employed by the district as foreman or
15 as a day laborer: PROVIDED FURTHER, That this section shall have no
16 application to any person who is a state employee as defined in ((RCW
17 ~~42.18.130~~) section 101 of this act.

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

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

22 NEW SECTION. **Sec. 318.** Sections 101 through 109, 111 through 115,
23 118 through 120, 201, 202, 203, 205 through 221, 223, 224, 227, 301,
24 and 302 of this act shall constitute a new chapter in Title 42 RCW.

25 NEW SECTION. **Sec. 319.** Sections 101 through 121, 203, 204, 207
26 through 224, and 301 through 317 of this act shall take effect January
27 1, 1995.

28 NEW SECTION. **Sec. 320.** If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

--- END ---