
SENATE BILL 5557

State of Washington 62nd Legislature 2011 Regular Session

By Senators Prentice, Chase, Hobbs, White, McAuliffe, Nelson, Hargrove, Kastama, Regala, Rockefeller, Hatfield, and Shin; by request of Governor Gregoire

Read first time 01/28/11. Referred to Committee on Government Operations, Tribal Relations & Elections.

1 AN ACT Relating to the Washington state office of civil rights;
2 amending RCW 42.17.2401, 42.17A.705, 43.03.028, 43.17.010, 43.17.020,
3 39.19.020, 39.19.030, 39.19.060, 39.19.070, 39.19.075, 39.19.080,
4 39.19.120, 39.19.150, 39.19.170, 39.19.200, 39.19.240, 39.19.250,
5 39.10.220, 39.10.385, 39.10.450, 39.102.100, 43.63A.690, 49.60.010,
6 49.60.040, 49.60.100, 49.60.120, 49.60.150, 49.60.160, 49.60.170,
7 49.60.180, 49.60.226, 49.60.230, 49.60.240, 49.60.250, 49.60.260,
8 49.60.270, 49.60.310, 49.60.320, 49.60.340, 49.60.350, 49.60.360,
9 49.60.370, 2.56.031, 13.06.050, 28B.10.912, 28B.10.916, 28B.110.030,
10 28B.110.050, 34.12.037, 43.01.135, 43.43.340, 49.44.090, 49.74.010,
11 49.74.020, 49.74.030, 49.74.040, 43.60A.190, 43.60A.195, and
12 43.60A.200; reenacting and amending RCW 47.28.030, 43.86A.060, and
13 41.06.150; adding new sections to chapter 39.19 RCW; adding a new
14 section to chapter 41.06 RCW; creating new sections; recodifying RCW
15 43.60A.190, 43.60A.195, and 43.60A.200; repealing RCW 39.19.010,
16 39.19.041, 39.19.140, 39.19.910, 39.19.920, 39.19.921, 41.06.082,
17 49.60.050, 49.60.051, 49.60.060, 49.60.070, 49.60.080, 49.60.090,
18 49.60.130, 49.60.390, 43.113.005, 43.113.010, 43.113.020, 43.113.030,
19 43.115.010, 43.115.020, 43.115.030, 43.115.040, 43.115.045, 43.115.060,
20 43.115.900, 43.117.010, 43.117.020, 43.117.030, 43.117.040, 43.117.050,
21 43.117.060, 43.117.070, 43.117.080, 43.117.090, 43.117.100, and

1 43.117.900; prescribing penalties; providing effective dates; providing
2 expiration dates; and declaring an emergency.

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

4 **PART I**

5 **OFFICE OF CIVIL RIGHTS CREATED**

6 NEW SECTION. **Sec. 101.** The legislature declares that it is the
7 public policy of this state to ensure political, social, and economic
8 opportunity for all of its citizens. It is the intent of this act to
9 provide equal access for all to the privileges and opportunities
10 protected by the state. It is also the intent of this act to provide
11 fair, impartial, and independent processes to protect against
12 discrimination.

13 NEW SECTION. **Sec. 102.** A new section is added to chapter 39.19
14 RCW to read as follows:

15 (1) The office of civil rights is created as an executive branch
16 agency. The agency is vested with all powers and duties transferred to
17 it under this act and such other powers and duties as may be authorized
18 by law.

19 (2) Any powers, duties, and functions assigned to the human rights
20 commission, office of minority and women's business enterprises, the
21 commission on African-American affairs, commission on Asian Pacific
22 American affairs, and commission on Hispanic affairs shall be
23 transferred to the office of civil rights as set forth in this act.

24 (3) The primary duties of the office are:

25 (a) To exercise the police powers of the state in accordance with
26 chapter 49.60 RCW;

27 (b) To provide the maximum practicable opportunity for increased
28 participation of minority, women, and veteran-owned and controlled
29 businesses in participating in public works and the process by which
30 goods and services are procured by state agencies and educational
31 institutions from the private sector;

32 (c) To advise the governor, legislature, and other state agencies
33 on public policy that affects Washington citizens that, for economic,

1 social, cultural, and historical reasons, a disproportionate number
2 find themselves disadvantaged or isolated from the benefits of equal
3 opportunity.

4 NEW SECTION. **Sec. 103.** A new section is added to chapter 39.19
5 RCW to read as follows:

6 (1) The executive head and appointing authority of the office is
7 the director. The director shall be appointed by the governor, subject
8 to confirmation by the senate. The director shall serve at the
9 pleasure of the governor. The director shall be paid a salary fixed by
10 the governor in accordance with RCW 43.03.040. If a vacancy occurs in
11 the position of director while the senate is not in session, the
12 governor shall make a temporary appointment until the next meeting of
13 the senate at which time he or she shall present to that body his or
14 her nomination for the position.

15 (2) The director may appoint a deputy director and such assistant
16 directors and special assistants as may be needed to administer the
17 department, who shall be exempt from the provisions of chapter 41.06
18 RCW. In addition, the director may employ staff members, who shall be
19 exempt from chapter 41.06 RCW, necessary to administer this chapter,
20 chapter 49.60 RCW, and such other duties as may be authorized by law.
21 The director may delegate any power or duty vested in him or her by
22 this chapter or other law, including authority to make final decisions
23 and enter final orders in hearings conducted under chapter 34.05 RCW.

24 (3) The director may create such administrative structures as the
25 director considers appropriate, except as otherwise specified by law.
26 The director may employ such personnel as necessary for the general
27 administration of the office. This employment shall be in accordance
28 with the state civil service law, chapter 41.80 RCW, except as
29 otherwise provided.

30 NEW SECTION. **Sec. 104.** A new section is added to chapter 39.19
31 RCW to read as follows:

32 The director shall:

33 (1) Supervise and administer the activities of the office of civil
34 rights;

35 (2) Exercise all the powers and perform all the duties prescribed

1 by law with respect to the administration of chapter 49.60 RCW
2 including:

3 (a) To appoint such investigators, examiners, and other employees
4 as deemed necessary to carry out the duties of chapter 49.60 RCW;

5 (b) To adopt, amend, and rescind suitable rules to carry out the
6 provisions of chapter 49.60 RCW, and the policies and practices of the
7 office in connection therewith; and

8 (c) To receive, impartially investigate or contract for an
9 impartial investigation if a conflict of interest arises from the
10 complaint, and pass upon complaints alleging unfair practices as
11 defined in chapter 49.60 RCW;

12 (3) In addition to other powers and duties granted to the director,
13 have the following powers and duties:

14 (a) Enter into contracts on behalf of the state to carry out the
15 purposes of this chapter;

16 (b) Accept and expend gifts and grants that are related to the
17 purposes of this act, whether such grants be of federal or other funds;

18 (c) Apply for grants from public and private entities, and receive
19 and administer any grant funding received for the purpose and intent of
20 this act;

21 (d) Adopt rules in accordance with chapter 34.05 RCW and perform
22 all other functions necessary and proper to carry out the purposes of
23 this act;

24 (e) Delegate powers, duties, and functions as the director deems
25 necessary for efficient administration, but the director shall be
26 responsible for the official acts of the officers and employees of the
27 office; and

28 (f) Perform other duties as are necessary and consistent with law.

29 NEW SECTION. **Sec. 105.** A new section is added to chapter 41.06
30 RCW to read as follows:

31 In addition to the exemptions under RCW 41.06.070, the provisions
32 of this chapter shall not apply in the office of civil rights to the
33 director, the director's confidential secretary, and any other exempt
34 staff members provided for in section 103 of this act.

35 **Sec. 106.** RCW 42.17.2401 and 2009 c 565 s 24 are each amended to
36 read as follows:

1 For the purposes of RCW 42.17.240, the term "executive state
2 officer" includes:

3 (1) The chief administrative law judge, the director of
4 agriculture, the administrator of the Washington basic health plan, the
5 director of the department of services for the blind, the director of
6 the office of civil rights, the director of the state system of
7 community and technical colleges, the director of commerce, the
8 secretary of corrections, the director of early learning, the director
9 of ecology, the commissioner of employment security, the chair of the
10 energy facility site evaluation council, the secretary of the state
11 finance committee, the director of financial management, the director
12 of fish and wildlife, the executive secretary of the forest practices
13 appeals board, the director of the gambling commission, the director of
14 general administration, the secretary of health, the administrator of
15 the Washington state health care authority, the executive secretary of
16 the health care facilities authority, the executive secretary of the
17 higher education facilities authority, the executive secretary of the
18 horse racing commission, (~~the executive secretary of the human rights~~
19 ~~commission,~~) the executive secretary of the indeterminate sentence
20 review board, the director of the department of information services,
21 the executive director of the state investment board, the director of
22 labor and industries, the director of licensing, the director of the
23 lottery commission, (~~the director of the office of minority and~~
24 ~~women's business enterprises,~~) the director of parks and recreation,
25 the director of personnel, the executive director of the public
26 disclosure commission, the executive director of the Puget Sound
27 partnership, the director of the recreation and conservation office,
28 the director of retirement systems, the director of revenue, the
29 secretary of social and health services, the chief of the Washington
30 state patrol, the executive secretary of the board of tax appeals, the
31 secretary of transportation, the secretary of the utilities and
32 transportation commission, the director of veterans affairs, the
33 president of each of the regional and state universities and the
34 president of The Evergreen State College, and each district and each
35 campus president of each state community college;

36 (2) Each professional staff member of the office of the governor;

37 (3) Each professional staff member of the legislature; and

1 (4) Central Washington University board of trustees, the boards of
2 trustees of each community college and each technical college, each
3 member of the state board for community and technical colleges, state
4 convention and trade center board of directors, committee for deferred
5 compensation, Eastern Washington University board of trustees,
6 Washington economic development finance authority, The Evergreen State
7 College board of trustees, executive ethics board, forest practices
8 appeals board, forest practices board, gambling commission, life
9 sciences discovery fund authority board of trustees, Washington health
10 care facilities authority, each member of the Washington health
11 services commission, higher education coordinating board, higher
12 education facilities authority, horse racing commission, state housing
13 finance commission, (~~human rights commission,~~) indeterminate sentence
14 review board, board of industrial insurance appeals, information
15 services board, recreation and conservation funding board, state
16 investment board, commission on judicial conduct, legislative ethics
17 board, liquor control board, lottery commission, marine oversight
18 board, Pacific Northwest electric power and conservation planning
19 council, parks and recreation commission, board of pilotage
20 commissioners, pollution control hearings board, public disclosure
21 commission, public pension commission, shorelines hearings board,
22 public employees' benefits board, salmon recovery funding board, board
23 of tax appeals, transportation commission, University of Washington
24 board of regents, utilities and transportation commission, Washington
25 state maritime commission, Washington personnel resources board,
26 Washington public power supply system executive board, Washington State
27 University board of regents, Western Washington University board of
28 trustees, and fish and wildlife commission.

29 **Sec. 107.** RCW 42.17A.705 and 2010 c 204 s 902 are each amended to
30 read as follows:

31 For the purposes of RCW 42.17A.700, "executive state officer"
32 includes:

- 33 (1) The chief administrative law judge, the director of
34 agriculture, the director of the department of services for the blind,
35 the director of the office of civil rights, the director of the state
36 system of community and technical colleges, the director of commerce,
37 the secretary of corrections, the director of early learning, the

1 director of ecology, the commissioner of employment security, the chair
2 of the energy facility site evaluation council, the secretary of the
3 state finance committee, the director of financial management, the
4 director of fish and wildlife, the executive secretary of the forest
5 practices appeals board, the director of the gambling commission, the
6 director of general administration, the secretary of health, the
7 administrator of the Washington state health care authority, the
8 executive secretary of the health care facilities authority, the
9 executive secretary of the higher education facilities authority, the
10 executive secretary of the horse racing commission, (~~the executive~~
11 ~~secretary of the human rights commission,~~) the executive secretary of
12 the indeterminate sentence review board, the director of the department
13 of information services, the executive director of the state investment
14 board, the director of labor and industries, the director of licensing,
15 the director of the lottery commission, (~~the director of the office of~~
16 ~~minority and women's business enterprises,~~) the director of parks and
17 recreation, the director of personnel, the executive director of the
18 public disclosure commission, the executive director of the Puget Sound
19 partnership, the director of the recreation and conservation office,
20 the director of retirement systems, the director of revenue, the
21 secretary of social and health services, the chief of the Washington
22 state patrol, the executive secretary of the board of tax appeals, the
23 secretary of transportation, the secretary of the utilities and
24 transportation commission, the director of veterans affairs, the
25 president of each of the regional and state universities and the
26 president of The Evergreen State College, and each district and each
27 campus president of each state community college;

28 (2) Each professional staff member of the office of the governor;

29 (3) Each professional staff member of the legislature; and

30 (4) Central Washington University board of trustees, the boards of
31 trustees of each community college and each technical college, each
32 member of the state board for community and technical colleges, state
33 convention and trade center board of directors, Eastern Washington
34 University board of trustees, Washington economic development finance
35 authority, Washington energy northwest executive board, The Evergreen
36 State College board of trustees, executive ethics board, fish and
37 wildlife commission, forest practices appeals board, forest practices
38 board, gambling commission, Washington health care facilities

1 authority, higher education coordinating board, higher education
2 facilities authority, horse racing commission, state housing finance
3 commission, (~~human rights commission,~~) indeterminate sentence review
4 board, board of industrial insurance appeals, information services
5 board, state investment board, commission on judicial conduct,
6 legislative ethics board, life sciences discovery fund authority board
7 of trustees, liquor control board, lottery commission, Pacific
8 Northwest electric power and conservation planning council, parks and
9 recreation commission, Washington personnel resources board, board of
10 pilotage commissioners, pollution control hearings board, public
11 disclosure commission, public employees' benefits board, recreation and
12 conservation funding board, salmon recovery funding board, shorelines
13 hearings board, board of tax appeals, transportation commission,
14 University of Washington board of regents, utilities and transportation
15 commission, Washington State University board of regents, and Western
16 Washington University board of trustees.

17 **Sec. 108.** RCW 43.03.028 and 2010 1st sp.s. c 7 s 2 are each
18 amended to read as follows:

19 (1) The department of personnel shall study the duties and salaries
20 of the directors of the several departments and the members of the
21 several boards and commissions of state government, who are subject to
22 appointment by the governor or whose salaries are fixed by the
23 governor, and of the chief executive officers of the following agencies
24 of state government:

25 The arts commission; (~~the human rights commission;~~) the board of
26 accountancy; the board of pharmacy; the eastern Washington historical
27 society; the Washington state historical society; the recreation and
28 conservation office; the criminal justice training commission; the
29 department of personnel; the state library; the traffic safety
30 commission; the horse racing commission; the advisory council on
31 vocational education; the public disclosure commission; the state
32 conservation commission; (~~the commission on Hispanic affairs; the
33 commission on Asian Pacific American affairs;~~) the state board for
34 volunteer firefighters and reserve officers; the transportation
35 improvement board; the public employment relations commission; the
36 forest practices appeals board; and the energy facilities site
37 evaluation council.

1 (2) The department of personnel shall report to the governor or the
2 chairperson of the appropriate salary fixing authority at least once in
3 each fiscal biennium on such date as the governor may designate, but
4 not later than seventy-five days prior to the convening of each regular
5 session of the legislature during an odd-numbered year, its
6 recommendations for the salaries to be fixed for each position.

7 **Sec. 109.** RCW 43.17.010 and 2009 c 565 s 25 are each amended to
8 read as follows:

9 There shall be departments of the state government which shall be
10 known as (1) the department of social and health services, (2) the
11 department of ecology, (3) the department of labor and industries, (4)
12 the department of agriculture, (5) the department of fish and wildlife,
13 (6) the department of transportation, (7) the department of licensing,
14 (8) the department of general administration, (9) the department of
15 commerce, (10) the department of veterans affairs, (11) the department
16 of revenue, (12) the department of retirement systems, (13) the
17 department of corrections, (14) the department of health, (15) the
18 department of financial institutions, (16) the department of
19 archaeology and historic preservation, (17) the department of early
20 learning, ~~((and))~~ (18) the Puget Sound partnership, and (19) the office
21 of civil rights, which shall be charged with the execution,
22 enforcement, and administration of such laws, and invested with such
23 powers and required to perform such duties, as the legislature may
24 provide.

25 **Sec. 110.** RCW 43.17.020 and 2009 c 565 s 26 are each amended to
26 read as follows:

27 There shall be a chief executive officer of each department to be
28 known as: (1) The secretary of social and health services, (2) the
29 director of ecology, (3) the director of labor and industries, (4) the
30 director of agriculture, (5) the director of fish and wildlife, (6) the
31 secretary of transportation, (7) the director of licensing, (8) the
32 director of general administration, (9) the director of commerce, (10)
33 the director of veterans affairs, (11) the director of revenue, (12)
34 the director of retirement systems, (13) the secretary of corrections,
35 (14) the secretary of health, (15) the director of financial
36 institutions, (16) the director of the department of archaeology and

1 historic preservation, (17) the director of early learning, ~~((and))~~
2 (18) the executive director of the Puget Sound partnership, and (19)
3 the director of the office of civil rights.

4 Such officers, except the director of fish and wildlife, shall be
5 appointed by the governor, with the consent of the senate, and hold
6 office at the pleasure of the governor. The director of fish and
7 wildlife shall be appointed by the fish and wildlife commission as
8 prescribed by RCW 77.04.055.

9 **PART II**

10 **POLICIES AND PROGRAMS TRANSFERRED FROM THE OFFICE OF MINORITY AND**
11 **WOMEN-OWNED BUSINESSES**

12 **Sec. 201.** RCW 39.19.020 and 1996 c 69 s 4 are each amended to read
13 as follows:

14 Unless the context clearly requires otherwise, the definitions in
15 this section apply throughout this chapter.

16 (1) ~~(("Advisory committee" means the advisory committee on minority~~
17 ~~and women's business enterprises.~~

18 ~~(2))~~ "Broker" means a person that provides a bona fide service,
19 such as professional, technical, consultant, brokerage, or managerial
20 services and assistance in the procurement of essential personnel,
21 facilities, equipment, materials, or supplies required for performance
22 of a contract.

23 (2) "Certified business" means a business that has been examined by
24 the office of civil rights and deemed to be a minority business
25 enterprise, a women's business enterprise, a minority woman's business
26 enterprise, a combination business enterprise, socially and
27 economically disadvantaged business enterprise, or a veteran-owned
28 business enterprise.

29 (3) "Combination business enterprise" means a small business
30 concern, organized for profit, performing a commercially useful
31 function, which is legitimately owned and controlled fifty percent by
32 one or more minority men or minority business enterprises certified by
33 the office and fifty percent legitimately owned and controlled by one
34 or more nonminority women or women's business enterprises certified by
35 the office. The owners must be United States citizens or lawful
36 permanent residents.

1 (4) "Director" means the director of the office of (~~minority and~~
2 ~~women's business enterprises~~) civil rights.

3 ~~((+4))~~ (5) "Educational institutions" means the state
4 universities, the regional universities, The Evergreen State College,
5 and the community colleges.

6 ~~((+5))~~ (6) "Goals" means (~~annual~~) overall (~~agency~~) goals,
7 expressed as a percentage of dollar volume, for participation by
8 (~~minority and women owned and controlled~~) certified businesses and
9 shall not be construed as a minimum goal for any particular contract or
10 for any particular geographical area. It is the intent of this chapter
11 that such overall (~~agency~~) goals shall be achievable and shall be met
12 on a contract-by-contract or class-of-contract basis.

13 ~~((+6))~~ (7) "Goods and/or services" includes professional services
14 and (~~all other~~) purchased goods and services.

15 ~~((+7))~~ (8) "Minority business enterprise" means a small business
16 concern, organized for profit, performing a commercially useful
17 function, which is legitimately owned and controlled by one or more
18 minority individuals or minority business enterprises certified by the
19 office. The minority owners must be United States citizens or lawful
20 permanent residents.

21 (9) "Minority women's business enterprise" means a small business
22 concern, organized for profit, performing a commercially useful
23 function, which is legitimately owned and controlled by one or more
24 minority women and is certified by the office. The minority women
25 owners must be United States citizens or lawful permanent residents.

26 (10) "Office" means the office of (~~minority and women's business~~
27 ~~enterprises~~) civil rights.

28 ~~((+8))~~ (11) "Person" includes one or more individuals,
29 partnerships, associations, organizations, corporations, cooperatives,
30 legal representatives, trustees and receivers, or any group of persons.

31 ~~((+9))~~ (12) "Personal services" means professional or technical
32 services provided by a consultant to accomplish a specific study,
33 project, task, or other work statement. A consultant is an objective
34 advisor who renders professional opinions, judgments, or
35 recommendations.

36 (13) "Plan" means the supplier diversity plan submitted by the
37 state agency or educational institution and approved by the office.

1 (14) "Procurement" means the purchase, lease, or rental of any
2 goods or services.

3 ~~((+10+))~~ (15) "Public works" means all work, construction, highway
4 and ferry construction, alteration, repair, or improvement other than
5 ordinary maintenance, which a state agency or educational institution
6 is authorized or required by law to undertake.

7 ~~((+11+))~~ (16) "Socially and economically disadvantaged business
8 enterprise" means a small business concern, organized for profit,
9 performing a commercially useful function, which is legitimately owned
10 and controlled by one or more socially and economically disadvantaged
11 individuals or socially and economically disadvantaged business
12 enterprises certified by the office. The socially and economically
13 disadvantaged owners must be United States citizens or lawful permanent
14 residents.

15 (17) "State agency" includes the state of Washington and all
16 agencies, departments, offices, divisions, boards, commissions, and
17 correctional and other types of institutions.

18 (18) "Veteran" means a person defined in RCW 41.04.007, or is
19 actively serving honorably as an active or reserve member in any branch
20 of the armed forces of the United States, including the national guard,
21 coast guard, and armed forces reserves.

22 (19) "Veteran-owned business enterprise" means a business or the
23 status of a business that has been certified by the office.

24 (20) "Women business enterprise" means a small business concern,
25 organized for profit, performing a commercially useful function, which
26 is legitimately owned and controlled by one or more women or women's
27 business enterprises certified by the office. The women owners must be
28 United States citizens or lawful permanent residents.

29 **Sec. 202.** RCW 39.19.030 and 1996 c 69 s 5 are each amended to read
30 as follows:

31 ~~((There is hereby created the office of minority and women's
32 business enterprises. The governor shall appoint a director for the
33 office, subject to confirmation by the senate. The director may employ
34 a deputy director and a confidential secretary, both of which shall be
35 exempt under chapter 41.06 RCW, and such staff as are necessary to
36 carry out the purposes of this chapter.))~~

1 The office shall (~~consult with the minority and women's business~~
2 ~~enterprises advisory committee to~~):

3 (1) Develop, plan, and implement programs to provide an opportunity
4 for participation by (~~qualified minority and women owned and~~
5 ~~controlled~~) certified businesses in public works, personal services,
6 and the process by which goods and services are procured by state
7 agencies and educational institutions from the private sector;

8 (2) Develop a comprehensive plan insuring that (~~qualified minority~~
9 ~~and women owned and controlled~~) certified businesses are provided an
10 opportunity to participate in public contracts for public works,
11 personal services, and goods and services;

12 (3) Identify barriers to equal participation by (~~qualified~~
13 ~~minority and women owned and controlled~~) certified businesses in all
14 state agency and educational institution contracts;

15 (4) Establish (~~annual~~) overall goals for participation by
16 (~~qualified minority and women owned and controlled~~) certified
17 businesses for each state agency and educational institution to be
18 administered on a contract-by-contract basis or on a class-of-contracts
19 basis;

20 (5) Develop and maintain a central (~~minority and women's business~~
21 ~~enterprise certification~~) list of certified businesses for all state
22 agencies and educational institutions(~~. No business is entitled to~~
23 ~~certification under this chapter unless it meets the definition of~~
24 ~~small business concern as established by the office. All applications~~
25 ~~for certification under this chapter shall be sworn under oath~~) and
26 make available to the public;

27 (6) Develop, implement, and operate a system of monitoring
28 compliance with this chapter;

29 (7) Adopt rules under chapter 34.05 RCW, the Administrative
30 Procedure Act, governing: (a) Establishment of agency goals; (b)
31 development and maintenance of a central (~~minority and women's~~
32 ~~business enterprise~~) certification program, including a definition of
33 "small business concern" which shall be consistent with the small
34 business requirements defined under section 3 of the Small Business
35 Act, 15 U.S.C. Sec. 632, and its implementing regulations as guidance;
36 (c) procedures for monitoring and enforcing compliance with goals,
37 regulations, contract provisions, and this chapter; (d) utilization of
38 standard clauses by state agencies and educational institutions, as

1 specified in RCW 39.19.050; ~~((and))~~ (e) determination of an agency's or
2 educational institution's goal attainment consistent with the
3 limitations of RCW 39.19.075; and (f) administration of the linked
4 deposit program;

5 (8) Develop performance measures for the office and submit an
6 annual report to the governor and the legislature outlining the
7 progress in achieving the performance measures and in implementing this
8 chapter;

9 (9) Investigate complaints of violations of this chapter ~~((with the~~
10 ~~assistance of the involved agency or educational institution))~~; and

11 (10) Cooperate and act jointly or by division of labor with the
12 United States or other states, and with political subdivisions of the
13 state of Washington and their respective minority, socially and
14 economically disadvantaged ~~((and))~~, women, veteran-owned, and small
15 business enterprise programs to carry out the purposes of this chapter.
16 However, the power which may be exercised by the office under this
17 subsection permits investigation and imposition of sanctions only if
18 the investigation relates to a possible violation of chapter 39.19 RCW,
19 and not to violation of local ordinances, rules, regulations, however
20 denominated, adopted by political subdivisions of the state.

21 **Sec. 203.** RCW 39.19.060 and 1996 c 288 s 28 are each amended to
22 read as follows:

23 Each state agency and educational institution shall comply with the
24 ~~((annual))~~ goals established for that agency or institution under this
25 chapter for public works and procuring goods or services. This chapter
26 applies to all public works and procurement by state agencies and
27 educational institutions, including all contracts and other procurement
28 under chapters 28B.10, 39.04, 39.29, 43.19, and 47.28 RCW. Each state
29 agency shall adopt a plan, developed ~~((in consultation with the~~
30 ~~director and the advisory committee,))~~ and approved by the office to
31 insure that ~~((minority and women-owned))~~ certified businesses are
32 afforded the maximum practicable opportunity to directly and
33 meaningfully participate in the execution of public contracts for
34 public works and goods and services. The plan shall include specific
35 measures the agency will undertake to increase the participation of
36 certified ~~((minority and women-owned))~~ businesses. The office shall

1 annually notify the governor, the state auditor, and the joint
2 legislative audit and review committee of all agencies and educational
3 institutions not in compliance with this chapter.

4 **Sec. 204.** RCW 39.19.070 and 1994 c 15 s 1 are each amended to read
5 as follows:

6 It is the intent of this chapter that the goals established under
7 this chapter for participation by (~~minority and women owned and~~
8 ~~controlled~~) certified businesses be achievable. If necessary to
9 accomplish this intent, contracts may be awarded to the next lowest
10 responsible bidder in turn, or all bids may be rejected and new bids
11 obtained, if the lowest responsible bidder does not meet the goals
12 established for a particular contract under this chapter. The dollar
13 value of the total contract used for the calculation of the specific
14 contract goal may be increased or decreased to reflect executed change
15 orders. An apparent low-bidder must be in compliance with the contract
16 provisions required under this chapter as a condition precedent to the
17 granting of a notice of award by any state agency or educational
18 institution.

19 **Sec. 205.** RCW 39.19.075 and 1996 c 69 s 6 are each amended to read
20 as follows:

21 For purposes of measuring an agency's or educational institution's
22 goal attainment, any regulations adopted under RCW 39.19.030(7)(e) must
23 provide that if a certified (~~minority and women's~~) business
24 enterprise is a broker of goods or materials required under a contract,
25 the contracting agency or educational institution may count only the
26 dollar value of the fee or commission charged and not the value of
27 goods or materials provided. The contracting agency or educational
28 institution may, at its discretion, fix the dollar value of the fee or
29 commission charged at either the actual dollar value of the fee or
30 commission charged or at a standard percentage of the total value of
31 the brokered goods, which percentage must reflect the fees or
32 commissions generally paid to brokers for providing such services.

33 **Sec. 206.** RCW 39.19.080 and 1987 c 328 s 5 are each amended to
34 read as follows:

1 (1) A person, firm, corporation, business, union, or other
2 organization shall not:

3 (a) Prevent or interfere with a contractor's or subcontractor's
4 compliance with this chapter, or any rule adopted under this chapter;

5 (b) Submit false or fraudulent information to the state concerning
6 compliance with this chapter or any such rule;

7 (c) Fraudulently obtain, retain, attempt to obtain or retain, or
8 aid another in fraudulently obtaining or retaining or attempting to
9 obtain or retain certification (~~((as a minority or women's business
10 enterprise))~~) for the purpose of this chapter;

11 (d) Knowingly make a false statement, whether by affidavit,
12 verified statement, report, or other representation, to a state
13 official or employee for the purpose of influencing the certification
14 or denial of certification (~~((of any entity as a minority or women's
15 business enterprise))~~);

16 (e) Knowingly obstruct, impede, or attempt to obstruct or impede
17 any state official or employee who is investigating the qualification
18 of a business entity that has requested certification (~~((as a minority
19 or women's business enterprise))~~);

20 (f) Fraudulently obtain, attempt to obtain, or aid another person
21 in fraudulently obtaining or attempting to obtain public moneys to
22 which the person is not entitled under this chapter; (~~((or))~~)

23 (g) Knowingly make false statements that any entity is or is not a
24 certified (~~((as a minority or women's))~~) business enterprise for purposes
25 of obtaining a contract governed by this chapter; or

26 (h) Discriminate against or grant preferential treatment to any
27 certified business on the basis of race, sex, color, ethnicity, or
28 national origin in the operation of public contracting.

29 (2) An agency or educational institution shall not knowingly fail
30 to implement its plan, where such failure results in disparate impact
31 to a certified business.

32 (3) Any person, agency, educational institution, or entity
33 violating this chapter or any rule adopted under this chapter shall be
34 subject to the penalties in RCW 39.19.090. Nothing in this section
35 prevents the state agency or educational institution from pursuing such
36 procedures or sanctions as are otherwise provided by statute, rule, or
37 contract provision.

1 **Sec. 207.** RCW 39.19.120 and 1987 c 328 s 7 are each amended to
2 read as follows:

3 (1) The office shall be the sole authority to perform certification
4 of minority business enterprises, socially and economically
5 disadvantaged business enterprises, (~~and~~) women's business
6 enterprises, and veteran-owned business enterprises throughout the
7 state of Washington. Certification by the (~~state~~) office will allow
8 these firms to participate in programs for these enterprises
9 administered by the state of Washington, any city, town, county,
10 special purpose district, public corporation created by the state,
11 municipal corporation, or quasi-municipal corporation within the state
12 of Washington.

13 (2) This statewide certification process will prevent duplication
14 of effort, achieve efficiency, and permit local jurisdictions to
15 further develop, implement, and/or enhance comprehensive systems of
16 monitoring and compliance for contracts issued by their agencies.

17 (3) The office may enter into agreements with other certification
18 and registration authorities to implement the requirements of this
19 section.

20 **Sec. 208.** RCW 39.19.150 and 1987 c 328 s 10 are each amended to
21 read as follows:

22 (1) Any city, county, town, special purpose district, public
23 corporation created by the state, municipal corporation, or quasi-
24 municipal corporation having reason to believe that a particular
25 (~~minority and women's~~) certified business enterprise should not have
26 been certified under RCW 39.19.140 may petition the office for
27 reconsideration. The basis for the petition may be one or more of the
28 following:

29 (a) The office's rules or regulations were improperly applied; or

30 (b) Material facts relating to the (~~minority and women's~~)
31 certified business enterprise's certification application to the office
32 are untrue.

33 (2) The petitioner shall carry the burden of persuasion. The
34 affected (~~minority or women's~~) certified business enterprise shall
35 receive notice of the petition and an opportunity to respond.

36 (3) After reviewing the information presented in support of and in
37 opposition to the petition, the office shall issue a written decision,

1 granting or denying the petition. If the office grants the petition,
2 it may revoke, suspend, or refuse to renew the certification or impose
3 sanctions under this chapter as appropriate.

4 (4) The office's decision on a petition is administratively final
5 and the rights of appeal set out in the office regulations shall apply.
6 A certification shall remain in effect while a petition is pending.

7 **Sec. 209.** RCW 39.19.170 and 1993 c 512 s 10 are each amended to
8 read as follows:

9 (1) State agencies shall not require a performance bond for any
10 public works project that does not exceed (~~(twenty-five)~~) one hundred
11 thousand dollars awarded to a (~~(prequalified and)~~) certified (~~(minority~~
12 ~~or woman-owned)~~) business that has been prequalified as provided under
13 subsection (2) of this section.

14 (2) A limited prequalification questionnaire shall be required
15 assuring:

16 (a) That the bidder has adequate financial resources or the ability
17 to secure such resources;

18 (b) That the bidder can meet the performance schedule;

19 (c) That the bidder is experienced in the type of work to be
20 performed; and

21 (d) That all equipment to be used is adequate and functioning and
22 that all equipment operators are qualified to operate such equipment.

23 **Sec. 210.** RCW 39.19.200 and 1993 c 195 s 1 are each amended to
24 read as follows:

25 The (~~(minority and women's)~~) office of civil right's certified
26 business (~~(enterprises)~~) account is created in the custody of the state
27 treasurer. All receipts from RCW 39.19.210, 39.19.220, and 39.19.230
28 shall be deposited in the account. Expenditures from the account may
29 be used only for the purposes defraying all or part of the costs of the
30 office in administering this chapter. Only the director or the
31 director's designee may authorize expenditures from the account.
32 Moneys in the account may be spent only after appropriation.

33 **Sec. 211.** RCW 39.19.240 and 2005 c 302 s 5 are each amended to
34 read as follows:

35 (1) The office shall, in consultation with the state treasurer

1 ((and the department of community, trade, and economic development)),
2 compile information on minority, women, and ((~~women's~~)) veteran-owned
3 business enterprises that have received financial assistance through a
4 qualified public depository under the provisions of RCW 43.86A.060.
5 The information shall include, but is not limited to:

6 (a) Name of the qualified public depository;

7 (b) Geographic location of the minority, women, or ((~~women's~~))
8 veteran-owned business enterprise;

9 (c) Name of the minority, women, or ((~~women's~~)) veteran-owned
10 business enterprise;

11 (d) Date of last certification by the office and certification
12 number;

13 (e) Type of business;

14 (f) Amount and term of the loan to the minority, women, or
15 ((~~women's~~)) veteran-owned business enterprise; and

16 (g) Other information the office deems necessary for the
17 implementation of this section.

18 (2) The office shall notify the state treasurer of minority ((~~or~~
19 ~~women's~~)), women, and veteran-owned business enterprises that are no
20 longer certified under the provisions of this chapter. The written
21 notification shall contain information regarding the reason for the
22 decertification and information on financing provided to the minority
23 or women's business enterprise under RCW 43.86A.060.

24 (3) The office shall, in consultation with the state treasurer
25 ((and the department of community, trade, and economic development,))
26 monitor the performance of loans made to minority and women-owned
27 business enterprises under RCW 43.86A.060.

28 **Sec. 212.** RCW 39.19.250 and 2009 c 348 s 2 are each amended to
29 read as follows:

30 (1) For the purpose of annual reporting on progress required by
31 section 1 of this act, each state agency and educational institution
32 shall submit data to the office and the office of ((~~minority and~~
33 ~~women's business enterprises~~)) financial management on the
34 participation by qualified minority and women-owned and controlled
35 businesses in the agency's or institution's contracts and other related
36 information requested by the director. The director of the office ((~~of~~

1 ~~minority and women's business enterprises~~) shall determine the content
2 and format of the data and the reporting schedule, which must be at
3 least annually.

4 ~~(2) ((The office must develop and maintain a list of contact people~~
5 ~~at each state agency and educational institution that is able to~~
6 ~~present to hearings of the appropriate committees of the legislature~~
7 ~~its progress in carrying out the purposes of chapter 39.19 RCW.~~

8 ~~(3))~~ The office must submit a report aggregating the data received
9 from each state agency and educational institution to the legislature
10 and the governor.

11 **Sec. 213.** RCW 47.28.030 and 2010 c 283 s 9 and 2010 c 5 s 11 are
12 each reenacted and amended to read as follows:

13 (1)(a) A state highway shall be constructed, altered, repaired, or
14 improved, and improvements located on property acquired for
15 right-of-way purposes may be repaired or renovated pending the use of
16 such right-of-way for highway purposes, by contract or state forces.
17 The work or portions thereof may be done by state forces when the
18 estimated costs thereof are less than fifty thousand dollars and
19 effective July 1, 2005, sixty thousand dollars.

20 (b) When delay of performance of such work would jeopardize a state
21 highway or constitute a danger to the traveling public, the work may be
22 done by state forces when the estimated cost thereof is less than
23 eighty thousand dollars and effective July 1, 2005, one hundred
24 thousand dollars.

25 (c) When the department of transportation determines to do the work
26 by state forces, it shall enter a statement upon its records to that
27 effect, stating the reasons therefor.

28 (d) To enable a larger number of small businesses and veteran,
29 minority, and women contractors to effectively compete for department
30 of transportation contracts, the department may adopt rules providing
31 for bids and award of contracts for the performance of work, or
32 furnishing equipment, materials, supplies, or operating services
33 whenever any work is to be performed and the engineer's estimate
34 indicates the cost of the work would not exceed eighty thousand dollars
35 and effective July 1, 2005, one hundred thousand dollars.

36 (2) The rules adopted under this section:

1 (a) Shall provide for competitive bids to the extent that
2 competitive sources are available except when delay of performance
3 would jeopardize life or property or inconvenience the traveling
4 public; and

5 (b) Need not require the furnishing of a bid deposit nor a
6 performance bond, but if a performance bond is not required then
7 progress payments to the contractor may be required to be made based on
8 submittal of paid invoices to substantiate proof that disbursements
9 have been made to laborers, material suppliers, mechanics, and
10 subcontractors from the previous partial payment; and

11 (c) May establish prequalification standards and procedures as an
12 alternative to those set forth in RCW 47.28.070, but the
13 prequalification standards and procedures under RCW 47.28.070 shall
14 always be sufficient.

15 (3) The department of transportation shall comply with such goals
16 and rules as may be adopted by the office of (~~minority and women's~~
17 ~~business enterprises~~) civil rights to implement chapter 39.19 RCW with
18 respect to contracts entered into under this chapter. The department
19 may adopt such rules as may be necessary to comply with the rules
20 adopted by the office of (~~minority and women's business enterprises~~)
21 civil rights under chapter 39.19 RCW.

22 (4)(a) For the period of March 15, 2010, through June 30, 2011,
23 work for less than one hundred twenty thousand dollars may be performed
24 on ferry vessels and terminals by state forces.

25 (b) The department shall hire a disinterested, third party to
26 conduct an independent analysis to identify methods of reducing out-of-
27 service times for vessel maintenance, preservation, and improvement
28 projects. The analysis must include options that consider
29 consolidating work while vessels are at shipyards by having state
30 forces perform services traditionally performed at Eagle Harbor at the
31 shipyard and decreasing the allowable time at shipyards. The analysis
32 must also compare the out-of-service vessel times of performing
33 services by state forces versus contracting out those services which in
34 turn must be used to form a recommendation as to what the threshold of
35 work performed on ferry vessels and terminals by state forces should
36 be. This analysis must be presented to the transportation committees
37 of the senate and house of representatives by December 1, 2010.

1 (c) The department shall develop a proposed ferry vessel
2 maintenance, preservation, and improvement program and present it to
3 the transportation committees of the senate and house of
4 representatives by December 1, 2010. The proposed program must:

5 (i) Improve the basis for budgeting vessel maintenance,
6 preservation, and improvement costs and for projecting those costs into
7 a sixteen-year financial plan;

8 (ii) Limit the amount of planned out-of-service time to the
9 greatest extent possible, including options associated with department
10 staff as well as commercial shipyards; and

11 (iii) Be based on the service plan in the capital plan, recognizing
12 that vessel preservation and improvement needs may vary by route.

13 (d) In developing the proposed ferry vessel maintenance,
14 preservation, and improvement program, the department shall consider
15 the following, related to reducing vessel out-of-service time:

16 (i) The costs compared to benefits of Eagle Harbor repair and
17 maintenance facility operations options to include staffing costs and
18 benefits in terms of reduced out-of-service time;

19 (ii) The maintenance requirements for on-vessel staff, including
20 the benefits of a systemwide standard;

21 (iii) The costs compared to benefits of staff performing
22 preservation or maintenance work, or both, while the vessel is
23 underway, tied up between sailings, or not deployed;

24 (iv) A review of the department's vessel maintenance, preservation,
25 and improvement program contracting process and contractual
26 requirements;

27 (v) The costs compared to benefits of allowing for increased costs
28 associated with expedited delivery;

29 (vi) A method for comparing the anticipated out-of-service time of
30 proposed projects and other projects planned during the same
31 construction period;

32 (vii) Coordination with required United States coast guard dry
33 dockings;

34 (viii) A method for comparing how proposed projects relate to the
35 service requirements of the route on which the vessel normally
36 operates; and

37 (ix) A method for evaluating the ongoing maintenance and
38 preservation costs associated with proposed improvement projects.

1 **Sec. 214.** RCW 39.10.220 and 2007 c 494 s 102 are each amended to
2 read as follows:

3 (1) The board is created in the department of general
4 administration to provide an evaluation of public capital projects
5 construction processes, including the impact of contracting methods on
6 project outcomes, and to advise the legislature on policies related to
7 public works delivery methods.

8 (2)(a) The board shall consist of the following members appointed
9 by the governor: Two representatives from construction general
10 contracting; one representative from the architectural profession; one
11 representative from the engineering profession; two representatives
12 from construction specialty subcontracting; two representatives from
13 construction trades labor organizations; one representative from the
14 office of (~~minority and women's business enterprises~~) civil rights;
15 one representative from a higher education institution; one
16 representative from the department of general administration; two
17 representatives from private industry; and one representative of a
18 domestic insurer authorized to write surety bonds for contractors in
19 Washington state. All appointed members must be knowledgeable about
20 public works contracting procedures.

21 (b) Three members shall be positions representing different local
22 public owners, selected by the association of Washington cities, the
23 Washington state association of counties, and the Washington public
24 ports association, respectively.

25 (c) One member shall be a representative from the public hospital
26 districts, selected by the association of Washington public hospital
27 districts.

28 (d) One member shall be a representative from school districts,
29 selected by the Washington state school directors' association.

30 (e) The board shall include two members of the house of
31 representatives, one from each major caucus, appointed by the speaker
32 of the house of representatives, and two members of the senate, one
33 from each major caucus, appointed by the president of the senate.
34 Legislative members are nonvoting.

35 (3) Members selected under subsection (2)(a) of this section shall
36 serve for terms of four years, with the terms expiring on June 30th on
37 the fourth year of the term.

1 (4) The board chair is selected from among the appointed members by
2 the majority vote of the voting members.

3 (5) Legislative members of the board shall be reimbursed for travel
4 expenses in accordance with RCW 44.04.120. Nonlegislative members of
5 the board, project review committee members, and subcommittee chairs
6 shall be reimbursed for travel expenses as provided in RCW 43.03.050
7 and 43.03.060.

8 (6) If a vacancy occurs of the appointive members of the board, the
9 governor shall fill the vacancy for the unexpired term. Members of the
10 board may be removed for malfeasance or misfeasance in office, upon
11 specific written charges by the governor, under chapter 34.05 RCW.

12 (7) The board shall meet as often as necessary.

13 (8) Board members are expected to consistently attend board
14 meetings. The chair of the board may ask the governor to remove any
15 member who misses more than two meetings in any calendar year without
16 cause.

17 (9) The department of general administration shall provide staff
18 support as may be required for the proper discharge of the function of
19 the board.

20 (10) The board may establish subcommittees as it desires and may
21 invite nonmembers of the board to serve as committee members.

22 (11) The board shall encourage participation from persons and
23 entities not represented on the board.

24 **Sec. 215.** RCW 39.10.385 and 2010 c 163 s 1 are each amended to
25 read as follows:

26 As an alternative to the subcontractor selection process outlined
27 in RCW 39.10.380, a general contractor/construction manager may, with
28 the approval of the public body, select a mechanical subcontractor, an
29 electrical subcontractor, or both, using the process outlined in this
30 section. This alternative selection process may only be used when the
31 anticipated value of the subcontract will exceed three million dollars.
32 When using the alternative selection process, the general
33 contractor/construction manager should select the subcontractor early
34 in the life of the public works project.

35 (1) In order to use this alternative selection process, the general
36 contractor/construction manager and the public body must determine that

1 it is in the best interest of the public. In making this determination
2 the general contractor/construction manager and the public body must:

3 (a) Publish a notice of intent to use this alternative selection
4 process in a legal newspaper published in or as near as possible to
5 that part of the county where the public work will be constructed.
6 Notice must be published at least fourteen calendar days before
7 conducting a public hearing. The notice must include the date, time,
8 and location of the hearing; a statement justifying the basis and need
9 for the alternative selection process; and how interested parties may,
10 prior to the hearing, obtain the evaluation criteria and applicable
11 weight given to each criteria that will be used for evaluation;

12 (b) Conduct a hearing and provide an opportunity for any interested
13 party to submit written and verbal comments regarding the justification
14 for using this selection process, the evaluation criteria, and weights
15 for each criteria;

16 (c) After the public hearing, consider the written and verbal
17 comments received and determine if using this alternative selection
18 process is in the best interests of the public; and

19 (d) Issue a written final determination to all interested parties.
20 All protests of the decision to use the alternative selection process
21 must be in writing and submitted to the public body within seven
22 calendar days of the final determination. Any modifications to the
23 criteria and weights based on comments received during the public
24 hearing process must be included in the final determination.

25 (2) Contracts for the services of a subcontractor under this
26 section must be awarded through a competitive process requiring a
27 public solicitation of proposals. Notice of the public solicitation of
28 proposals must be provided to the office of (~~minority and women's~~
29 ~~business enterprises~~) civil rights. The public solicitation of
30 proposals must include:

31 (a) A description of the project, including programmatic,
32 performance, and technical requirements and specifications when
33 available;

34 (b) The reasons for using the alternative selection process;

35 (c) A description of the minimum qualifications required of the
36 firm;

37 (d) A description of the process used to evaluate qualifications

1 and proposals, including evaluation factors and the relative weight of
2 factors;

3 (e) The form of the contract, including any contract for
4 preconstruction services, to be awarded;

5 (f) The estimated maximum allowable subcontract cost; and

6 (g) The bid instructions to be used by the finalists.

7 (3) Evaluation factors for selection of the subcontractor must
8 include, but not be limited to:

9 (a) Ability of the firm's professional personnel;

10 (b) The firm's past performance on similar projects;

11 (c) The firm's ability to meet time and budget requirements;

12 (d) The scope of work the firm proposes to perform with its own
13 forces and its ability to perform that work;

14 (e) The firm's plan for outreach to minority and women-owned
15 businesses;

16 (f) The firm's proximity to the project location;

17 (g) The firm's capacity to successfully complete the project;

18 (h) The firm's approach to executing the project;

19 (i) The firm's approach to safety on the project;

20 (j) The firm's safety history; and

21 (k) If the firm is selected as one of the most qualified finalists,
22 the firm's fee and cost proposal.

23 (4) The general contractor/construction manager shall establish a
24 committee to evaluate the proposals. At least one representative from
25 the public body shall serve on the committee. Final proposals,
26 including sealed bids for the percent fee on the estimated maximum
27 allowable subcontract cost, and the fixed amount for the subcontract
28 general conditions work specified in the request for proposal, will be
29 requested from the most qualified firms. The general
30 contractor/construction manager and the public body shall select the
31 firm submitting the highest scored final proposal using the evaluation
32 factors and the relative weight of factors identified in the
33 solicitation of proposals. The scoring of the nonprice factors must be
34 made available at the opening of the fee and cost proposals. The
35 general contractor/construction manager may not evaluate or disqualify
36 a proposal based on the terms of a collective bargaining agreement.

37 (5) If the general contractor/construction manager is unable to
38 negotiate a satisfactory maximum allowable subcontract cost with the

1 firm selected deemed by public body and the general
2 contractor/construction manager to be fair, reasonable, and within the
3 available funds, negotiations with that firm must be formally
4 terminated and the general contractor/construction manager may
5 negotiate with the next highest scored firm until an agreement is
6 reached or the process is terminated.

7 (6) If the general contractor/construction manager receives a
8 written protest from a bidder, it may not execute a contract for the
9 subject work with anyone other than the protesting bidder, without
10 first providing at least two full business days' written notice to all
11 bidders of the intent to execute a contract for the subcontract bid
12 package. The protesting bidder must submit written notice to the
13 general contractor/construction manager of its protest no later than
14 two full business days following the bid opening.

15 (7) With the approval of the public body, the general
16 contractor/construction manager may contract with the selected firm to
17 provide services during the design phase that may include life-cycle
18 cost design considerations, value engineering, scheduling, cost
19 estimating, constructability, alternative construction options for cost
20 savings, and sequencing of work; and to act as the mechanical or
21 electrical subcontractor during the construction phase.

22 (8) The maximum allowable subcontract cost must be used to
23 establish a total subcontract cost for purposes of a performance and
24 payment bond. Total subcontract cost means the fixed amount for the
25 detailed specified general conditions work, the negotiated maximum
26 allowable subcontract cost, and the percent fee on the negotiated
27 maximum allowable subcontract cost. Maximum allowable subcontract cost
28 means the maximum cost to complete the work specified for the
29 subcontract, including the estimated cost of work to be performed by
30 the subcontractor's own forces, a percentage for risk contingency,
31 negotiated support services, and approved change orders. The maximum
32 allowable subcontract cost must be negotiated between the general
33 contractor/construction manager and the selected firm when the
34 construction documents and specifications are at least ninety percent
35 complete. Final agreement on the maximum allowable subcontract cost is
36 subject to the approval of the public body.

37 (9) If the work of the mechanical contractor or electrical
38 contractor is completed for less than the maximum allowable subcontract

1 cost, any savings not otherwise negotiated as part of an incentive
2 clause becomes part of the risk contingency included in the general
3 contractor/construction manager's maximum allowable construction cost.
4 If the work of the mechanical contractor or the electrical contractor
5 is completed for more than the maximum allowable subcontract cost, the
6 additional cost is the responsibility of that subcontractor. An
7 independent audit, paid for by the public body, must be conducted upon
8 completion of the contract to confirm the proper accrual of costs as
9 outlined in the contract.

10 (10) A mechanical or electrical contractor selected under this
11 section may perform work with its own forces. In the event it elects
12 to subcontract some of its work, it must select a subcontractor
13 utilizing the procedure outlined in RCW 39.10.380.

14 **Sec. 216.** RCW 39.10.450 and 2007 c 494 s 404 are each amended to
15 read as follows:

16 (1) The maximum dollar amount for a work order is three hundred
17 fifty thousand dollars. For each job order contract, public bodies
18 shall not issue more than two work orders equal to or greater than
19 three hundred thousand dollars in a twelve-month contract period.

20 (2) All work orders issued for the same project shall be treated as
21 a single work order for purposes of the dollar limit on work orders.

22 (3) No more than twenty percent of the dollar value of a work order
23 may consist of items of work not contained in the unit price book.

24 (4) Any new permanent, enclosed building space constructed under a
25 work order shall not exceed two thousand gross square feet.

26 (5) A public body may issue no work orders under a job order
27 contract until it has approved, in consultation with the office of
28 (~~minority and women's business enterprises~~) civil rights or the
29 equivalent local agency, a plan prepared by the job order contractor
30 that equitably spreads certified women, veteran-owned, and minority
31 business enterprise subcontracting opportunities, to the extent
32 permitted by the Washington state civil rights act, RCW 49.60.400,
33 among the various subcontract disciplines.

34 (6) For purposes of chapters 39.08, 39.12, 39.76, and 60.28 RCW,
35 each work order issued shall be treated as a separate contract. The
36 alternate filing provisions of RCW 39.12.040(2) apply to each work

1 order that otherwise meets the eligibility requirements of RCW
2 39.12.040(2).

3 (7) The job order contract shall not be used for the procurement of
4 architectural or engineering services not associated with specific work
5 orders. Architectural and engineering services shall be procured in
6 accordance with RCW 39.80.040.

7 **Sec. 217.** RCW 39.102.100 and 2006 c 181 s 208 are each amended to
8 read as follows:

9 Prior to adopting the ordinance (~~(creating)~~) adopting the revenue
10 development area and to meet the requirements of RCW
11 39.102.150(1)(~~(b)~~)(a)(ii), a sponsoring local government and any
12 cosponsoring local government must provide public notice.

13 (1) Notice of the public hearing must be published in a legal
14 newspaper of general circulation within the proposed revenue
15 development area at least ten days before the public hearing and posted
16 in at least six conspicuous public places located in the proposed
17 revenue development area.

18 (2) Notice must also be sent by United States mail to the property
19 owners, all identifiable community-based organizations with involvement
20 in the proposed revenue development area, and the business enterprises
21 located within the proposed revenue development area at least thirty
22 days prior to the hearing. In implementing provisions under this
23 chapter, the local governing body may also consult with community-based
24 groups, business organizations, including the local chamber of
25 commerce, and the office of (~~minority and women's business~~
26 ~~enterprises~~) civil rights to assist with providing appropriate notice
27 to business enterprises and property owners for whom English is a
28 second language.

29 (3) Notices must describe the contemplated public improvements,
30 estimate the public improvement costs, describe the portion of the
31 public improvement costs to be borne by local infrastructure financing,
32 describe any other sources of revenue to finance the public
33 improvements, describe the boundaries of the proposed revenue
34 development area, estimate the impact that the public improvements will
35 have on small businesses and low-income housing, and estimate the
36 period during which local infrastructure financing is contemplated to
37 be used.

1 (4) Notices must inform the public where to obtain the information
2 that shows how the limitations, conditions, and findings required in
3 RCW 39.102.060 through 39.102.080 are met.

4 (5) The sponsoring local government and any cosponsoring local
5 government shall deliver a certified copy of the proposed ordinance to
6 the county treasurer, the governing body of each participating local
7 government and participating taxing district within which the revenue
8 development area is located, the board, and the department.

9 **Sec. 218.** RCW 43.63A.690 and 2005 c 302 s 6 are each amended to
10 read as follows:

11 (1) The department shall provide technical assistance and loan
12 packaging services that enable minority, veteran-owned, and women-owned
13 business enterprises to obtain financing under the linked deposit
14 program created under RCW 43.86A.060.

15 (2) The department, in consultation with the office of (~~minority~~
16 ~~and women's business enterprises~~) civil rights, shall develop
17 indicators to measure the performance of the linked deposit program in
18 the areas of job creation or retention and providing access to capital
19 to minority, veteran-owned, or women's business enterprises.

20 **Sec. 219.** RCW 43.86A.060 and 2009 c 385 s 3 and 2009 c 384 s 1 are
21 each reenacted and amended to read as follows:

22 (1) The state treasurer shall establish a linked deposit program
23 for investment of deposits in qualified public depositories. As a
24 condition of participating in the program, qualified public
25 depositories must make qualifying loans as provided in this section.
26 The state treasurer may purchase a certificate of deposit that is equal
27 to the amount of the qualifying loan made by the qualified public
28 depository or may purchase a certificate of deposit that is equal to
29 the aggregate amount of two or more qualifying loans made by one or
30 more qualified public depositories.

31 (2) Qualifying loans made under this section are those:

32 (a) Having terms that do not exceed ten years;

33 (b) Where an individual loan does not exceed one million dollars;

34 (c)(i) That are made to a minority, veteran-owned, or women's
35 business enterprise that has received state certification under chapter
36 39.19 RCW; or

1 (ii) (~~That are made to a veteran-owned business that has received~~
2 ~~state certification under RCW 43.60A.190; or~~

3 ~~(iii))~~) That are made to a community development financial
4 institution that is: (A) Certified by the United States department of
5 the treasury pursuant to 12 U.S.C. Sec. 4701 et seq.; and (B) using
6 that loan to make qualifying loans under (c)(i) of this subsection;

7 (d) Where the interest rate on the loan to the minority (~~(or)~~)
8 women's (~~(business enterprise)~~), or veteran-owned business does not
9 exceed an interest rate that is two hundred basis points below the
10 interest rate the qualified public depository would charge for a loan
11 for a similar purpose and a similar term, except that, if the
12 preference given by the state treasurer to the qualified public
13 depository under subsection (3) of this section is less than two
14 hundred basis points, the qualified public depository may reduce the
15 preference given on the loan by an amount that corresponds to the
16 reduction in preference below two hundred basis points given to the
17 qualified public depository; and

18 (e) Where the points or fees charged at loan closing do not exceed
19 one percent of the loan amount.

20 (3) In setting interest rates of time certificate of deposits, the
21 state treasurer shall offer rates so that a two hundred basis point
22 preference will be given to the qualified public depository, except
23 that the treasurer may lower the amount of the preference to ensure
24 that the effective interest rate on the deposit is not less than zero
25 percent.

26 (4) Upon notification by the state treasurer that a minority,
27 veteran-owned, or women's business enterprise is no longer certified
28 under chapter 39.19 RCW (~~(or that a veteran-owned business is no longer~~
29 ~~certified under RCW 43.60A.190))~~), the qualified public depository shall
30 reduce the amount of qualifying loans by the outstanding balance of the
31 loan made under this section to the minority (~~(or)~~)
32 women's (~~(business enterprise)~~), or the veteran-owned business, as applicable.

33 (5) The office of (~~(minority and women's business enterprises)~~)
34 civil rights has the authority to adopt rules to:

35 (a) Ensure that when making a qualified loan under the linked
36 deposit program, businesses that have never received a loan under the
37 linked deposit program are given first priority;

1 (b) Limit the total principal loan amount that any one business
2 receives in qualified loans under the linked deposit program over the
3 lifetime of the businesses;

4 (c) Limit the total principal loan amount that an owner of one or
5 more businesses receives in qualified loans under the linked deposit
6 program during the owner's lifetime;

7 (d) Limit the total amount of any one qualified loan made under the
8 linked deposit program; and

9 (e) Ensure that loans made by community development financial
10 institutions are qualifying loans under subsection (2)(c)(i) of this
11 section.

12 NEW SECTION. **Sec. 220.** The following acts or parts of acts are
13 each repealed:

14 (1) RCW 39.19.010 (Intent) and 1987 c 328 s 1 & 1983 c 120 s 1;

15 (2) RCW 39.19.041 (Ad hoc advisory committees) and 1995 c 269 s
16 1302;

17 (3) RCW 39.19.140 (Implementation of statewide certification) and
18 1987 c 328 s 9;

19 (4) RCW 39.19.910 (Effective date--Applicability--1983 c 120) and
20 1983 c 120 s 21;

21 (5) RCW 39.19.920 (Severability--Conflict with federal
22 requirements--1983 c 120) and 1983 c 120 s 18;

23 (6) RCW 39.19.921 (Severability--1987 c 328) and 1987 c 328 s 17;
24 and

25 (7) RCW 41.06.082 (Office of minority and women's business
26 enterprises--Certain personnel exempted from chapter) and 1983 c 120 s
27 14.

28 **PART III**

29 **POLICIES AND PROGRAMS TRANSFERRED FROM THE HUMAN RIGHTS COMMISSION**

30 **Sec. 301.** RCW 49.60.010 and 2007 c 187 s 1 are each amended to
31 read as follows:

32 This chapter shall be known as the "law against discrimination."
33 It is an exercise of the police power of the state for the protection
34 of the public welfare, health, and peace of the people of this state,
35 and in fulfillment of the provisions of the Constitution of this state

1 concerning civil rights. The legislature hereby finds and declares
2 that practices of discrimination against any of its inhabitants because
3 of race, creed, color, national origin, families with children, sex,
4 marital status, sexual orientation, age, honorably discharged veteran
5 or military status, or the presence of any sensory, mental, or physical
6 disability or the use of a trained dog guide or service animal by a
7 person with a disability are a matter of state concern, that such
8 discrimination threatens not only the rights and proper privileges of
9 its inhabitants but menaces the institutions and foundation of a free
10 democratic state. The office of civil rights, a state agency is
11 ~~((herein))~~ created in this act with powers with respect to elimination
12 and prevention of discrimination in employment, in credit and insurance
13 transactions, in places of public resort, accommodation, or amusement,
14 and in real property transactions because of race, creed, color,
15 national origin, families with children, sex, marital status, sexual
16 orientation, age, honorably discharged veteran or military status, or
17 the presence of any sensory, mental, or physical disability or the use
18 of a trained dog guide or service animal by a person with a disability;
19 and the ~~((commission established hereunder))~~ office of civil rights is
20 hereby given general jurisdiction and power for such purposes.

21 **Sec. 302.** RCW 49.60.040 and 2009 c 187 s 3 are each amended to
22 read as follows:

23 The definitions in this section apply throughout this chapter
24 unless the context clearly requires otherwise.

25 (1) "Aggrieved person" means any person who: (a) Claims to have
26 been injured by an unfair practice in a real estate transaction; or (b)
27 believes that he or she will be injured by an unfair practice in a real
28 estate transaction that is about to occur.

29 (2) "Any place of public resort, accommodation, assemblage, or
30 amusement" includes, but is not limited to, any place, licensed or
31 unlicensed, kept for gain, hire, or reward, or where charges are made
32 for admission, service, occupancy, or use of any property or
33 facilities, whether conducted for the entertainment, housing, or
34 lodging of transient guests, or for the benefit, use, or accommodation
35 of those seeking health, recreation, or rest, or for the burial or
36 other disposition of human remains, or for the sale of goods,
37 merchandise, services, or personal property, or for the rendering of

1 personal services, or for public conveyance or transportation on land,
2 water, or in the air, including the stations and terminals thereof and
3 the garaging of vehicles, or where food or beverages of any kind are
4 sold for consumption on the premises, or where public amusement,
5 entertainment, sports, or recreation of any kind is offered with or
6 without charge, or where medical service or care is made available, or
7 where the public gathers, congregates, or assembles for amusement,
8 recreation, or public purposes, or public halls, public elevators, and
9 public washrooms of buildings and structures occupied by two or more
10 tenants, or by the owner and one or more tenants, or any public library
11 or educational institution, or schools of special instruction, or
12 nursery schools, or day care centers or children's camps: PROVIDED,
13 That nothing contained in this definition shall be construed to include
14 or apply to any institute, bona fide club, or place of accommodation,
15 which is by its nature distinctly private, including fraternal
16 organizations, though where public use is permitted that use shall be
17 covered by this chapter; nor shall anything contained in this
18 definition apply to any educational facility, columbarium, crematory,
19 mausoleum, or cemetery operated or maintained by a bona fide religious
20 or sectarian institution.

21 (3) (~~"Commission" means the Washington state human rights~~
22 ~~commission.~~

23 ~~(4)~~) "Complainant" means the person who files a complaint in a
24 real estate transaction.

25 ~~((5))~~ (4) "Covered multifamily dwelling" means: (a) Buildings
26 consisting of four or more dwelling units if such buildings have one or
27 more elevators; and (b) ground floor dwelling units in other buildings
28 consisting of four or more dwelling units.

29 ~~((6))~~ (5) "Credit transaction" includes any open or closed end
30 credit transaction, whether in the nature of a loan, retail installment
31 transaction, credit card issue or charge, or otherwise, and whether for
32 personal or for business purposes, in which a service, finance, or
33 interest charge is imposed, or which provides for repayment in
34 scheduled payments, when such credit is extended in the regular course
35 of any trade or commerce, including but not limited to transactions by
36 banks, savings and loan associations or other financial lending
37 institutions of whatever nature, stock brokers, or by a merchant or

1 mercantile establishment which as part of its ordinary business permits
2 or provides that payment for purchases of property or service therefrom
3 may be deferred.

4 ~~((7))~~ (6) "Director" means the director of the office of civil
5 rights.

6 (7)(a) "Disability" means the presence of a sensory, mental, or
7 physical impairment that:

- 8 (i) Is medically cognizable or diagnosable; or
- 9 (ii) Exists as a record or history; or
- 10 (iii) Is perceived to exist whether or not it exists in fact.

11 (b) A disability exists whether it is temporary or permanent,
12 common or uncommon, mitigated or unmitigated, or whether or not it
13 limits the ability to work generally or work at a particular job or
14 whether or not it limits any other activity within the scope of this
15 chapter.

16 (c) For purposes of this definition, "impairment" includes, but is
17 not limited to:

18 (i) Any physiological disorder, or condition, cosmetic
19 disfigurement, or anatomical loss affecting one or more of the
20 following body systems: Neurological, musculoskeletal, special sense
21 organs, respiratory, including speech organs, cardiovascular,
22 reproductive, digestive, genitor-urinary, hemic and lymphatic, skin,
23 and endocrine; or

24 (ii) Any mental, developmental, traumatic, or psychological
25 disorder, including but not limited to cognitive limitation, organic
26 brain syndrome, emotional or mental illness, and specific learning
27 disabilities.

28 (d) Only for the purposes of qualifying for reasonable
29 accommodation in employment, an impairment must be known or shown
30 through an interactive process to exist in fact and:

31 (i) The impairment must have a substantially limiting effect upon
32 the individual's ability to perform his or her job, the individual's
33 ability to apply or be considered for a job, or the individual's access
34 to equal benefits, privileges, or terms or conditions of employment; or

35 (ii) The employee must have put the employer on notice of the
36 existence of an impairment, and medical documentation must establish a
37 reasonable likelihood that engaging in job functions without an

1 accommodation would aggravate the impairment to the extent that it
2 would create a substantially limiting effect.

3 (e) For purposes of (d) of this subsection, a limitation is not
4 substantial if it has only a trivial effect.

5 (8) "Dog guide" means a dog that is trained for the purpose of
6 guiding blind persons or a dog that is trained for the purpose of
7 assisting hearing impaired persons.

8 (9) "Dwelling" means any building, structure, or portion thereof
9 that is occupied as, or designed or intended for occupancy as, a
10 residence by one or more families, and any vacant land that is offered
11 for sale or lease for the construction or location thereon of any such
12 building, structure, or portion thereof.

13 (10) "Employee" does not include any individual employed by his or
14 her parents, spouse, or child, or in the domestic service of any
15 person.

16 (11) "Employer" includes any person acting in the interest of an
17 employer, directly or indirectly, who employs eight or more persons,
18 and does not include any religious or sectarian organization not
19 organized for private profit.

20 (12) "Employment agency" includes any person undertaking with or
21 without compensation to recruit, procure, refer, or place employees for
22 an employer.

23 (13) "Families with children status" means one or more individuals
24 who have not attained the age of eighteen years being domiciled with a
25 parent or another person having legal custody of such individual or
26 individuals, or with the designee of such parent or other person having
27 such legal custody, with the written permission of such parent or other
28 person. Families with children status also applies to any person who
29 is pregnant or is in the process of securing legal custody of any
30 individual who has not attained the age of eighteen years.

31 (14) "Full enjoyment of" includes the right to purchase any
32 service, commodity, or article of personal property offered or sold on,
33 or by, any establishment to the public, and the admission of any person
34 to accommodations, advantages, facilities, or privileges of any place
35 of public resort, accommodation, assemblage, or amusement, without acts
36 directly or indirectly causing persons of any particular race, creed,
37 color, sex, sexual orientation, national origin, or with any sensory,

1 mental, or physical disability, or the use of a trained dog guide or
2 service animal by a person with a disability, to be treated as not
3 welcome, accepted, desired, or solicited.

4 (15) "Honorably discharged veteran or military status" means a
5 person who is:

6 (a) A veteran, as defined in RCW 41.04.007; or

7 (b) An active or reserve member in any branch of the armed forces
8 of the United States, including the national guard, coast guard, and
9 armed forces reserves.

10 (16) "Labor organization" includes any organization which exists
11 for the purpose, in whole or in part, of dealing with employers
12 concerning grievances or terms or conditions of employment, or for
13 other mutual aid or protection in connection with employment.

14 (17) "Marital status" means the legal status of being married,
15 single, separated, divorced, or widowed.

16 (18) "National origin" includes "ancestry."

17 (19) "Office" means the Washington state office of civil rights
18 created in section 102 of this act.

19 (20) "Person" includes one or more individuals, partnerships,
20 associations, organizations, corporations, cooperatives, legal
21 representatives, trustees and receivers, or any group of persons; it
22 includes any owner, lessee, proprietor, manager, agent, or employee,
23 whether one or more natural persons; and further includes any political
24 or civil subdivisions of the state and any agency or instrumentality of
25 the state or of any political or civil subdivision thereof.

26 ~~((+20+))~~ (21) "Premises" means the interior or exterior spaces,
27 parts, components, or elements of a building, including individual
28 dwelling units and the public and common use areas of a building.

29 ~~((+21+))~~ (22) "Real estate transaction" includes the sale,
30 appraisal, brokering, exchange, purchase, rental, or lease of real
31 property, transacting or applying for a real estate loan, or the
32 provision of brokerage services.

33 ~~((+22+))~~ (23) "Real property" includes buildings, structures,
34 dwellings, real estate, lands, tenements, leaseholds, interests in real
35 estate cooperatives, condominiums, and hereditaments, corporeal and
36 incorporeal, or any interest therein.

37 ~~((+23+))~~ (24) "Respondent" means any person accused in a complaint

1 or amended complaint of an unfair practice in a real estate
2 transaction.

3 ~~((+24))~~ (25) "Service animal" means an animal that is trained for
4 the purpose of assisting or accommodating a sensory, mental, or
5 physical disability of a person with a disability.

6 ~~((+25))~~ (26) "Sex" means gender.

7 ~~((+26))~~ (27) "Sexual orientation" means heterosexuality,
8 homosexuality, bisexuality, and gender expression or identity. As used
9 in this definition, "gender expression or identity" means having or
10 being perceived as having a gender identity, self-image, appearance,
11 behavior, or expression, whether or not that gender identity, self-
12 image, appearance, behavior, or expression is different from that
13 traditionally associated with the sex assigned to that person at birth.

14 **Sec. 303.** RCW 49.60.100 and 1987 c 505 s 55 are each amended to
15 read as follows:

16 Subject to RCW 40.07.040, the ~~((commission,))~~ office each biennium,
17 shall report to the governor, describing the investigations,
18 proceedings, and hearings it has conducted and their outcome, the
19 decisions it has rendered, the recommendations it has issued, and the
20 other work performed by it, and shall make such recommendations for
21 further legislation as may appear desirable. The ~~((commission))~~ office
22 may present its reports to the legislature; the ~~((commission's))~~
23 office's reports shall be made available upon request.

24 **Sec. 304.** RCW 49.60.120 and 2007 c 187 s 5 are each amended to
25 read as follows:

26 The ~~((commission))~~ office shall have the functions, powers, and
27 duties:

28 (1) ~~((To appoint an executive director and chief examiner, and such
29 investigators, examiners, clerks, and other employees and agents as it
30 may deem necessary, fix their compensation within the limitations
31 provided by law, and prescribe their duties.~~

32 ~~(2))~~ To obtain upon request and utilize the services of all
33 governmental departments and agencies.

34 ~~((3) To adopt, amend, and rescind suitable rules to carry out the
35 provisions of this chapter, and the policies and practices of the
36 commission in connection therewith.~~

1 ~~(4) To receive, impartially investigate, and pass upon complaints~~
2 ~~alleging unfair practices as defined in this chapter.~~

3 ~~(5))~~ (2) To issue such publications and results of investigations
4 and research as in its judgment will tend to ~~((promote good will and))~~
5 minimize or eliminate discrimination because of sex, sexual
6 orientation, race, creed, color, national origin, marital status, age,
7 honorably discharged veteran or military status, or the presence of any
8 sensory, mental, or physical disability, or the use of a trained dog
9 guide or service animal by a person with a disability.

10 ~~((6))~~ (3) To make such technical studies as are appropriate to
11 effectuate the purposes and policies of this chapter and to publish and
12 distribute the reports of such studies.

13 ~~((7))~~ (4) To cooperate and act jointly or by division of labor
14 with the United States or other states, with other Washington state
15 agencies, commissions, and other government entities, and with
16 political subdivisions of the state of Washington and their respective
17 human rights agencies to carry out the purposes of this chapter.
18 However, the powers which may be exercised by the ~~((commission))~~ office
19 under this subsection permit investigations and complaint dispositions
20 only if the investigations are designed to reveal, or the complaint
21 deals only with, allegations which, if proven, would constitute unfair
22 practices under this chapter. The ~~((commission))~~ office may perform
23 such services for these agencies and be reimbursed therefor.

24 ~~((8) To foster good relations between minority and majority~~
25 ~~population groups of the state through seminars, conferences,~~
26 ~~educational programs, and other intergroup relations activities.))~~

27 **Sec. 305.** RCW 49.60.150 and 1985 c 185 s 13 are each amended to
28 read as follows:

29 No person shall be excused from attending and testifying or from
30 producing records, correspondence, documents or other evidence in
31 obedience to the subpoena of the ~~((commission or of any individual~~
32 ~~member))~~ office, on the ground that the testimony or evidence required
33 of the person may tend to incriminate or subject the person to a
34 penalty or forfeiture, but no person shall be prosecuted or subjected
35 to any penalty or forfeiture for or on account of any transaction,
36 matter or thing concerning which the person is compelled, after having
37 claimed the privilege against self-incrimination, to testify or produce

1 evidence, except that such person so testifying shall not be exempt
2 from prosecution and punishment for perjury committed in so testifying.
3 The immunity herein provided shall extend only to natural persons so
4 compelled to testify.

5 **Sec. 306.** RCW 49.60.160 and 1985 c 185 s 14 are each amended to
6 read as follows:

7 In case of contumacy or refusal to obey a subpoena issued to any
8 person, the superior court of any county within the jurisdiction of
9 which the investigation, proceeding, or hearing is carried on or within
10 the jurisdiction of which the person guilty of contumacy or refusal to
11 obey is found or resides or transacts business, upon application by the
12 (~~commission~~) office shall have jurisdiction to issue to such person
13 an order requiring such person to appear before the (~~commission, its~~
14 ~~member~~) director or director's designee, agent, or agency, there to
15 produce evidence if so ordered, or there to give testimony touching the
16 matter under investigation or in question. Any failure to obey such
17 order of the court may be punished by the court as a contempt thereof.

18 **Sec. 307.** RCW 49.60.170 and 1985 c 185 s 15 are each amended to
19 read as follows:

20 Witnesses before the (~~commission, its member~~) office, agent, or
21 agency, shall be paid the same fees and mileage that are paid witnesses
22 in the courts of this state. Witnesses whose depositions are taken and
23 the person taking the same shall be entitled to same fees as are paid
24 for like services in the courts of the state.

25 **Sec. 308.** RCW 49.60.180 and 2007 c 187 s 9 are each amended to
26 read as follows:

27 It is an unfair practice for any employer:

28 (1) To refuse to hire any person because of age, sex, marital
29 status, sexual orientation, race, creed, color, national origin,
30 honorably discharged veteran or military status, or the presence of any
31 sensory, mental, or physical disability or the use of a trained dog
32 guide or service animal by a person with a disability, unless based
33 upon a bona fide occupational qualification: PROVIDED, That the
34 prohibition against discrimination because of such disability shall not
35 apply if the particular disability prevents the proper performance of

1 the particular worker involved: PROVIDED, That this section shall not
2 be construed to require an employer to establish employment goals or
3 quotas based on sexual orientation.

4 (2) To discharge or bar any person from employment because of age,
5 sex, marital status, sexual orientation, race, creed, color, national
6 origin, honorably discharged veteran or military status, or the
7 presence of any sensory, mental, or physical disability or the use of
8 a trained dog guide or service animal by a person with a disability.

9 (3) To discriminate against any person in compensation or in other
10 terms or conditions of employment because of age, sex, marital status,
11 sexual orientation, race, creed, color, national origin, honorably
12 discharged veteran or military status, or the presence of any sensory,
13 mental, or physical disability or the use of a trained dog guide or
14 service animal by a person with a disability: PROVIDED, That it shall
15 not be an unfair practice for an employer to segregate washrooms or
16 locker facilities on the basis of sex, or to base other terms and
17 conditions of employment on the sex of employees where the
18 ((~~commission~~)) office by regulation or ruling in a particular instance
19 has found the employment practice to be appropriate for the practical
20 realization of equality of opportunity between the sexes.

21 (4) To print, or circulate, or cause to be printed or circulated
22 any statement, advertisement, or publication, or to use any form of
23 application for employment, or to make any inquiry in connection with
24 prospective employment, which expresses any limitation, specification,
25 or discrimination as to age, sex, marital status, sexual orientation,
26 race, creed, color, national origin, honorably discharged veteran or
27 military status, or the presence of any sensory, mental, or physical
28 disability or the use of a trained dog guide or service animal by a
29 person with a disability, or any intent to make any such limitation,
30 specification, or discrimination, unless based upon a bona fide
31 occupational qualification: PROVIDED, Nothing contained herein shall
32 prohibit advertising in a foreign language.

33 **Sec. 309.** RCW 49.60.226 and 1985 c 185 s 20 are each amended to
34 read as follows:

35 The ((~~commission~~)) office and units of local government
36 administering ordinances with provisions similar to the real estate
37 provisions of the law against discrimination are authorized and

1 directed to enter into cooperative agreements or arrangements for
2 receiving and processing complaints so that duplication of functions
3 shall be minimized and multiple hearings avoided. No complainant may
4 secure relief from more than one instrumentality of state, or local
5 government, nor shall any relief be granted by any state or local
6 instrumentality if relief has been granted or proceedings are
7 continuing in any federal agency, court, or instrumentality, unless
8 such proceedings have been deferred pending state action.

9 **Sec. 310.** RCW 49.60.230 and 2008 c 266 s 7 are each amended to
10 read as follows:

11 (1) Who may file a complaint:

12 (a) Any person claiming to be aggrieved by an alleged unfair
13 practice may, personally or by his or her attorney, make, sign, and
14 file with the (~~commission~~) office a complaint in writing under oath
15 or by declaration. The complaint shall state the name of the person
16 alleged to have committed the unfair practice and the particulars
17 thereof, and contain such other information as may be required by the
18 (~~commission~~) office.

19 (b) Whenever it has reason to believe that any person has been
20 engaged or is engaging in an unfair practice, the (~~commission~~)
21 director may issue a complaint.

22 (c) Any employer or principal whose employees, or agents, or any of
23 them, refuse or threaten to refuse to comply with the provisions of
24 this chapter may file with the commission a written complaint under
25 oath or by declaration asking for assistance by conciliation or other
26 remedial action.

27 (2) Any complaint filed pursuant to this section must be so filed
28 within six months after the alleged act of discrimination except that
29 complaints alleging an unfair practice in a real estate transaction
30 pursuant to RCW 49.60.222 through 49.60.225 must be so filed within one
31 year after the alleged unfair practice in a real estate transaction has
32 occurred or terminated and a complaint alleging whistleblower
33 retaliation must be filed within two years.

34 **Sec. 311.** RCW 49.60.240 and 2010 c 85 s 1 are each amended to read
35 as follows:

36 (1)(a) Except as provided for in (c) of this subsection, after the

1 filing of any complaint, the (~~chairperson of the commission~~) director
2 shall refer it to the appropriate (~~section of the commission's~~) staff
3 for prompt review and evaluation of the complaint. If the facts as
4 stated in the complaint do not constitute an unfair practice under this
5 chapter, a finding of no reasonable cause may be made without further
6 investigation. If the facts as stated could constitute an unfair
7 practice under this chapter, a full investigation and ascertainment of
8 the facts shall be conducted.

9 (b) If the complainant has limitations related to language
10 proficiency or cognitive or other disability, as part of the review and
11 evaluation under (a) of this subsection, the (~~commission's~~) staff
12 must contact the complainant directly and make appropriate inquiry of
13 the complainant as to the facts of the complaint.

14 (c) After the filing of a complaint alleging an unfair practice in
15 a real estate transaction pursuant to RCW 49.60.222 through 49.60.225,
16 the (~~chairperson of the commission~~) director shall refer it to the
17 appropriate (~~section of the commission's~~) staff for prompt
18 investigation and ascertainment of the facts alleged in the complaint.

19 (2) The investigation shall be limited to the alleged facts
20 contained in the complaint. The results of the investigation shall be
21 reduced to written findings of fact, and a finding shall be made that
22 there is or that there is not reasonable cause for believing that an
23 unfair practice has been or is being committed. A copy of the findings
24 shall be provided to the complainant and to the person named in such
25 complaint, hereinafter referred to as the respondent.

26 (3) If the finding is made that there is reasonable cause for
27 believing that an unfair practice has been or is being committed, the
28 (~~commission's~~) staff shall immediately endeavor to eliminate the
29 unfair practice by conference, conciliation, and persuasion.

30 If an agreement is reached for the elimination of such unfair
31 practice as a result of such conference, conciliation, and persuasion,
32 the agreement shall be reduced to writing and signed by the respondent,
33 and an order shall be entered by the (~~commission~~) director setting
34 forth the terms of said agreement. No order shall be entered by the
35 (~~commission~~) director at this stage of the proceedings except upon
36 such written agreement, except that during the period beginning with
37 the filing of complaints alleging an unfair practice with respect to
38 real estate transactions pursuant to RCW 49.60.222 through 49.60.225,

1 and ending with the filing of a finding of reasonable cause or a
2 dismissal by the ~~((commission))~~ director, the ~~((commission))~~ staff
3 shall, to the extent feasible, engage in conciliation with respect to
4 such complaint. Any conciliation agreement arising out of conciliation
5 efforts by the ~~((commission))~~ office shall be an agreement between the
6 respondent and the complainant and shall be subject to the approval of
7 the ~~((commission))~~ director. Each conciliation agreement shall be made
8 public unless the complainant and respondent otherwise agree and the
9 ~~((commission))~~ director determines that disclosure is not required to
10 further the purposes of this chapter.

11 If no such agreement can be reached, a finding to that effect shall
12 be made and reduced to writing, with a copy thereof provided to the
13 complainant and the respondent.

14 (4) The ~~((commission))~~ director may adopt rules, including
15 procedural time requirements, for processing complaints alleging an
16 unfair practice with respect to real estate transactions pursuant to
17 RCW 49.60.222 through 49.60.225 and which may be consistent with the
18 federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et
19 seq.), but which in no case shall exceed or be more restrictive than
20 the requirements or standards of such act.

21 **Sec. 312.** RCW 49.60.250 and 2008 c 266 s 8 are each amended to
22 read as follows:

23 (1) In case of failure to reach an agreement for the elimination of
24 such unfair practice, and upon the entry of findings to that effect,
25 the entire file, including the complaint and any and all findings made,
26 shall be certified to the ~~((chairperson of the commission))~~ office.
27 The ~~((chairperson of the commission))~~ director shall thereupon request
28 the appointment of an administrative law judge under Title 34 RCW to
29 hear the complaint and shall cause to be issued and served in the name
30 of the ~~((commission))~~ office a written notice, together with a copy of
31 the complaint, as the same may have been amended, requiring the
32 respondent to answer the charges of the complaint at a hearing before
33 the administrative law judge, at a time and place to be specified in
34 such notice.

35 (2) The place of any such hearing may be the office ~~((of the~~
36 ~~commission))~~ or another place designated by it. The case in support of
37 the complaint shall be presented at the hearing by counsel for the

1 ((~~commission~~)) office: PROVIDED, That the complainant may retain
2 independent counsel and submit testimony and be fully heard. No member
3 or employee of the ((~~commission~~)) office who previously made the
4 investigation or caused the notice to be issued shall participate in
5 the hearing except as a witness, nor shall the member or employee
6 participate in the deliberations of the administrative law judge in
7 such case. Any endeavors or negotiations for conciliation shall not be
8 received in evidence.

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

13 (4) The administrative law judge conducting any hearing may permit
14 reasonable amendment to any complaint or answer. Testimony taken at
15 the hearing shall be under oath and recorded.

16 (5) If, upon all the evidence, the administrative law judge finds
17 that the respondent has engaged in any unfair practice, the
18 administrative law judge shall state findings of fact and shall issue
19 and file with the ((~~commission~~)) director and cause to be served on
20 such respondent an order requiring such respondent to cease and desist
21 from such unfair practice and to take such affirmative action,
22 including, (but not limited to) hiring, reinstatement or upgrading of
23 employees, with or without back pay, an admission or restoration to
24 full membership rights in any respondent organization, or to take such
25 other action as, in the judgment of the administrative law judge, will
26 effectuate the purposes of this chapter, including action that could be
27 ordered by a court, except that damages for humiliation and mental
28 suffering shall not exceed twenty thousand dollars, and including a
29 requirement for report of the matter on compliance. Relief available
30 for violations of RCW 49.60.222 through 49.60.224 shall be limited to
31 the relief specified in RCW 49.60.225.

32 (6) If a determination is made that retaliatory action, as defined
33 in RCW 42.40.050, has been taken against a whistleblower, as defined in
34 RCW 42.40.020, the administrative law judge may, in addition to any
35 other remedy, require restoration of benefits, back pay, and any
36 increases in compensation that would have occurred, with interest;
37 impose a civil penalty upon the retaliator of up to five thousand
38 dollars; and issue an order to the state employer to suspend the

1 retaliator for up to thirty days without pay. At a minimum, the
2 administrative law judge shall require that a letter of reprimand be
3 placed in the retaliator's personnel file. No agency shall issue any
4 nondisclosure order or policy, execute any nondisclosure agreement, or
5 spend any funds requiring information that is public under the public
6 records act, chapter 42.56 RCW, be kept confidential; except that
7 nothing in this section shall affect any state or federal law requiring
8 information be kept confidential. All penalties recovered shall be
9 paid into the state treasury and credited to the general fund.

10 (7) The final order of the administrative law judge shall include
11 a notice to the parties of the right to obtain judicial review of the
12 order by appeal in accordance with the provisions of RCW 34.05.510
13 through 34.05.598, and that such appeal must be served and filed within
14 thirty days after the service of the order on the parties.

15 (8) If, upon all the evidence, the administrative law judge finds
16 that the respondent has not engaged in any alleged unfair practice, the
17 administrative law judge shall state findings of fact and shall
18 similarly issue and file an order dismissing the complaint.

19 (9) An order dismissing a complaint may include an award of
20 reasonable attorneys' fees in favor of the respondent if the
21 administrative law judge concludes that the complaint was frivolous,
22 unreasonable, or groundless.

23 (10) The (~~commission~~) director shall establish rules of practice
24 to govern, expedite, and effectuate the foregoing procedure.

25 (11) Instead of filing with the (~~commission~~) director a
26 complainant may pursue arbitration conducted by the American
27 arbitration association or another arbitrator mutually agreed by the
28 parties, with the cost of arbitration shared equally by the complainant
29 and the respondent.

30 **Sec. 313.** RCW 49.60.260 and 1995 c 259 s 6 are each amended to
31 read as follows:

32 (1) The (~~commission~~) office or any person entitled to relief of
33 a final order may petition the court within the county wherein any
34 unfair practice occurred or wherein any person charged with an unfair
35 practice resides or transacts business for the enforcement of any final
36 order which is not complied with and is issued by the (~~commission~~)
37 director or an administrative law judge under the provisions of this

1 chapter and for appropriate temporary relief or a restraining order,
2 and shall certify and file in court the final order sought to be
3 enforced. Within five days after filing such petition in court, the
4 commission or any person entitled to relief of a final order shall
5 cause a notice of the petition to be sent by certified mail to all
6 parties or their representatives.

7 (2) If within sixty days after the date the administrative law
8 judge's order concerning an unfair practice in a real estate
9 transaction is entered, no petition has been filed under subsection (1)
10 of this section and the commission has not sought enforcement of the
11 final order under this section, any person entitled to relief under the
12 final order may petition for a decree enforcing the order in the
13 superior courts of the state of Washington for the county in which the
14 unfair practice in a real estate transaction under RCW 49.60.222
15 through 49.60.224 is alleged to have occurred.

16 (3) From the time the petition is filed, the court shall have
17 jurisdiction of the proceedings and of the questions determined
18 thereon, and shall have the power to grant such temporary relief or
19 restraining order as it deems just and suitable.

20 (4) If the petition shows that there is a final order issued by the
21 (~~commission~~) director or administrative law judge under RCW 49.60.240
22 or 49.60.250 and that the order has not been complied with in whole or
23 in part, the court shall issue an order directing the person who is
24 alleged to have not complied with the administrative order to appear in
25 court at a time designated in the order, not less than ten days from
26 the date thereof, and show cause why the administrative order should
27 not be enforced according to the terms. The (~~commission~~) office or
28 any person entitled to relief of any final order shall immediately
29 serve the noncomplying party with a copy of the court order and the
30 petition.

31 (5) The administrative order shall be enforced by the court if the
32 person does not appear, or if the person appears and the court finds
33 that:

34 (a) The order is regular on its face;

35 (b) The order has not been complied with; and

36 (c) The person's answer discloses no valid reason why the order
37 should not be enforced, or that the reason given in the person's answer

1 could have been raised by review under RCW 34.05.510 through 34.05.598,
2 and the person has given no valid excuse for failing to use that
3 remedy.

4 (6) The jurisdiction of the court shall be exclusive and its
5 judgment and decree shall be final, except that the same shall be
6 subject to appellate review by the supreme court or the court of
7 appeals, on appeal, by either party, irrespective of the nature of the
8 decree or judgment. The review shall be taken and prosecuted in the
9 same manner and form and with the same effect as is provided in other
10 cases.

11 **Sec. 314.** RCW 49.60.270 and 1985 c 185 s 25 are each amended to
12 read as follows:

13 Any respondent or complainant, including the (~~commission~~) office,
14 aggrieved by a final order of an administrative law judge may obtain
15 judicial review of such order as provided under the administrative
16 procedure act, chapter 34.05 RCW. From the time a petition for review
17 is filed, the court has jurisdiction to grant to any party such
18 temporary relief or restraining order as it deems just and suitable.
19 If the court affirms the order, it shall enter a judgment and decree
20 enforcing the order as affirmed.

21 **Sec. 315.** RCW 49.60.310 and 1985 c 185 s 26 are each amended to
22 read as follows:

23 Any person who (~~wilfully~~) willfully resists, prevents, impedes,
24 or interferes with the (~~commission~~) office or any of its (~~members or~~
25 ~~representatives~~) employees in the performance of duty under this
26 chapter, or who (~~wilfully~~) willfully violates an order of the
27 (~~commission~~) director, is guilty of a misdemeanor; but procedure for
28 the review of the order shall not be deemed to be such (~~wilful~~)
29 willful conduct.

30 **Sec. 316.** RCW 49.60.320 and 1985 c 185 s 27 are each amended to
31 read as follows:

32 In any case in which the (~~commission~~) director shall issue an
33 order against any political or civil subdivision of the state, or any
34 agency, or instrumentality of the state or of the foregoing, or any
35 officer or employee thereof, the (~~commission~~) director shall transmit

1 a copy of such order to the governor of the state. The governor shall
2 take such action to secure compliance with such order as the governor
3 deems necessary.

4 **Sec. 317.** RCW 49.60.340 and 1993 c 69 s 13 are each amended to
5 read as follows:

6 (1) Any complainant on whose behalf the reasonable cause finding
7 was made, a respondent, or an aggrieved person may, with respect to
8 real estate transactions pursuant to RCW 49.60.222 through 49.60.225,
9 elect to have the claims on which reasonable cause was found decided in
10 a civil action under RCW 49.60.030(2) in lieu of a hearing under RCW
11 49.60.250. This election must be made not later than twenty days after
12 the service of the reasonable cause finding. The person making such
13 election shall give notice of doing so to the commission and to all
14 other complainants and respondents to whom the charge relates. Any
15 reasonable cause finding issued by the commission pursuant to the
16 procedures contained in this chapter shall become final twenty days
17 after service of the reasonable cause finding unless a written notice
18 of election is received by the (~~commission~~) office within the twenty-
19 day period.

20 (2) If an election is made under subsection (1) of this section,
21 the (~~commission~~) director shall authorize not later than thirty days
22 after the election is made, and the attorney general shall commence, a
23 civil action on behalf of the aggrieved person in a superior court of
24 the state of Washington seeking relief under this section.

25 (3) Any aggrieved person with respect to the issues to be deter-
26 mined in a civil action under this section may intervene as of right in
27 that civil action.

28 (4) In a civil action under this section, if the court finds that
29 an unfair practice in a real estate transaction has occurred or is
30 about to occur, the court may grant any relief that a court could grant
31 with respect to such an unfair practice in a real estate transaction in
32 a civil action under RCW 49.60.030(2). If monetary relief is sought
33 for the benefit of an aggrieved person who does not intervene in the
34 civil action, the court shall not award such relief if that aggrieved
35 person has not complied with discovery orders entered by the court.

36 (5) In any administrative proceeding under this section where the
37 respondent is the prevailing party, a complainant who intervenes by

1 filing a notice of independent appearance may be liable for reasonable
2 attorneys' fees and costs only to the extent that the intervening
3 participation in the administrative proceeding was frivolous or
4 vexatious, or was for the purpose of harassment.

5 (6) In any administrative proceeding brought under RCW 49.60.225 or
6 any court proceeding arising therefrom, or any civil action under this
7 section, the administrative law judge or the court in its discretion
8 may allow the prevailing party, other than the ((~~commission~~)) office,
9 reasonable attorneys' fees and costs.

10 **Sec. 318.** RCW 49.60.350 and 1993 c 69 s 2 are each amended to read
11 as follows:

12 (1) The superior courts of the state of Washington shall have
13 jurisdiction upon petition of the ((~~commission~~)) office, through the
14 attorney general, to seek appropriate temporary or preliminary relief
15 to enjoin any unfair practice in violation of RCW 49.60.222 through
16 49.60.225, from which prompt judicial action is necessary to carry out
17 the purposes of this chapter.

18 (2) The commencement of a civil action under this section does not
19 preclude the initiation or continuation of administrative proceedings
20 under this chapter.

21 **Sec. 319.** RCW 49.60.360 and 1994 c 262 s 17 are each amended to
22 read as follows:

23 (1) Every person, firm, partnership, association, trustee, or
24 corporation which operates a gasoline service station, or other
25 facility which offers gasoline or other motor vehicle fuel for sale to
26 the public from such a facility, shall provide, upon request, refueling
27 service to disabled drivers, unaccompanied by passengers capable of
28 safely providing refueling service, of vehicles which display a
29 disabled person's license plate or placard issued by the department of
30 licensing. The price charged for the motor vehicle fuel in such a case
31 shall be no greater than that which the facility otherwise would charge
32 the public generally to purchase motor vehicle fuel without refueling
33 service. This section does not require a facility to provide disabled
34 drivers with services, including but not limited to checking oil or
35 cleaning windshields, other than refueling services.

36 (2) This section does not apply to:

1 (a) Exclusive self-service gas stations which have remotely
2 controlled gas pumps and which never provide pump island service; and

3 (b) Convenience stores which sell gasoline, which have remotely
4 controlled gas pumps and which never provide pump island service.

5 (3) Any person who, as a responsible managing individual setting
6 service policy of a station or facility or as an employee acting
7 independently against set service policy, acts in violation of this
8 section is guilty of a misdemeanor. This subsection shall be enforced
9 by the prosecuting attorney.

10 (4) The (~~human rights commission~~) office shall, upon the filing
11 of a verified written complaint by any person, investigate the actions
12 of any person, firm, partnership, association, trustee, or corporation
13 alleged to have violated this section. The complaint shall be in the
14 form prescribed by the (~~commission~~) director. The (~~commission~~)
15 director may, upon (~~its~~) his or her own motion, issue complaints and
16 conduct investigations of alleged violations of this section.

17 RCW 49.60.240 through 49.60.280 shall apply to complaints under
18 this section.

19 (5) In addition to those matters referred pursuant to subsection
20 (3) of this section, the prosecuting attorney may investigate and
21 prosecute alleged violations of this section.

22 (6) Any person who intentionally displays a license plate or
23 placard which is invalid, or which was not lawfully issued to that
24 person, for the purpose of obtaining refueling service under subsection
25 (1) of this section shall be subject to a civil fine of one hundred
26 dollars for each such violation.

27 (7) A notice setting forth the provisions of this section shall be
28 provided by the department of licensing to every person, firm,
29 partnership, association, trustee, or corporation which operates a
30 gasoline service station, or other facility which offers gasoline or
31 other motor vehicle fuel for sale to the public from such a facility.

32 (8) A notice setting forth the provisions of this section shall be
33 provided by the department of licensing to every person who is issued
34 a disabled person's license plate or placard.

35 (9) For the purposes of this section, "refueling service" means the
36 service of pumping motor vehicle fuel into the fuel tank of a motor
37 vehicle.

1 (10) Nothing in this section limits or restricts the rights or
2 remedies provided under chapter 49.60 RCW.

3 **Sec. 320.** RCW 49.60.370 and 1997 c 271 s 23 are each amended to
4 read as follows:

5 (1) A person who negligently or maliciously kills or injures a dog
6 guide or service animal is liable for a penalty of one thousand
7 dollars, to be paid to the user of the animal. The penalty shall be in
8 addition to and not in lieu of any other remedies or penalties, civil
9 or criminal, provided by law.

10 (2) A user or owner of a dog guide or service animal, whose animal
11 is negligently or maliciously injured or killed, is entitled to recover
12 reasonable attorneys' fees and costs incurred in pursuing any civil
13 remedy.

14 (3) The (~~commission~~) office has no duty to investigate any
15 negligent or malicious acts referred to under this section.

16 NEW SECTION. **Sec. 321.** (1) The office of civil rights has the
17 power and duty to investigate and resolve complaints filed under
18 chapters 39.19 and 49.60 RCW. The process and procedures in each
19 chapter differ from each other in many respects. In addition, the
20 process and procedures may not represent the best practices for the
21 agency or the public.

22 (2) The office shall review the investigation and hearing process
23 and procedures used in accordance with chapters 39.19 and 49.60 RCW and
24 develop recommendations to the governor as to what procedures should be
25 required for investigations and hearings to accomplish the purpose of
26 each chapter and mission of the agency. The office shall review the
27 procedures used in other civil rights agencies in this state and in
28 other states. The office shall seek input from stakeholders and
29 interested parties. The office shall submit a report to the office of
30 financial management by October 30, 2011. The report shall include any
31 draft legislation needed to accomplish the report's recommendations.

32 **Sec. 322.** RCW 2.56.031 and 2010 1st sp.s. c 7 s 61 are each
33 amended to read as follows:

34 The administrator for the courts shall develop a plan to improve
35 the collection and reporting of information on juvenile offenders by

1 all juvenile courts in the state. The information related to juvenile
2 offenders shall include, but is not limited to, social, demographic,
3 education, and economic data on juvenile offenders and where possible,
4 their families. Development and implementation of the plan shall be
5 accomplished in consultation with the (~~human rights commission~~)
6 office of civil rights, superior court judges, juvenile justice
7 administrators, and interested juvenile justice practitioners and
8 researchers. The plan shall include a schedule and budget for
9 implementation and shall be provided to the office of financial
10 management by September 15, 1993.

11 **Sec. 323.** RCW 13.06.050 and 1993 c 415 s 7 are each amended to
12 read as follows:

13 No county shall be entitled to receive any state funds provided by
14 this chapter until its application and plan are approved, and unless
15 and until the minimum standards prescribed by the department of social
16 and health services are complied with and then only on such terms as
17 are set forth in this section. In addition, any county making
18 application for state funds under this chapter that also operates a
19 juvenile detention facility must have standards of operations in place
20 that include: Intake and admissions, medical and health care,
21 communication, correspondence, visiting and telephone use, security and
22 control, sanitation and hygiene, juvenile rights, rules and discipline,
23 property, juvenile records, safety and emergency procedures,
24 programming, release and transfer, training and staff development, and
25 food service.

26 (1) The distribution of funds to a county or a group of counties
27 shall be based on criteria including but not limited to the county's
28 per capita income, regional or county at-risk populations, juvenile
29 crime or arrest rates, rates of poverty, size of racial minority
30 populations, existing programs, and the effectiveness and efficiency of
31 consolidating local programs towards reducing commitments to state
32 correctional facilities for offenders whose standard range disposition
33 does not include commitment of the offender to the department and
34 reducing reliance on other traditional departmental services.

35 (2) The secretary will reimburse a county upon presentation and
36 approval of a valid claim pursuant to the provisions of this chapter
37 based on actual performance in meeting the terms and conditions of the

1 approved plan and contract. Funds received by participating counties
2 under this chapter shall not be used to replace local funds for
3 existing programs.

4 (3) The secretary, in conjunction with the (~~human rights~~
5 ~~commission~~) office of civil rights, shall evaluate the effectiveness
6 of programs funded under this chapter in reducing racial
7 disproportionality. The secretary shall investigate whether
8 implementation of such programs has reduced disproportionality in
9 counties with initially high levels of disproportionality. The
10 analysis shall indicate which programs are cost-effective in reducing
11 disproportionality in such areas as alternatives to detention, intake
12 and risk assessment standards pursuant to RCW 13.40.038, alternatives
13 to incarceration, and in the prosecution and adjudication of juveniles.
14 The secretary shall report his or her findings to the legislature by
15 December 1, 1994, and December 1 of each year thereafter.

16 **Sec. 324.** RCW 28B.10.912 and 1994 c 105 s 3 are each amended to
17 read as follows:

18 Each institution of higher education shall ensure that students
19 with disabilities are reasonably accommodated within that institution.
20 The institution of higher education shall provide students with
21 disabilities with the appropriate core service or services necessary to
22 ensure equal access.

23 Core services shall include, but not be limited to:

24 (1) Flexible procedures in the admissions process that use a
25 holistic review of the student's potential, including appropriate
26 consideration in statewide and institutional alternative admissions
27 programs;

28 (2) Early registration or priority registration;

29 (3) Sign language, oral and tactile interpreter services, or other
30 technological alternatives;

31 (4) Textbooks and other educational materials in alternative media,
32 including, but not limited to, large print, braille, electronic format,
33 and audio tape;

34 (5) Provision of readers, notetakers, scribes, and proofreaders
35 including recruitment, training, and coordination;

36 (6) Ongoing review and coordination of efforts to improve campus
37 accessibility, including but not limited to, all aspects of barrier-

1 free design, signage, high-contrast identification of hazards of
2 mobility barriers, maintenance of access during construction, snow and
3 ice clearance, and adequate disability parking for all facilities;

4 (7) Facilitation of physical access including, but not limited to,
5 relocating of classes, activities, and services to accessible
6 facilities and orientation if route of travel needs change, such as at
7 the beginning of a quarter or semester;

8 (8) Access to adaptive equipment including, but not limited to,
9 TDDs, FM communicators, closed caption devices, amplified telephone
10 receivers, closed circuit televisions, low-vision reading aids,
11 player/recorders for 15/16 4-track tapes, photocopy machines able to
12 use eleven-by-seventeen inch paper, braille devices, and computer
13 enhancements;

14 (9) Referral to appropriate on-campus and off-campus resources,
15 services, and agencies;

16 (10) Release of syllabi, study guides, and other appropriate
17 instructor-produced materials in advance of general distribution, and
18 access beyond the regular classroom session to slides, films, overheads
19 and other media and taping of lectures;

20 (11) Accessibility for students with disabilities to tutoring,
21 mentoring, peer counseling, and academic advising that are available on
22 campus;

23 (12) Flexibility in test taking arrangements;

24 (13) Referral to the appropriate entity for diagnostic assessment
25 and documentation of the disability;

26 (14) Flexibility in timelines for completion of courses,
27 certification, and degree requirements;

28 (15) Flexibility in credits required to be taken to satisfy
29 institutional eligibility for financial aid; and

30 (16) Notification of the institution of higher education's policy
31 of nondiscrimination on the basis of disability and of steps the
32 student may take if he or she believes discrimination has taken place.
33 This notice shall be included in all formal correspondence that
34 communicates decisions or policies adversely affecting the student's
35 status or rights with the institution of higher education. This notice
36 shall include the phone numbers of the United States department of
37 education, the United States office of civil rights, and the Washington
38 state (~~(human rights commission)~~) office of civil rights.

1 **Sec. 325.** RCW 28B.10.916 and 2004 c 46 s 1 are each amended to
2 read as follows:

3 (1) An individual, firm, partnership or corporation that publishes
4 or manufactures instructional materials for students attending any
5 public or private institution of higher education in the state of
6 Washington shall provide to the public or private institution of higher
7 education, for use by students attending the institution, any
8 instructional material in an electronic format mutually agreed upon by
9 the publisher or manufacturer and the public or private institution of
10 higher education. Computer files or electronic versions of printed
11 instructional materials shall be provided; video materials must be
12 captioned or accompanied by transcriptions of spoken text; and audio
13 materials must be accompanied by transcriptions. These supplemental
14 materials shall be provided to the public or private institution of
15 higher education at no additional cost and in a timely manner, upon
16 receipt of a written request as provided in subsection (2) of this
17 section.

18 (2) A written request for supplemental materials must:

19 (a) Certify that a student with a print access disability attending
20 or registered to attend a public or participating private institution
21 of higher education has purchased the instructional material or the
22 public or private institution of higher education has purchased the
23 instructional material for use by a student with a print access
24 disability;

25 (b) Certify that the student has a print access disability that
26 substantially prevents him or her from using standard instructional
27 materials;

28 (c) Certify that the instructional material is for use by the
29 student in connection with a course in which he or she is registered or
30 enrolled at the public or private institution of higher education; and

31 (d) Be signed by the coordinator of services for students with
32 disabilities at the public or private institution of higher education
33 or by the college or campus official responsible for monitoring
34 compliance with the Americans with Disabilities Act of 1990 (42 U.S.C.
35 12101 et seq.) at the public or private institution of higher
36 education.

37 (3) An individual, firm, partnership or corporation specified in

1 subsection (1) of this section may also require that, in addition to
2 the requirements in subsection (2) of this section, the request include
3 a statement signed by the student agreeing to both of the following:

4 (a) He or she will use the instructional material provided in
5 specialized format solely for his or her own educational purposes; and

6 (b) He or she will not copy or duplicate the instructional material
7 provided in specialized format for use by others.

8 (4) If a public or private institution of higher education provides
9 a student with the specialized format version of an instructional
10 material, the media must be copy-protected or the public or private
11 institution of higher education shall take other reasonable precautions
12 to ensure that students do not copy or distribute specialized format
13 versions of instructional materials in violation of the Copyright
14 Revisions Act of 1976, as amended (17 U.S.C. Sec. 101 et seq.).

15 (5) For purposes of this section:

16 (a) "Instructional material or materials" means textbooks and other
17 materials that are required or essential to a student's success in a
18 postsecondary course of study in which a student with a disability is
19 enrolled. The determination of which materials are "required or
20 essential to student success" shall be made by the instructor of the
21 course in consultation with the official making the request in
22 accordance with guidelines issued pursuant to subsection (9) of this
23 section. The term specifically includes both textual and nontextual
24 information.

25 (b) "Print access disability" means a condition in which a person's
26 independent reading of, reading comprehension of, or visual access to
27 materials is limited or reduced due to a sensory, neurological,
28 cognitive, physical, psychiatric, or other disability recognized by
29 state or federal law. The term is applicable, but not limited to,
30 persons who are blind, have low vision, or have reading disorders or
31 physical disabilities.

32 (c) "Structural integrity" means all instructional material,
33 including but not limited to the text of the material, sidebars, the
34 table of contents, chapter headings and subheadings, footnotes,
35 indexes, glossaries, graphs, charts, illustrations, pictures,
36 equations, formulas, and bibliographies. Structural order of material
37 shall be maintained. Structural elements, such as headings, lists, and
38 tables must be identified using current markup and tools. If good

1 faith efforts fail to produce an agreement between the publisher or
2 manufacturer and the public or private institution of higher education,
3 as to an electronic format that will preserve the structural integrity
4 of instructional materials, the publisher or manufacturer shall provide
5 the instructional material in a verified and valid HTML format and
6 shall preserve as much of the structural integrity of the instructional
7 materials as possible.

8 (d) "Specialized format" means Braille, audio, or digital text that
9 is exclusively for use by blind or other persons with print access
10 disabilities.

11 (6) Nothing in this section is to be construed to prohibit a public
12 or private institution of higher education from assisting a student
13 with a print access disability through the use of an electronic version
14 of instructional material gained through this section or by
15 transcribing or translating or arranging for the transcription or
16 translation of the instructional material into specialized formats that
17 provide persons with print access disabilities the ability to have
18 increased independent access to instructional materials. If such
19 specialized format is made, the public or private institution of higher
20 education may share the specialized format version of the instructional
21 material with other students with print access disabilities for whom
22 the public or private institution of higher education is authorized to
23 request electronic versions of instructional material. The addition of
24 captioning to video material by a Washington public or private
25 institution of higher education does not constitute an infringement of
26 copyright.

27 (7) A specialized format version of instructional materials
28 developed at one public or private institution of higher education in
29 Washington state may be shared for use by a student at another public
30 or private institution of higher education in Washington state for whom
31 the latter public or private institution of higher education is
32 authorized to request electronic versions of instructional material.

33 (8) Nothing in this section shall be deemed to authorize any use of
34 instructional materials that would constitute an infringement of
35 copyright under the Copyright Revision Act of 1976, as amended (17
36 U.S.C. Sec. 101 et seq.).

37 (9) The governing boards of public and participating private
38 institutions of higher education in Washington state shall each adopt

1 guidelines consistent with this section for its implementation and
2 administration. At a minimum, the guidelines shall address all of the
3 following:

4 (a) The designation of materials deemed "required or essential to
5 student success";

6 (b) The determination of the availability of technology for the
7 conversion of materials pursuant to subsection (4) of this section and
8 the conversion of mathematics and science materials pursuant to
9 subsection (5)(c) of this section;

10 (c) The procedures and standards relating to distribution of files
11 and materials pursuant to this section;

12 (d) The guidelines shall include procedures for granting exceptions
13 when it is determined that an individual, firm, partnership or
14 corporation that publishes or manufactures instructional materials is
15 not technically able to comply with the requirements of this section;
16 and

17 (e) Other matters as are deemed necessary or appropriate to carry
18 out the purposes of this section.

19 (10) A violation of this chapter constitutes an unfair practice
20 under chapter 49.60 RCW, the law against discrimination. All rights
21 and remedies under chapter 49.60 RCW, including the right to file a
22 complaint with the (~~human rights commission~~) office of civil rights
23 and to bring a civil action, apply.

24 **Sec. 326.** RCW 28B.110.030 and 1989 c 341 s 3 are each amended to
25 read as follows:

26 In consultation with institutions of higher education, the higher
27 education coordinating board shall develop rules and guidelines to
28 eliminate possible gender discrimination to students, including sexual
29 harassment, at institutions of higher education as defined in RCW
30 28B.10.016. The rules and guidelines shall include but not be limited
31 to access to academic programs, student employment, counseling and
32 guidance services, financial aid, recreational activities including
33 club sports, and intercollegiate athletics.

34 (1) With respect to higher education student employment, all
35 institutions shall be required to:

36 (a) Make no differentiation in pay scales on the basis of gender;

1 (b) Assign duties without regard to gender except where there is a
2 bona fide occupational qualification as approved by the Washington
3 (~~human rights commission~~) office of civil rights;

4 (c) Provide the same opportunities for advancement to males and
5 females; and

6 (d) Make no difference in the conditions of employment on the basis
7 of gender in areas including, but not limited to, hiring practices,
8 leaves of absence, and hours of employment.

9 (2) With respect to admission standards, admissions to academic
10 programs shall be made without regard to gender.

11 (3) Counseling and guidance services for students shall be made
12 available to all students without regard to gender. All academic and
13 counseling personnel shall be required to stress access to all career
14 and vocational opportunities to students without regard to gender.

15 (4) All academic programs shall be available to students without
16 regard to gender.

17 (5) With respect to recreational activities, recreational
18 activities shall be offered to meet the interests of students.
19 Institutions which provide the following shall do so with no
20 disparities based on gender: Equipment and supplies; medical care;
21 services and insurance; transportation and per diem allowances;
22 opportunities to receive coaching and instruction; laundry services;
23 assignment of game officials; opportunities for competition, publicity,
24 and awards; and scheduling of games and practice times, including use
25 of courts, gyms, and pools. Each institution which provides showers,
26 toilets, lockers, or training room facilities for recreational purposes
27 shall provide comparable facilities for both males and females.

28 (6) With respect to financial aid, financial aid shall be equitably
29 awarded by type of aid, with no disparities based on gender.

30 (7) With respect to intercollegiate athletics, institutions that
31 provide the following shall do so with no disparities based on gender:

32 (a) Benefits and services including, but not limited to, equipment
33 and supplies; medical services; services and insurance; transportation
34 and per diem allowances; opportunities to receive coaching and
35 instruction; scholarships and other forms of financial aid;
36 conditioning programs; laundry services; assignment of game officials;
37 opportunities for competition, publicity, and awards; and scheduling of
38 games and practice times, including use of courts, gyms, and pools.

1 Each institution which provides showers, toilets, lockers, or training
2 room facilities for athletic purposes shall provide comparable
3 facilities for both males and females.

4 (b) Opportunities to participate in intercollegiate athletics.
5 Institutions shall provide equitable opportunities to male and female
6 students.

7 (c) Male and female coaches and administrators. Institutions shall
8 attempt to provide some coaches and administrators of each gender to
9 act as role models for male and female athletes.

10 (8) Each institution shall develop and distribute policies and
11 procedures for handling complaints of sexual harassment.

12 **Sec. 327.** RCW 28B.110.050 and 1989 c 341 s 5 are each amended to
13 read as follows:

14 A violation of this chapter shall constitute an unfair practice
15 under chapter 49.60 RCW, the law against discrimination. All rights
16 and remedies under chapter 49.60 RCW, including the right to file a
17 complaint with the (~~human rights commission~~) office of civil rights
18 and to bring a civil action, shall apply.

19 **Sec. 328.** RCW 34.12.037 and 1985 c 185 s 29 are each amended to
20 read as follows:

21 When requested by the state (~~human rights commission~~) office of
22 civil rights, the chief administrative law judge shall assign an
23 administrative law judge to conduct proceedings under chapter 49.60
24 RCW.

25 **Sec. 329.** RCW 41.06.150 and 2002 c 371 s 906, 2002 c 354 s 203,
26 2002 c 354 s 202, and 2002 c 110 s 1 are each reenacted and amended to
27 read as follows:

28 The board shall adopt rules, consistent with the purposes and
29 provisions of this chapter, as now or hereafter amended, and with the
30 best standards of personnel administration, regarding the basis and
31 procedures to be followed for:

32 (1) The reduction, dismissal, suspension, or demotion of an
33 employee;

34 (2) Certification of names for vacancies, including departmental
35 promotions, with the number of names equal to six more names than there

1 are vacancies to be filled, such names representing applicants rated
2 highest on eligibility lists: PROVIDED, That when other applicants
3 have scores equal to the lowest score among the names certified, their
4 names shall also be certified;

5 (3) Examinations for all positions in the competitive and
6 noncompetitive service;

7 (4) Appointments;

8 (5) Training and career development;

9 (6) Probationary periods of six to twelve months and rejections of
10 probationary employees, depending on the job requirements of the class,
11 except as follows:

12 (a) Entry level state park rangers shall serve a probationary
13 period of twelve months;

14 (b) The probationary period of campus police officer appointees who
15 are required to attend the Washington state criminal justice training
16 commission basic law enforcement academy shall extend from the date of
17 appointment until twelve months from the date of successful completion
18 of the basic law enforcement academy, or twelve months from the date of
19 appointment if academy training is not required. The board shall adopt
20 rules to ensure that employees promoting to campus police officer who
21 are required to attend the Washington state criminal justice training
22 commission basic law enforcement academy shall have the trial service
23 period extend from the date of appointment until twelve months from the
24 date of successful completion of the basic law enforcement academy, or
25 twelve months from the date of appointment if academy training is not
26 required;

27 (7) Transfers;

28 (8) Sick leaves and vacations;

29 (9) Hours of work;

30 (10) Layoffs when necessary and subsequent reemployment, both
31 according to seniority;

32 (11) Collective bargaining procedures:

33 (a) After certification of an exclusive bargaining representative
34 and upon the representative's request, the director shall hold an
35 election among employees in a bargaining unit to determine by a
36 majority whether to require as a condition of employment membership in
37 the certified exclusive bargaining representative on or after the
38 thirtieth day following the beginning of employment or the date of such

1 election, whichever is the later, and the failure of an employee to
2 comply with such a condition of employment constitutes cause for
3 dismissal: PROVIDED FURTHER, That no more often than once in each
4 twelve-month period after expiration of twelve months following the
5 date of the original election in a bargaining unit and upon petition of
6 thirty percent of the members of a bargaining unit the director shall
7 hold an election to determine whether a majority wish to rescind such
8 condition of employment: PROVIDED FURTHER, That for purposes of this
9 clause, membership in the certified exclusive bargaining representative
10 is satisfied by the payment of monthly or other periodic dues and does
11 not require payment of initiation, reinstatement, or any other fees or
12 fines and includes full and complete membership rights: AND PROVIDED
13 FURTHER, That in order to safeguard the right of nonassociation of
14 public employees, based on bona fide religious tenets or teachings of
15 a church or religious body of which such public employee is a member,
16 such public employee shall pay to the union, for purposes within the
17 program of the union as designated by such employee that would be in
18 harmony with his or her individual conscience, an amount of money
19 equivalent to regular union dues minus any included monthly premiums
20 for union-sponsored insurance programs, and such employee shall not be
21 a member of the union but is entitled to all the representation rights
22 of a union member;

23 (b) Agreements between agencies and certified exclusive bargaining
24 representatives providing for grievance procedures and collective
25 negotiations on all personnel matters over which the appointing
26 authority of the appropriate bargaining unit of such agency may
27 lawfully exercise discretion;

28 (c) Written agreements may contain provisions for payroll
29 deductions of employee organization dues upon authorization by the
30 employee member and for the cancellation of such payroll deduction by
31 the filing of a proper prior notice by the employee with the appointing
32 authority and the employee organization: PROVIDED, That nothing
33 contained herein permits or grants to any employee the right to strike
34 or refuse to perform his or her official duties;

35 (d) A collective bargaining agreement entered into under this
36 subsection before July 1, 2004, covering employees subject to RCW
37 41.80.001 and 41.80.010 through 41.80.130, that expires after July 1,
38 2004, shall remain in full force during its duration, or until

1 superseded by a collective bargaining agreement entered into by the
2 parties under RCW 41.80.001 and 41.80.010 through 41.80.130. However,
3 an agreement entered into before July 1, 2004, may not be renewed or
4 extended beyond July 1, 2005. This subsection (11) does not apply to
5 collective bargaining negotiations or collective bargaining agreements
6 entered into under RCW 41.80.001 and 41.80.010 through 41.80.130;

7 (12) Adoption and revision of a comprehensive classification plan
8 for all positions in the classified service, based on investigation and
9 analysis of the duties and responsibilities of each such position.

10 (a) The board shall not adopt job classification revisions or class
11 studies unless implementation of the proposed revision or study will
12 result in net cost savings, increased efficiencies, or improved
13 management of personnel or services, and the proposed revision or study
14 has been approved by the director of financial management in accordance
15 with chapter 43.88 RCW.

16 (b) Reclassifications, class studies, and salary adjustments are
17 governed by (a) of this subsection and RCW 41.06.152;

18 (13) Allocation and reallocation of positions within the
19 classification plan;

20 (14) Adoption and revision of a state salary schedule to reflect
21 the prevailing rates in Washington state private industries and other
22 governmental units but the rates in the salary schedules or plans shall
23 be increased if necessary to attain comparable worth under an
24 implementation plan under RCW 41.06.155 and that, for institutions of
25 higher education and related boards, shall be competitive for positions
26 of a similar nature in the state or the locality in which an
27 institution of higher education or related board is located, such
28 adoption and revision subject to approval by the director of financial
29 management in accordance with the provisions of chapter 43.88 RCW;

30 (15) Increment increases within the series of steps for each pay
31 grade based on length of service for all employees whose standards of
32 performance are such as to permit them to retain job status in the
33 classified service;

34 (16) Optional lump sum relocation compensation approved by the
35 agency director, whenever it is reasonably necessary that a person make
36 a domiciliary move in accepting a transfer or other employment with the
37 state. An agency must provide lump sum compensation within existing
38 resources. If the person receiving the relocation payment terminates

1 or causes termination with the state, for reasons other than layoff,
2 disability separation, or other good cause as determined by an agency
3 director, within one year of the date of the employment, the state is
4 entitled to reimbursement of the lump sum compensation from the person;

5 (17) Providing for veteran's preference as required by existing
6 statutes, with recognition of preference in regard to layoffs and
7 subsequent reemployment for veterans and their surviving spouses by
8 giving such eligible veterans and their surviving spouses additional
9 credit in computing their seniority by adding to their unbroken state
10 service, as defined by the board, the veteran's service in the military
11 not to exceed five years. For the purposes of this section, "veteran"
12 means any person who has one or more years of active military service
13 in any branch of the armed forces of the United States or who has less
14 than one year's service and is discharged with a disability incurred in
15 the line of duty or is discharged at the convenience of the government
16 and who, upon termination of such service has received an honorable
17 discharge, a discharge for physical reasons with an honorable record,
18 or a release from active military service with evidence of service
19 other than that for which an undesirable, bad conduct, or dishonorable
20 discharge shall be given: PROVIDED, HOWEVER, That the surviving spouse
21 of a veteran is entitled to the benefits of this section regardless of
22 the veteran's length of active military service: PROVIDED FURTHER,
23 That for the purposes of this section "veteran" does not include any
24 person who has voluntarily retired with twenty or more years of active
25 military service and whose military retirement pay is in excess of five
26 hundred dollars per month;

27 (18) Permitting agency heads to delegate the authority to appoint,
28 reduce, dismiss, suspend, or demote employees within their agencies if
29 such agency heads do not have specific statutory authority to so
30 delegate: PROVIDED, That the board may not authorize such delegation
31 to any position lower than the head of a major subdivision of the
32 agency;

33 (19) Assuring persons who are or have been employed in classified
34 positions before July 1, 1993, will be eligible for employment,
35 reemployment, transfer, and promotion in respect to classified
36 positions covered by this chapter;

37 (20) Affirmative action in appointment, promotion, transfer,

1 recruitment, training, and career development; development and
2 implementation of affirmative action goals and timetables; and
3 monitoring of progress against those goals and timetables.

4 The board shall consult with the (~~human rights commission~~) office
5 of civil rights in the development of rules pertaining to affirmative
6 action. The department of personnel shall transmit a report annually
7 to the (~~human rights commission~~) office of civil rights which states
8 the progress each state agency has made in meeting affirmative action
9 goals and timetables.

10 Notwithstanding this section and rules of the board adopted under
11 this section, agencies may place employees on temporary unpaid leave
12 during the 2001-2003 fiscal biennium for the purpose of implementing
13 appropriations reductions enacted in the 2002 supplemental
14 appropriations act. Mandatory unpaid leave must be approved by the
15 agency director, and must be, to the greatest extent possible, mutually
16 agreeable to the employee and employer. Employees taking mandatory
17 temporary unpaid leave will not lose seniority, leave accrual, or
18 health insurance benefits.

19 **Sec. 330.** RCW 43.01.135 and 2007 c 76 s 2 are each amended to read
20 as follows:

21 Agencies as defined in RCW 41.06.020 shall:

22 (1) Update or develop and disseminate among all agency employees
23 and contractors a policy that:

24 (a) Defines and prohibits sexual harassment in the workplace;

25 (b) Includes procedures that describe how the agency will address
26 concerns of employees who are affected by sexual harassment in the
27 workplace;

28 (c) Identifies appropriate sanctions and disciplinary actions; and

29 (d) Complies with guidelines adopted by the director of personnel
30 under RCW 41.06.395;

31 (2) Respond promptly and effectively to sexual harassment concerns;

32 (3) Conduct training and education for all employees in order to
33 prevent and eliminate sexual harassment in the organization;

34 (4) Inform employees of their right to file a complaint with the
35 Washington (~~state human rights commission~~) office of civil rights
36 under chapter 49.60 RCW, or with the federal equal employment

1 opportunity commission under Title VII of the civil rights act of 1964;
2 and

3 (5) Report to the department of personnel on compliance with this
4 section.

5 The cost of the training programs shall be borne by state agencies
6 within existing resources.

7 **Sec. 331.** RCW 43.43.340 and 1985 c 365 s 6 are each amended to
8 read as follows:

9 (1) The names of all officers who have passed examinations
10 satisfactorily shall be placed on an eligible list in the order of the
11 grade attained in the examinations. The chief, or the committee
12 mentioned in RCW 43.43.330 at the chief's request, may determine the
13 lowest examination grade which will qualify an officer for inclusion of
14 his or her name on an eligible list. Examination papers shall be
15 graded promptly and an eligible list shall be made up immediately
16 thereafter. All officers taking an examination shall be informed of
17 the grade earned.

18 (2) After an eligible list is made up all promotions shall be made
19 from the five top names on the applicable list, and if needed to comply
20 with affirmative action goals three additional names referred under
21 subsection (3) of this section. Not all three additional names need be
22 promoted at the time they are referred and they may be referred more
23 than once. Each officer shall be informed in writing as his or her
24 name is included in the top five on an eligible list or referred under
25 subsection (3) of this section. No officer whose name appears within
26 the top five on any eligible list shall be passed over for promotion
27 more than three times.

28 (3) If the vacancy to be filled is identified as part of the state
29 patrol's affirmative action goals as established under its affirmative
30 action plan, the chief may refer for consideration up to three
31 additional names per vacancy of individuals who are on the eligible
32 list and who are members of one or more of the protected groups under
33 Title VII of the 1964 Civil Rights Act and chapter 49.60 RCW, or for
34 federal contract compliance purposes, veterans and disabled veterans as
35 defined in the Vietnam Era Veterans Readjustment Act of 1974, Title 41
36 C.F.R., chapter 60, part 60-250.

1 The three additional names referred for each vacancy shall be the
2 top three members of the protected groups designated by the chief for
3 referral for that vacancy in accordance with the state patrol's
4 affirmative action goals. These names shall be drawn in rank order
5 from the remaining names of protected group members on the eligible
6 list, after ranking by examination grade. For each vacancy, a total of
7 three supplementary names may be referred.

8 (4) After having qualified for promotion hereunder an officer must
9 pass a medical examination and must be certified as to physical fitness
10 to perform the duties of the advanced position by one of three doctors
11 designated by the chief of the Washington state patrol.

12 (5) The state patrol shall consult with the (~~human rights~~
13 ~~commission~~) office of civil rights in the development of rules
14 pertaining to affirmative action. The state patrol shall transmit a
15 report annually to the (~~human rights commission~~) office of civil
16 rights which states the progress the state patrol has made in meeting
17 affirmative action goals and timetables.

18 **Sec. 332.** RCW 49.44.090 and 1993 c 510 s 24 are each amended to
19 read as follows:

20 It shall be an unfair practice:

21 (1) For an employer or licensing agency, because an individual is
22 forty years of age or older, to refuse to hire or employ or license or
23 to bar or to terminate from employment such individual, or to
24 discriminate against such individual in promotion, compensation or in
25 terms, conditions or privileges of employment: PROVIDED, That
26 employers or licensing agencies may establish reasonable minimum and/or
27 maximum age limits with respect to candidates for positions of
28 employment, which positions are of such a nature as to require
29 extraordinary physical effort, endurance, condition or training,
30 subject to the approval of the executive director of the Washington
31 state (~~human rights commission~~) office of civil rights or the
32 director of labor and industries through the division of industrial
33 relations.

34 (2) For any employer, licensing agency or employment agency to
35 print or circulate or cause to be printed or circulated any statement,
36 advertisement, or publication, or to use any form of application for
37 employment or to make any inquiry in connection with prospective

1 employment, which expresses any limitation, specification or
2 discrimination respecting individuals forty years of age or older:
3 PROVIDED, That nothing herein shall forbid a requirement of disclosure
4 of birth date upon any form of application for employment or by the
5 production of a birth certificate or other sufficient evidence of the
6 applicant's true age after an employee is hired.

7 Nothing contained in this section or in RCW 49.60.180 as to age
8 shall be construed to prevent the termination of the employment of any
9 person who is physically unable to perform his or her duties or to
10 affect the retirement policy or system of any employer where such
11 policy or system is not merely a subterfuge to evade the purposes of
12 this section; nor shall anything in this section or in RCW 49.60.180 be
13 deemed to preclude the varying of insurance coverages according to an
14 employee's age; nor shall this section be construed as applying to any
15 state, county, or city law enforcement agencies, or as superseding any
16 law fixing or authorizing the establishment of reasonable minimum or
17 maximum age limits with respect to candidates for certain positions in
18 public employment which are of such a nature as to require
19 extraordinary physical effort, or which for other reasons warrant
20 consideration of age factors.

21 **Sec. 333.** RCW 49.74.010 and 1985 c 365 s 8 are each amended to
22 read as follows:

23 As used in this chapter, (~~("commission")~~) "office" means the
24 Washington state (~~(human rights commission)~~) office of civil rights.

25 **Sec. 334.** RCW 49.74.020 and 1993 c 281 s 57 are each amended to
26 read as follows:

27 If the (~~(commission)~~) office reasonably believes that a state
28 agency, an institution of higher education, or the state patrol has
29 failed to comply with an affirmative action rule adopted under RCW
30 41.06.150 or 43.43.340, the (~~(commission)~~) office shall notify the
31 director of the state agency, president of the institution of higher
32 education, or chief of the Washington state patrol of the
33 noncompliance, as well as the director of personnel. The
34 (~~(commission)~~) office shall give the director of the state agency,
35 president of the institution of higher education, or chief of the

1 Washington state patrol an opportunity to be heard on the failure to
2 comply.

3 **Sec. 335.** RCW 49.74.030 and 2002 c 354 s 246 are each amended to
4 read as follows:

5 The (~~commission~~) office in conjunction with the department of
6 personnel or the state patrol, whichever is appropriate, shall attempt
7 to resolve the noncompliance through conciliation. If an agreement is
8 reached for the elimination of noncompliance, the agreement shall be
9 reduced to writing and an order shall be issued by the (~~commission~~)
10 office setting forth the terms of the agreement. The noncomplying
11 state agency, institution of higher education, or state patrol shall
12 make a good faith effort to conciliate and make a full commitment to
13 correct the noncompliance with any action that may be necessary to
14 achieve compliance, provided such action is not inconsistent with the
15 rules adopted under RCW 41.06.150(6) and 43.43.340(5), whichever is
16 appropriate.

17 **Sec. 336.** RCW 49.74.040 and 2002 c 354 s 248 are each amended to
18 read as follows:

19 If no agreement can be reached under RCW 49.74.030, the
20 (~~commission~~) office may refer the matter to the administrative law
21 judge for hearing pursuant to RCW 49.60.250. If the administrative law
22 judge finds that the state agency, institution of higher education, or
23 state patrol has not made a good faith effort to correct the
24 noncompliance, the administrative law judge shall order the state
25 agency, institution of higher education, or state patrol to comply with
26 this chapter. The administrative law judge may order any action that
27 may be necessary to achieve compliance, provided such action is not
28 inconsistent with the rules adopted under RCW 41.06.150(6) and
29 43.43.340(5), whichever is appropriate.

30 An order by the administrative law judge may be appealed to
31 superior court.

32 NEW SECTION. **Sec. 337.** The following acts or parts of acts are
33 each repealed:

34 (1) RCW 49.60.050 (Commission created) and 1985 c 185 s 3, 1981 c
35 338 s 9, 1957 c 37 s 5, & 1955 c 270 s 2;

1 (2) RCW 49.60.051 (Board name changed to Washington State Human
2 Rights Commission) and 1971 ex.s. c 52 s 2;

3 (3) RCW 49.60.060 (Membership of commission) and 1985 c 185 s 4 &
4 1955 c 270 s 3;

5 (4) RCW 49.60.070 (Compensation and reimbursement for travel
6 expenses of commission members) and 1985 c 185 s 5, 1984 c 287 s 98,
7 1975-'76 2nd ex.s. c 34 s 145, & 1955 c 270 s 4;

8 (5) RCW 49.60.080 (Official seal) and 1985 c 185 s 6 & 1955 c 270
9 s 5;

10 (6) RCW 49.60.090 (Offices of commission) and 1985 c 185 s 7, 1957
11 c 37 s 6, & 1955 c 270 s 6;

12 (7) RCW 49.60.130 (May create advisory agencies and conciliation
13 councils) and 2007 c 187 s 6, 2006 c 4 s 6, 1997 c 271 s 5, 1993 c 510
14 s 7, 1985 c 185 s 11, 1975-'76 2nd ex.s. c 34 s 146, 1973 1st ex.s. c
15 214 s 5, 1973 c 141 s 8, 1971 ex.s. c 81 s 2, & 1955 c 270 s 9; and

16 (8) RCW 49.60.390 (Rule-making authority--Deadline--1997 c 271) and
17 1997 c 271 s 25.

18 PART IV

19 PROGRAM TRANSFERRED FROM THE DEPARTMENT OF VETERANS AFFAIRS

20 **Sec. 401.** RCW 43.60A.190 and 2008 c 187 s 1 are each amended to
21 read as follows:

22 (1) The (~~department~~) office shall:

23 (a) Develop and maintain a current list of veteran-owned
24 businesses; and

25 (b) Make the list available on the (~~department's~~) office's public
26 web site.

27 (2) To qualify as a veteran-owned business, the business must be at
28 least fifty-one percent owned and controlled by:

29 (a) A veteran as defined in RCW 41.04.007; or

30 (b) An active or reserve member in any branch of the armed forces
31 of the United States, including the national guard, coast guard, and
32 armed forces reserves.

33 (3) To participate in the linked deposit program under chapter
34 43.86A RCW, a veteran-owned business qualified under this section must
35 be certified by the (~~department~~) office as a business:

1 (a) In which the veteran owner possesses and exercises sufficient
2 expertise specifically in the business's field of operation to make
3 decisions governing the long-term direction and the day-to-day
4 operations of the business;

5 (b) That is organized for profit and performing a commercially
6 useful function; and

7 (c) That meets the criteria for a small business concern as
8 established under chapter 39.19 RCW.

9 (4) The department of veterans affairs, in consultation with the
10 office, shall create a logo for the purpose of identifying veteran-
11 owned businesses to the public. The department of veterans affairs
12 shall put the logo on an adhesive sticker or decal suitable for display
13 in a business window and distribute the stickers or decals to veteran-
14 owned businesses listed with the department of veterans affairs.

15 (5)(a) Businesses may submit an application on a form prescribed by
16 the ((department)) office for inclusion on the list or to apply for
17 certification under this section.

18 (b) The ((department)) office must notify the state treasurer of
19 veteran-owned businesses that are no longer certified under this
20 section. The written notification to the state treasurer must contain
21 information regarding the reasons for the decertification and
22 information on financing provided to the veteran-owned business under
23 RCW 43.86A.060.

24 (6) The ((department)) office may adopt rules necessary to
25 implement this section.

26 **Sec. 402.** RCW 43.60A.195 and 2010 c 5 s 3 are each amended to read
27 as follows:

28 ((+1)) The ((department)) office shall:

29 (1) Develop a procedure for certifying veteran-owned businesses and
30 maintain a list of veteran-owned businesses on the ((department's))
31 office's public web site((-

32 ~~2) The department shall));~~

33 (2) Adopt rules necessary to implement chapter 5, Laws of 2010.
34 The ((department)) office shall consult agencies to determine what
35 specific information they must report to the ((department-

36 ~~3) The department shall)) office; and~~

1 NEW SECTION. **Sec. 502.** A new section is added to chapter 39.19
2 RCW to read as follows:

3 (1) The commission shall annually elect a chair and a vice chair
4 from its members.

5 (2) The commission may hold one meeting each calendar quarter.
6 Meetings shall comply with chapter 42.30 RCW. A majority of the
7 commission constitutes a quorum for the transaction of business.

8 NEW SECTION. **Sec. 503.** A new section is added to chapter 39.19
9 RCW to read as follows:

10 The commission shall have the following duties and
11 responsibilities:

12 (1) The commission shall advise the office and state agencies on
13 the development and implementation of policies, plans, and programs
14 focusing on the issues affecting those communities that, for economic,
15 social, cultural, and historical reasons, find themselves disadvantaged
16 or isolated from the benefits of equal opportunity in this state.

17 (2) The commission may establish subcommittees to study, review,
18 provide information, and give advice on specific issues including, but
19 not limited to, the achievement gap, supplier diversity, access to
20 government services, and systemic policy issues affecting those
21 communities that, for economic, social, cultural, and historical
22 reasons, find themselves disadvantaged or isolated from the benefits of
23 equal opportunity in this state.

24 NEW SECTION. **Sec. 504.** The following acts or parts of acts are
25 each repealed:

26 (1) RCW 43.113.005 (Legislative declaration) and 1992 c 96 s 1;

27 (2) RCW 43.113.010 (Commission created) and 1992 c 96 s 2;

28 (3) RCW 43.113.020 (Membership--Terms--Vacancies--Quorum--Expenses)
29 and 1992 c 96 s 3;

30 (4) RCW 43.113.030 (Powers and duties) and 1992 c 96 s 4;

31 (5) RCW 43.115.010 (Legislative declaration) and 1993 c 261 s 1,
32 1987 c 249 s 1, & 1971 ex.s. c 34 s 1;

33 (6) RCW 43.115.020 (Commission created) and 1987 c 249 s 2 & 1971
34 ex.s. c 34 s 2;

35 (7) RCW 43.115.030 (Membership--Terms--Vacancies--Travel expenses--

1 Quorum) and 1993 c 261 s 2, 1987 c 249 s 3, 1981 c 338 s 15, 1975-'76
2 2nd ex.s. c 34 s 130, & 1971 ex.s. c 34 s 3;
3 (8) RCW 43.115.040 (Officers and employees--Rules and regulations)
4 and 2009 c 549 s 5170, 1993 c 261 s 3, 1987 c 249 s 4, & 1971 ex.s. c
5 34 s 4;
6 (9) RCW 43.115.045 (Executive director) and 1993 c 261 s 4;
7 (10) RCW 43.115.060 (Relationships with local government and
8 private industry) and 1987 c 249 s 6 & 1971 ex.s. c 34 s 6;
9 (11) RCW 43.115.900 (Severability--1971 ex.s. c 34) and 1971 ex.s.
10 c 34 s 7;
11 (12) RCW 43.117.010 (Legislative declaration) and 2000 c 236 s 1,
12 1995 c 67 s 2, 1983 c 119 s 1, & 1974 ex.s. c 140 s 1;
13 (13) RCW 43.117.020 (Definitions) and 1995 c 67 s 3 & 1974 ex.s. c
14 140 s 2;
15 (14) RCW 43.117.030 (Commission established) and 1995 c 67 s 4 &
16 1974 ex.s. c 140 s 3;
17 (15) RCW 43.117.040 (Membership--Terms--Vacancies--Travel
18 expenses--Quorum--Executive director) and 2009 c 549 s 5171, 1982 c 68
19 s 1, 1981 c 338 s 16, 1975-'76 2nd ex.s. c 34 s 131, & 1974 ex.s. c 140
20 s 4;
21 (16) RCW 43.117.050 (Officers--Rules and regulations--Meetings) and
22 2009 c 549 s 5172 & 1974 ex.s. c 140 s 5;
23 (17) RCW 43.117.060 (Staff) and 1974 ex.s. c 140 s 6;
24 (18) RCW 43.117.070 (Duties of commission--State agencies to give
25 assistance) and 2007 c 19 s 3, 2000 c 236 s 3, 1995 c 67 s 5, & 1974
26 ex.s. c 140 s 7;
27 (19) RCW 43.117.080 (Promotion of equal opportunity and benefits)
28 and 1995 c 67 s 6 & 1974 ex.s. c 140 s 8;
29 (20) RCW 43.117.090 (Hearings--Information to be furnished to
30 commission) and 2009 c 549 s 5173 & 1974 ex.s. c 140 s 9;
31 (21) RCW 43.117.100 (Gifts, grants and endowments--Receipt and
32 expenditure) and 1974 ex.s. c 140 s 10; and
33 (22) RCW 43.117.900 (Severability--1974 ex.s. c 140) and 1974 ex.s.
34 c 140 s 11.

35 **PART VI**
36 **TRANSFER OF POWERS, DUTIES, AND FUNCTIONS**

1 NEW SECTION. **Sec. 601.** (1) All powers, duties, and functions of
2 the human rights commission are transferred to the office of civil
3 rights. All references to the director of the human rights commission
4 in the Revised Code of Washington shall be construed to mean the
5 director of the office of civil rights when referring to the functions
6 transferred in this section.

7 (2) All powers, duties, and functions of the office of minority and
8 women's business enterprises are transferred to the office of civil
9 rights. All references to the director of the office of minority and
10 women's business enterprises in the Revised Code of Washington shall be
11 construed to mean the director of the office of civil rights when
12 referring to the functions transferred in this section.

13 (3) All powers, duties, and functions of the commission on African-
14 American affairs, commission on Asian Pacific American affairs, and
15 commission on Hispanic affairs are transferred to the office of civil
16 rights. All references to the executive director of the commission on
17 African-American affairs, executive director of the commission on Asian
18 Pacific American affairs, and executive director of the commission on
19 Hispanic affairs in the Revised Code of Washington shall be construed
20 to mean the director of the office of civil rights when referring to
21 the functions transferred in this section.

22 NEW SECTION. **Sec. 602.** (1) All reports, documents, surveys,
23 books, records, files, papers, or written material in the possession of
24 the human rights commission pertaining to the powers, functions, and
25 duties transferred in section 601 of this act shall be delivered to the
26 custody of the office of civil rights. All cabinets, furniture, office
27 equipment, motor vehicles, and other tangible property employed by the
28 human rights commission in carrying out the powers, functions, and
29 duties transferred shall be made available to the office of civil
30 rights. All funds, credits, or other assets held in connection with
31 the powers, functions, and duties transferred shall be assigned to the
32 office of civil rights.

33 (2) All reports, documents, surveys, books, records, files, papers,
34 or written material in the possession of the office of minority and
35 women's business enterprises pertaining to the powers, functions, and
36 duties transferred in section 601 of this act shall be delivered to the
37 custody of the office of civil rights. All cabinets, furniture, office

1 equipment, motor vehicles, and other tangible property employed by the
2 office of minority and women's business enterprises in carrying out the
3 powers, functions, and duties transferred shall be made available to
4 the office of civil rights. All funds, credits, or other assets held
5 in connection with the powers, functions, and duties transferred shall
6 be assigned to the office of civil rights.

7 (3) All reports, documents, surveys, books, records, files, papers,
8 or written material in the possession of the commission on African-
9 American affairs, commission on Asian Pacific American affairs, and
10 commission on Hispanic affairs pertaining to the powers, functions, and
11 duties transferred in section 601 of this act shall be delivered to the
12 custody of the office of civil rights. All cabinets, furniture, office
13 equipment, motor vehicles, and other tangible property employed by the
14 commission on African-American affairs, commission on Asian Pacific
15 American affairs, and commission on Hispanic affairs in carrying out
16 the powers, functions, and duties transferred shall be made available
17 to the office of civil rights. All funds, credits, or other assets
18 held in connection with the powers, functions, and duties transferred
19 shall be assigned to the office of civil rights.

20 NEW SECTION. **Sec. 603.** (1) Any appropriations made to the human
21 rights commission for carrying out the powers, functions, and duties
22 transferred in section 601 of this act shall, on the effective date of
23 this section, be transferred and credited to the office of civil
24 rights.

25 (2) Any appropriations made to the office of minority and women's
26 business enterprises for carrying out the powers, functions, and duties
27 transferred in section 601 of this act shall, on the effective date of
28 this section, be transferred and credited to the office of civil
29 rights.

30 (3) Any appropriations made to the commission on African-American
31 affairs, commission on Asian Pacific American affairs, and commission
32 on Hispanic affairs for carrying out the powers, functions, and duties
33 transferred in section 601 of this act shall, on the effective date of
34 this section, be transferred and credited to the office of civil
35 rights.

1 NEW SECTION. **Sec. 604.** (1) All employees of the human rights
2 commission are transferred to the jurisdiction of the office of civil
3 rights. All employees classified under chapter 41.06 RCW, the state
4 civil service law, are assigned to the office of civil rights to
5 perform their usual duties upon the same terms as formerly, without any
6 loss of rights, subject to any action that may be appropriate
7 thereafter in accordance with the laws and rules governing state civil
8 service law.

9 (2) The existing bargaining unit of the employees at the human
10 rights commission shall be transferred in its entirety to the office of
11 civil rights without the merging of other bargaining units or the
12 inclusion of employees from other bargaining units. Nothing contained
13 in this section may be construed to alter any of the existing
14 collective bargaining units unless and until the bargaining unit has
15 been modified by action of the public employment relations commission
16 as provided by law. Therefore, the certification of the existing
17 bargaining units shall remain. However, the public employment
18 relations commission may, upon request, amend the certification to
19 reflect the name of the new agency. Nothing in this section may be
20 construed to alter the provisions of any existing collective bargaining
21 agreement until the agreement has expired. The existing bargaining
22 units of employees transferred under this section shall continue to be
23 subject to the provisions of chapter 41.80 RCW.

24 NEW SECTION. **Sec. 605.** (1) All employees of the office of
25 minority and women's business enterprises are transferred to the
26 jurisdiction of the office of civil rights. All employees classified
27 under chapter 41.06 RCW, the state civil service law, are assigned to
28 the office of civil rights to perform their usual duties upon the same
29 terms as formerly, without any loss of rights, subject to any action
30 that may be appropriate thereafter in accordance with the laws and
31 rules governing state civil service law.

32 (2) The existing bargaining units of the employees at the office of
33 minority and women's business enterprises shall be transferred in their
34 entirety to the office of civil rights without the merging of other
35 bargaining units or the inclusion of employees from other bargaining
36 units. Nothing contained in this section may be construed to alter any
37 of the existing collective bargaining units unless and until the

1 bargaining unit has been modified by action of the public employment
2 relations commission as provided by law. Therefore, the certification
3 of the existing bargaining units shall remain. However, the public
4 employment relations commission may, upon request, amend the
5 certification to reflect the name of the new agency. Nothing in this
6 section may be construed to alter the provisions of any existing
7 collective bargaining agreement until the agreement has expired. The
8 existing bargaining units of employees transferred under this section
9 shall continue to be subject to the provisions of chapter 41.80 RCW.

10 NEW SECTION. **Sec. 606.** (1) All employees of the commission on
11 African-American affairs are transferred to the jurisdiction of the
12 office of civil rights. All employees classified under chapter 41.06
13 RCW, the state civil service law, are assigned to the office of civil
14 rights to perform their usual duties upon the same terms as formerly,
15 without any loss of rights, subject to any action that may be
16 appropriate thereafter in accordance with the laws and rules governing
17 state civil service law.

18 (2) All employees of the commission on Asian Pacific American
19 affairs are transferred to the jurisdiction of the office of civil
20 rights. All employees classified under chapter 41.06 RCW, the state
21 civil service law, are assigned to the office of civil rights to
22 perform their usual duties upon the same terms as formerly, without any
23 loss of rights, subject to any action that may be appropriate
24 thereafter in accordance with the laws and rules governing state civil
25 service law.

26 (3) All employees of the commission on Hispanic affairs are
27 transferred to the jurisdiction of the office of civil rights. All
28 employees classified under chapter 41.06 RCW, the state civil service
29 law, are assigned to the office of civil rights to perform their usual
30 duties upon the same terms as formerly, without any loss of rights,
31 subject to any action that may be appropriate thereafter in accordance
32 with the law.

33 NEW SECTION. **Sec. 607.** (1)(a) All rules and all pending business
34 before the human rights commission pertaining to the powers, functions,
35 and duties transferred in section 601 of this act shall be continued

1 and acted upon by the office of civil rights. All existing contracts
2 and obligations shall remain in full force and shall be performed by
3 the office of civil rights.

4 (b) All rules and all pending business before the office of
5 minority and women's business enterprises pertaining to the powers,
6 functions, and duties transferred in section 601 of this act shall be
7 continued and acted upon by the office of civil rights. All existing
8 contracts and obligations shall remain in full force and shall be
9 performed by the office of civil rights.

10 (c) All rules and all pending business before the commission on
11 African-American affairs, commission on Asian Pacific American affairs,
12 and commission on Hispanic affairs pertaining to the powers, functions,
13 and duties transferred in section 601 of this act shall be continued
14 and acted upon by the office of civil rights. All existing contracts
15 and obligations shall remain in full force and shall be performed by
16 the office of civil rights.

17 (2) The transfer of the powers, duties, functions, and personnel of
18 the human rights commission, office of minority and women's business
19 enterprises, the commission on African-American affairs, commission on
20 Asian Pacific American affairs, and commission on Hispanic affairs
21 shall not affect the validity of any act performed before the effective
22 date of this section.

23 (3) Whenever any question arises as to the transfer of any
24 personnel, funds, books, documents, records, papers, files, equipment,
25 or other tangible property used or held in the exercise of the powers
26 and the performance of the duties and functions transferred, the
27 director of financial management shall make a determination as to the
28 proper allocation and certify the same to the state agencies concerned.

29 (4) If apportionments of budgeted funds are required because of the
30 transfers directed by this act, the director of financial management
31 shall certify the apportionments to the agencies affected, the state
32 auditor, and the state treasurer. Each of these shall make the
33 appropriate transfer and adjustments in funds and appropriation
34 accounts and equipment records in accordance with the certification.

35 **PART VII**
36 **MISCELLANEOUS**

1 NEW SECTION. **Sec. 701.** Sections 601 through 607 of this act are
2 each added to chapter 39.19 RCW.

3 NEW SECTION. **Sec. 702.** RCW 43.60A.190, 43.60A.195, and 43.60A.200
4 are each recodified as sections in chapter 39.19 RCW.

5 NEW SECTION. **Sec. 703.** Section 107 of this act takes effect
6 January 1, 2012.

7 NEW SECTION. **Sec. 704.** Section 106 of this act expires January 1,
8 2012.

9 NEW SECTION. **Sec. 705.** Section 217 of this act expires June 30,
10 2039.

11 NEW SECTION. **Sec. 706.** If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected.

15 NEW SECTION. **Sec. 707.** With the exception of section 107 of this
16 act, this act is necessary for the immediate preservation of the public
17 peace, health, or safety, or support of the state government and its
18 existing public institutions, and takes effect July 1, 2011.

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