

SB 5764 - S AMD 72

By Senators Kastama, Rockefeller, Baumgartner

ADOPTED 03/02/2011

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

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

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

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

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

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

1 (d) Provide assistance and support to businesses in:
2 (i) Securing federal and private funds to support research;
3 (ii) Developing and integrating technology in new or enhanced
4 products and services; and
5 (iii) Launching those products and services in sustainable
6 businesses in the state;
7 (e) Establish programmatic activities that, through partnerships
8 with the private sector, increase the competitiveness of state
9 industries. This may include support provided to firms in innovation
10 partnership zones established under RCW 43.330.270;
11 (f) Provide opportunities for training undergraduate and graduate
12 students in technology transfer and commercialization processes through
13 direct involvement in research and industry interactions;
14 (g) Administer technology and innovation grant and loan programs
15 including bridge funding programs for the state's technology sector;
16 and
17 (h) Emphasize and develop nonstate support of program activities.
18 (3)(a) Administrative responsibilities for the Washington
19 technology center facilities located on the University of Washington
20 Seattle campus and the Spokane intercollegiate research and technology
21 institute facilities located on the Riverpoint campus operated by
22 Washington State University Spokane are hereby transferred to innovate
23 Washington. The facilities shall be used for purposes consistent with
24 the obligations of innovate Washington under this chapter. As
25 initially established, the University of Washington and Washington
26 State University shall continue to provide the facility support and
27 maintenance for these facilities as required by innovate Washington;
28 however, other institutions of higher education may provide facility
29 support and maintenance subsequently.
30 (b) The University of Washington, Washington State University, and
31 other institutions of higher education participating in innovate
32 Washington programs shall provide the affiliated staff and faculty
33 participating in these programs at their own expense.
34 (4) The facilities of innovate Washington shall be made available
35 to any institution of higher education within the state when this would
36 benefit specific program needs consistent with this chapter.
37 (5) Innovate Washington shall, by December 1, 2012, develop a

1 five-year business plan that must be updated by December 1st of every
2 even-numbered year. The plan must include:

3 (a) A plan for operating additional facilities at Washington State
4 University Vancouver, Washington State University Tri-Cities, Western
5 Washington University, and such other locations as the innovate
6 Washington board identifies as appropriate;

7 (b) Identification and specification of activities to be undertaken
8 by those operating each of innovate Washington's facilities in
9 collaboration with innovative programs at the state's community and
10 technical colleges, which must include methods of working with the
11 centers of excellence established under RCW 28B.50.902 to identify
12 businesses that could benefit from innovate Washington services;

13 (c) The process to be followed, developed in collaboration with
14 impact Washington or any successor manufacturing extension partnership
15 program operating in the state, to ensure that impact Washington
16 clients have ready access to innovate Washington's services when
17 appropriate and that companies being assisted by innovate Washington
18 have ready access to impact Washington's services; and

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

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

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

26 (b) The chairs of the committees in the senate and the house of
27 representatives responsible for economic development issues or their
28 designees;

29 (c) The president of the University of Washington or the
30 president's designee;

31 (d) The president of Washington State University or the president's
32 designee;

33 (e) The director of the department of commerce or the director's
34 designee; and

35 (f) Seven members appointed by the governor from among individuals
36 who own or are executives at technology-based and innovative firms that
37 manufacture in the state. The term of office for each board member

1 appointed by the governor shall be three years except, of the initial
2 appointees, two shall be appointed for one year and two shall be
3 appointed for two years. Members of the board may be appointed for
4 additional terms.

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

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

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

14 (b) The ex officio members of the board under subsection (1)(a) and
15 (c) through (f) of this section may be reimbursed for expenses incurred
16 in the discharge of their duties under this chapter pursuant to RCW
17 43.03.050 and 43.03.060.

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

21 (5) A majority of currently serving board members constitutes a
22 quorum.

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

30 (7) The innovate Washington board must:

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

32 (b) Appoint, and perform an annual performance review of, an
33 executive director;

34 (c) Approve an annual operating budget and ensure adequate funding
35 for operations;

36 (d) Approve a five-year business plan and its updates;

37 (e) Perform the duties required under chapter 70.210 RCW relating
38 to the investing in innovation program;

1 (f) Convene representatives of the commercialization and technology
2 transfer offices of private and public research institutions in the
3 state to determine the best methods for:

4 (i) Integrating existing databases into a single database of in-
5 state technologies and inventions;

6 (ii) Making the technologies in the integrated database accessible;
7 and

8 (iii) Promoting the integrated database to entrepreneurs and
9 investors for commercialization and licensing purposes;

10 (g) Set performance goals for each program or service established;
11 and

12 (h) Provide a report to the governor and the legislature detailing
13 the fund-raising activities and outcomes, operations, economic impact,
14 and performance of innovate Washington. The report is due by December
15 1st of every year and the first report is due by December 1, 2012. The
16 report must include measures related to customer satisfaction as well
17 as measures of results derived from assistance provided to businesses,
18 including but not limited to job creation inside and outside of
19 Washington, new product development, new markets opened and other
20 export measures, the adoption of new production processes, revenue and
21 sales growth, measures that would be included in a balanced scorecard,
22 and such other outcome-based measures as the board determines is
23 appropriate.

24 (8) The board may:

25 (a) Make and execute agreements, contracts, and other instruments
26 with any private, public, or nonprofit entity for the performance,
27 operation, administration, implementation, or advancement of any
28 program in accordance with this chapter;

29 (b) Employ, contract with, or engage staff, counsel, advisors,
30 auditors, other technical or professional assistants, and such other
31 personnel as are necessary or desirable to implement this chapter.
32 Staff support for innovate Washington programs may be provided through
33 cooperative agreements with any public or private institution of higher
34 education;

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

1 (d) Establish such affiliated organizations, special funds
2 consistent with the provisions of chapter 43.88 RCW, and controls as it
3 finds convenient for the implementation of this chapter;

4 (e) Create one or more advisory committees;

5 (f) Adopt rules consistent with this chapter;

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

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

10 NEW SECTION. **Sec. 3.** (1) To increase participation by Washington
11 state small business innovators in federal small business research
12 programs, innovate Washington shall provide or contract for the
13 provision of a small business innovation assistance program. The
14 program must include a proposal review process and must train and
15 assist Washington small business innovators to win awards from federal
16 small business research programs. The program must collaborate with
17 small business development centers, entrepreneur-in-residence programs,
18 and other appropriate sources of technical assistance to ensure that
19 small business innovators also receive the planning, counseling, and
20 support services necessary to expand their businesses and protect their
21 intellectual property.

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

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

28 (a) "Federal small business research programs" means the programs,
29 operating pursuant to the small business innovation development act of
30 1982, P.L. 97-219, and the small business technology transfer act of
31 1992, P.L. 102-564, title II, that provide funds to small businesses to
32 conduct research having commercial application.

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

1 NEW SECTION. **Sec. 4.** The investing in innovation account is
2 created in the custody of the state treasurer. All receipts from fund-
3 raising activities pursuant to section 2 of this act must be deposited
4 into the account. Expenditures from the account may be used only for
5 the purposes of the investing in innovation programs established in
6 chapter 70.210 RCW and any other purpose consistent with this chapter.
7 Only the executive director of innovate Washington or the executive
8 director's designee may authorize expenditures from the account. The
9 account is subject to allotment procedures under chapter 43.88 RCW, but
10 an appropriation is not required for expenditures.

11 NEW SECTION. **Sec. 5.** The Washington clean energy partnership is
12 created as a programmatic activity of innovate Washington. The
13 partnership shall develop, implement, and manage programs and funding
14 initiatives related to expanding the clean energy sector in Washington.
15 The partnership shall coordinate clean energy initiatives and implement
16 the clean energy leadership council's recommendations provided in the
17 Washington state clean energy leadership plan report.

18 NEW SECTION. **Sec. 6.** (1) The Washington clean energy partnership
19 shall, as funds are available:

20 (a) Implement the strategy and recommendations of the clean energy
21 leadership council including implementing the first three market-
22 driving initiatives identified by the council in its 2010 report:

23 (i) Combined energy efficiency, green buildings, and smart grid;

24 (ii) Renewable energy resource optimization and smart grid
25 deployment; and

26 (iii) Bioenergy deployment acceleration;

27 (b) Assess periodically other potential opportunities, such as the
28 production of thermal energy as a clean energy technology, and add
29 market-driving initiatives if justified by comprehensive analysis;

30 (c) Serve as the primary point of contact and lead entity in the
31 state for developing and coordinating clean energy-related initiatives
32 and funding programs targeted at expanding the clean energy sector;

33 (d) Secure a minimum of fifty percent nonstate funds for projects
34 undertaken by the partnership, however nonstate funds or moneys that
35 the partnership is directed to manage that have different matching
36 contribution requirements are not subject to this subsection (1)(d);

1 (e) Use state funding to demonstrate state commitment, serve as a
2 catalyst for attracting matching funding from multiple sources, and
3 stimulate collaborative projects among other purposes;

4 (f) Work with the public and private utilities, district energy
5 providers, and the utilities and transportation commission to develop
6 recommendations to improve alignment of state investments, policies,
7 and the work of the partnership, with the operations of utilities,
8 including investor-owned utilities regulated by the utilities and
9 transportation commission, however, this subsection does not create a
10 right in any person to challenge a regulatory decision of the utilities
11 and transportation commission;

12 (g) Work with the legislature to establish a long-term, stable
13 funding strategy appropriate for supporting the partnership;

14 (h) Track, identify, and create opportunities to attract federal
15 and other nonstate funding, and make recommendations for increasing
16 Washington's success rate in receiving federal and other nonstate
17 funds;

18 (i) Work with regional public and private utilities to identify a
19 process for understanding and prioritizing their goals and make
20 recommendations for aligning, coordinating, and leveraging the
21 partnership's investments with the needs of regional utilities in ways
22 that help accelerate the growth of clean energy jobs and technology in
23 the region;

24 (j) Participate fully in federal and other governmental programs
25 and take such actions as are necessary and consistent with this chapter
26 to secure for the partnership and the people of the state the benefits
27 of those programs and to meet their requirements; and

28 (k) Conduct analyses as necessary to identify and communicate to
29 policymakers the best opportunities for Washington to maintain and
30 expand the clean energy sector in Washington state.

31 (2) Existing energy policy and regulatory functions of the
32 department of commerce shall remain with the state energy office.

33 (3) By November 1, 2012, and November 1st biennially thereafter,
34 innovate Washington must submit a report to the legislature and the
35 governor with recommendations on ways to improve policy alignment,
36 streamline regulatory requirements, and remove administrative barriers
37 that limit the growth of the clean energy sector in Washington as well

1 as a discussion of best practices encountered in implementing the
2 market-driving initiatives.

3 NEW SECTION. **Sec. 7.** The Washington clean energy partnership fund
4 is created in the custody of the state treasurer to receive state and
5 federal funds, grants, private gifts, or contributions to further the
6 purpose of the Washington clean energy partnership. Only the executive
7 director of innovate Washington or the director's designee may
8 authorize expenditures from the account. The account is subject to
9 allotment procedures under chapter 43.88 RCW, but an appropriation is
10 not required for expenditures.

11 **Sec. 8.** RCW 43.325.040 and 2009 c 564 s 942 and 2009 c 451 s 5 are
12 each reenacted and amended to read as follows:

13 (1) The energy freedom account is created in the state treasury.
14 All receipts from appropriations made to the account and any loan
15 payments of principal and interest derived from loans made under the
16 energy freedom account must be deposited into the account. Moneys in
17 the account may be spent only after appropriation. Expenditures from
18 the account may be used only for financial assistance for further
19 funding for projects consistent with this chapter or otherwise
20 authorized by the legislature.

21 (2) The green energy incentive account is created in the state
22 treasury as a subaccount of the energy freedom account. All receipts
23 from appropriations made to the green energy incentive account shall be
24 deposited into the account, and may be spent only after appropriation.
25 Expenditures from the account may be used only for:

26 (a) Refueling projects awarded under this chapter;

27 (b) Pilot projects for plug-in hybrids, including grants provided
28 for the electrification program set forth in RCW 43.325.110; and

29 (c) Demonstration projects developed with state universities as
30 defined in RCW 28B.10.016 and local governments that result in the
31 design and building of a hydrogen vehicle fueling station.

32 (3)(a) The energy recovery act account is created in the state
33 treasury. State and federal funds may be deposited into the account
34 and any loan payments of principal and interest derived from loans made
35 from the energy recovery act account must be deposited into the
36 account. Moneys in the account may be spent only after appropriation.

1 (b) Expenditures from the account may be used only for loans, loan
2 guarantees, and grants that encourage the establishment of innovative
3 and sustainable industries for renewable energy and energy efficiency
4 technology, including but not limited to:

5 (i) Renewable energy projects or programs that require interim
6 financing to complete project development and implementation;

7 (ii) Companies with innovative, near-commercial or commercial,
8 clean energy technology; ~~((and))~~

9 (iii) Energy efficiency technologies that have a viable repayment
10 stream from reduced utility costs; and

11 (iv) Initiatives approved by the Washington clean energy
12 partnership.

13 ~~((+e)) (4)(a)~~ The director shall establish policies and procedures
14 for processing, reviewing, and approving applications for funding under
15 this section. ~~((When developing these))~~ The policies and procedures~~((~~
16 ~~the department must consider the clean energy leadership strategy~~
17 ~~developed under section 2, chapter 318, Laws of 2009))~~ developed under
18 this section must be approved by the Washington clean energy
19 partnership.

20 ~~((+d)) (b)~~ The director shall enter into agreements with approved
21 applicants to fix the term and rates of funding provided from this
22 account.

23 ~~((+e)) (c)~~ The policies and procedures of this subsection ~~((+3))~~
24 (4) do not apply to assistance awarded for projects under RCW
25 43.325.020(3).

26 ~~((+4)) (5)~~ Any state agency receiving funding from the energy
27 freedom account is prohibited from retaining greater than three percent
28 of any funding provided from the energy freedom account for
29 administrative overhead or other deductions not directly associated
30 with conducting the research, projects, or other end products that the
31 funding is designed to produce unless this provision is waived in
32 writing by the director.

33 ~~((+5)) (6)~~ Any university, institute, or other entity that is not
34 a state agency receiving funding from the energy freedom account is
35 prohibited from retaining greater than fifteen percent of any funding
36 provided from the energy freedom account for administrative overhead or
37 other deductions not directly associated with conducting the research,

1 projects, or other end products that the funding is designed to
2 produce.

3 ~~((6) Subsections (2), (4) and (5) of this section do not apply to
4 assistance awarded for projects under RCW 43.325.020(3)).~~

5 ~~(7) During the 2009-2011 fiscal biennium, the legislature may
6 transfer from the energy freedom account to the state general fund such
7 amounts as reflect the excess fund balance of the account.)~~

8 NEW SECTION. **Sec. 9.** A new section is added to chapter 41.06 RCW
9 to read as follows:

10 In addition to the exemptions in RCW 41.06.070, this chapter does
11 not apply to any position in or employee of innovate Washington under
12 chapter 43.--- RCW (the new chapter created in section 23 of this act).

13 **Sec. 10.** RCW 28B.50.902 and 2009 c 151 s 4 are each amended to
14 read as follows:

15 (1) The college board, in consultation with business, industry,
16 labor, the workforce training and education coordinating board, the
17 department of ~~((community, trade, and economic development))~~ commerce,
18 the employment security department, and community and technical
19 colleges, shall designate centers of excellence and allocate funds to
20 existing and new centers of excellence based on a competitive basis.

21 (2) Eligible applicants for the program established under this
22 section include community and technical colleges. Priority shall be
23 given to applicants that have an established education and training
24 program serving the targeted industry and that have in their home
25 district or region an industry cluster with the same targeted industry
26 at its core.

27 (3) It is the role of centers of excellence to employ strategies
28 to:

29 (a) Create educational efficiencies;

30 (b) Build a diverse, competitive workforce for strategic
31 industries;

32 (c) Maintain an institutional reputation for innovation and
33 responsiveness;

34 (d) Develop innovative curriculum and means of delivering education
35 and training;

1 (e) Act as brokers of information and resources related to
2 community and technical college education and training ((for)) and
3 assistance available for firms in a targeted industry, including
4 working with innovate Washington to develop methods to identify
5 businesses within a targeted industry that could benefit from the
6 services offered by innovate Washington under chapter 43.--- RCW (the
7 new chapter created in section 23 of this act); and

8 (f) Serve as partners with workforce development councils,
9 associate development organizations, and other workforce and economic
10 development organizations.

11 (4) Examples of strategies under subsection (3) of this section
12 include but are not limited to: Sharing curriculum and other
13 instructional resources, to ensure cost savings to the system;
14 delivering collaborative certificate and degree programs; and holding
15 statewide summits, seminars, conferences, and workshops on industry
16 trends and best practices in community and technical college education
17 and training.

18 **Sec. 11.** RCW 70.210.010 and 2003 c 403 s 1 are each amended to
19 read as follows:

20 It is the intent of the legislature to promote growth in the
21 technology sectors of our state's economy and to particularly focus
22 support on the ~~((creation and))~~ commercialization of intellectual
23 property ~~((in the technology, energy, and telecommunications~~
24 ~~industries))~~ and the manufacture of innovative products in the state.

25 **Sec. 12.** RCW 70.210.020 and 2003 c 403 s 2 are each amended to
26 read as follows:

27 The definitions in this section apply throughout this chapter
28 unless the context clearly requires otherwise.

29 (1) ~~(("Center" means the Washington technology center established~~
30 ~~under RCW 28B.20.283 through 28B.20.295.~~

31 ~~(2))~~ "Board" means the innovate Washington board of directors
32 ~~((for the center)).~~

33 (3) "Innovate Washington" means the agency created in section 1 of
34 this act.

1 **Sec. 13.** RCW 70.210.030 and 2003 c 403 s 4 are each amended to
2 read as follows:

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

4 (2) (~~The center~~) Innovate Washington shall periodically make
5 strategic assessments of the types of (~~state~~) investments in research
6 (~~and~~), technology, and industrial development in this state that
7 would likely create new products, jobs, and business opportunities and
8 produce the most beneficial long-term improvements to the lives and
9 health of the citizens of the state. The assessments shall be
10 available to the public and shall be used to guide decisions on
11 awarding (~~grants~~) funds under this chapter.

12 **Sec. 14.** RCW 70.210.040 and 2003 c 403 s 5 are each amended to
13 read as follows:

14 The board shall:

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

17 (2) Make decisions regarding distribution of (~~grant~~) funds (~~and~~
18 ~~make grant awards~~); (~~and~~)

19 (3) In making (~~grant awards, seek to provide a balance between~~
20 ~~research grant awards and commercialization grant awards~~) funding
21 decisions, primarily benefit enterprises that:

22 (a) Were created through, and have existing intellectual property
23 agreements in place with, public and private research institutions in
24 the state; and

25 (b) Intend to manufacture in the state; and

26 (4) Specify in contracts awarding funds that recipients must
27 conduct their research, development, and any subsequent production
28 activities within Washington, and that a failure to comply with this
29 requirement will obligate the recipient to return the amount of the
30 award plus interest as determined by the board.

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

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

35 (2) The board shall establish a peer review committee to include
36 board members, scientists, engineers, and individuals with specific

1 recognized expertise. The peer review committee shall provide to the
2 board an independent peer review of all proposals determined to be
3 competitive for a loan or grant award that are submitted to the board.

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

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

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

14 **Sec. 16.** RCW 70.210.060 and 2003 c 403 s 7 are each amended to
15 read as follows:

16 The board shall establish performance benchmarks against which the
17 program will be evaluated. The ((grants)) program shall be reviewed
18 periodically by the board. The board shall report annually to the
19 appropriate standing committees of the legislature on loans made and
20 grants awarded and as appropriate on program reviews conducted by the
21 board.

22 **Sec. 17.** RCW 70.210.070 and 2003 c 403 s 8 are each amended to
23 read as follows:

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

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

29 **Sec. 18.** RCW 42.30.110 and 2010 1st sp.s. c 33 s 5 are each
30 amended to read as follows:

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

34 (a) To consider matters affecting national security;

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

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

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

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

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

19 (g) To evaluate the qualifications of an applicant for public
20 employment or to review the performance of a public employee. However,
21 subject to RCW 42.30.140(4), discussion by a governing body of
22 salaries, wages, and other conditions of employment to be generally
23 applied within the agency shall occur in a meeting open to the public,
24 and when a governing body elects to take final action hiring, setting
25 the salary of an individual employee or class of employees, or
26 discharging or disciplining an employee, that action shall be taken in
27 a meeting open to the public;

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

32 (i) To discuss with legal counsel representing the agency matters
33 relating to agency enforcement actions, or to discuss with legal
34 counsel representing the agency litigation or potential litigation to
35 which the agency, the governing body, or a member acting in an official
36 capacity is, or is likely to become, a party, when public knowledge
37 regarding the discussion is likely to result in an adverse legal or
38 financial consequence to the agency.

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

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

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

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

16 (j) To consider, in the case of the state library commission or its
17 advisory bodies, western library network prices, products, equipment,
18 and services, when such discussion would be likely to adversely affect
19 the network's ability to conduct business in a competitive economic
20 climate. However, final action on these matters shall be taken in a
21 meeting open to the public;

22 (k) To consider, in the case of the state investment board,
23 financial and commercial information when the information relates to
24 the investment of public trust or retirement funds and when public
25 knowledge regarding the discussion would result in loss to such funds
26 or in private loss to the providers of this information;

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

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

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

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

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

10 **Sec. 19.** RCW 42.56.270 and 2009 c 394 s 3 are each amended to read
11 as follows:

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

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

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

23 (3) Financial and commercial information and records supplied by
24 private persons pertaining to export services provided under chapters
25 43.163 and 53.31 RCW, and by persons pertaining to export projects
26 under RCW 43.23.035;

27 (4) Financial and commercial information and records supplied by
28 businesses or individuals during application for loans or program
29 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
30 43.168 RCW, or during application for economic development loans or
31 program services provided by any local agency;

32 (5) Financial information, business plans, examination reports, and
33 any information produced or obtained in evaluating or examining a
34 business and industrial development corporation organized or seeking
35 certification under chapter 31.24 RCW;

36 (6) Financial and commercial information supplied to the state
37 investment board by any person when the information relates to the

1 investment of public trust or retirement funds and when disclosure
2 would result in loss to such funds or in private loss to the providers
3 of this information;

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

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

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

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

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

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

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

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

35 (ii) Financial or proprietary information collected from any person
36 and provided to the department of (~~community, trade, and economic
37 development~~) commerce or the office of the governor in connection with
38 the siting, recruitment, expansion, retention, or relocation of that

1 person's business and until a siting decision is made, identifying
2 information of any person supplying information under this subsection
3 and the locations being considered for siting, relocation, or expansion
4 of a business;

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

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

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

17 (13) Financial and proprietary information submitted to or obtained
18 by the department of ecology or the authority created under chapter
19 70.95N RCW to implement chapter 70.95N RCW;

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

26 (15) Financial and commercial information provided as evidence to
27 the department of licensing as required by RCW 19.112.110 or
28 19.112.120, except information disclosed in aggregate form that does
29 not permit the identification of information related to individual fuel
30 licensees;

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

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

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

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

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

12 (20) Financial and commercial information submitted to or obtained
13 by the University of Washington, other than information the university
14 is required to disclose under RCW 28B.20.150, when the information
15 relates to investments in private funds, to the extent that such
16 information, if revealed, would reasonably be expected to result in
17 loss to the University of Washington consolidated endowment fund or to
18 result in private loss to the providers of this information; and

19 (21) Financial, commercial, operations, and technical and research
20 information and data submitted to or obtained by innovate Washington in
21 applications for, or delivery of, grants and loans under chapter 43.---
22 RCW (the new chapter created in section 23 of this act), to the extent
23 that such information, if revealed, would reasonably be expected to
24 result in private loss to the providers of this information.

25 NEW SECTION. **Sec. 20.** The following acts or parts of acts are
26 each repealed:

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

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

32 (3) RCW 28B.20.287 (Washington technology center--Definitions) and
33 2004 c 151 s 4 & 1992 c 142 s 2;

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

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

3 (6) RCW 28B.20.293 (Washington technology center--Role of
4 department of community, trade, and economic development) and 1995 c
5 399 s 27 & 1992 c 142 s 6;

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

8 (8) RCW 28B.20.296 (Washington technology center--Renewable energy
9 and energy efficiency business development--Strategic plan) and 2004 c
10 151 s 2;

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

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

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

17 (12) RCW 28B.38.030 (Support from participating institutions) and
18 1998 c 344 s 11;

19 (13) RCW 28B.38.040 (Operating staff--Cooperative agreements for
20 programs and research) and 1998 c 344 s 12;

21 (14) RCW 28B.38.050 (Role of department of community, trade, and
22 economic development) and 1998 c 344 s 13;

23 (15) RCW 28B.38.060 (Availability of facilities to other
24 institutions) and 1998 c 344 s 14;

25 (16) RCW 28B.38.070 (Authority to receive and expend funds) and
26 1998 c 344 s 15; and

27 (17) RCW 28B.38.900 (Captions not law) and 1998 c 344 s 16.

28 NEW SECTION. **Sec. 21.** (1) The Spokane intercollegiate research
29 and technology institute and the Washington technology center are
30 hereby abolished and the powers, duties, and functions are hereby
31 transferred to innovate Washington. Once the board created in section
32 2 of this act has convened, all references to the Spokane
33 intercollegiate research and technology institute or the Washington
34 technology center in the Revised Code of Washington shall be construed
35 to mean innovate Washington.

36 (2)(a) All reports, documents, surveys, books, records, files,
37 papers, or written material in the possession of the Spokane

1 intercollegiate research and technology institute or the Washington
2 technology center shall be delivered to the custody of innovate
3 Washington. All cabinets, furniture, office equipment, motor vehicles,
4 and other tangible property employed by the Spokane intercollegiate
5 research and technology institute or the Washington technology center
6 shall be made available to innovate Washington. All funds, credits, or
7 other assets held by the Spokane intercollegiate research and
8 technology institute or the Washington technology center shall be
9 assigned to innovate Washington.

10 (b) Any appropriations made to the Spokane intercollegiate research
11 and technology institute or the Washington technology center shall, on
12 the effective date of this section, be transferred and credited to
13 innovate Washington.

14 (c) If any question arises as to the transfer of any personnel,
15 funds, books, documents, records, papers, files, equipment, or other
16 tangible property used or held in the exercise of the powers and the
17 performance of the duties and functions transferred, the director of
18 financial management shall make a determination as to the proper
19 allocation and certify the same to the state agencies concerned.

20 (3) All employees of the Spokane intercollegiate research and
21 technology institute or the Washington technology center are
22 transferred to the jurisdiction of innovate Washington. All employees
23 classified under chapter 41.06 RCW, the state civil service law, are
24 assigned to innovate Washington to perform their usual duties upon the
25 same terms as formerly, without any loss of rights, subject to any
26 action that may be appropriate thereafter in accordance with the laws
27 and rules governing state civil service.

28 (4) All rules and all pending business before the Spokane
29 intercollegiate research and technology institute or the Washington
30 technology center shall be continued and acted upon by innovate
31 Washington. All existing contracts and obligations shall remain in
32 full force and shall be performed by innovate Washington.

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

37 (6) If apportionments of budgeted funds are required because of the
38 transfers directed by this section, the director of financial

1 management shall certify the apportionments to the agencies affected,
2 the state auditor, and the state treasurer. Each of these shall make
3 the appropriate transfer and adjustments in funds and appropriation
4 accounts and equipment records in accordance with the certification.

5 (7) All classified employees of the Spokane intercollegiate
6 research and technology institute or the Washington technology center
7 assigned to innovate Washington under this section whose positions are
8 within an existing bargaining unit description at innovate Washington
9 shall become a part of the existing bargaining unit at innovate
10 Washington and shall be considered an appropriate inclusion or
11 modification of the existing bargaining unit under the provisions of
12 chapter 41.80 RCW.

13 NEW SECTION. **Sec. 22.** RCW 70.210.010, 70.210.020, 70.210.030,
14 70.210.040, 70.210.050, 70.210.060, and 70.210.070 are each recodified
15 as sections in chapter 43.--- RCW (the new chapter created in section
16 23 of this act).

17 NEW SECTION. **Sec. 23.** Sections 1 through 7 and 21 of this act
18 constitute a new chapter in Title 43 RCW.

19 NEW SECTION. **Sec. 24.** Section 8 of this act expires June 30,
20 2016.

21 NEW SECTION. **Sec. 25.** This act takes effect August 1, 2011."

SB 5764 - S AMD
By Senators Kastama, Rockefeller, Baumgartner

ADOPTED 03/02/2011

22 On page 1, line 1 of the title, after "Washington;" strike the
23 remainder of the title and insert "amending RCW 28B.50.902, 70.210.010,
24 70.210.020, 70.210.030, 70.210.040, 70.210.050, 70.210.060, 70.210.070,
25 42.30.110, and 42.56.270; reenacting and amending RCW 43.325.040;
26 adding a new section to chapter 41.06 RCW; adding a new chapter to

1 Title 43 RCW; recodifying RCW 70.210.010, 70.210.020, 70.210.030,
2 70.210.040, 70.210.050, 70.210.060, and 70.210.070; repealing RCW
3 28B.20.283, 28B.20.285, 28B.20.287, 28B.20.289, 28B.20.291, 28B.20.293,
4 28B.20.295, 28B.20.296, 28B.20.297, 28B.38.010, 28B.38.020, 28B.38.030,
5 28B.38.040, 28B.38.050, 28B.38.060, 28B.38.070, and 28B.38.900;
6 providing an effective date; and providing an expiration date."

--- END ---