

FINAL BILL REPORT

EHB 1744

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Synopsis as Enacted

Brief Description: Concerning collaborative arrangements between institutions of higher education and nonprofit private entities that provide comprehensive cancer care.

Sponsors: Representatives Dolan, Harris, Leavitt, Senn, Ryu, Johnson, J., Chambers, Davis, Macri, Corry, Tharinger, Valdez and Frame.

House Committee on State Government & Tribal Relations

Senate Committee on State Government & Elections

Background:

Comprehensive Cancer Centers.

A comprehensive cancer center is a cancer center that is officially recognized by the National Cancer Institute (NCI) as a comprehensive cancer center that qualifies as an exempt charitable organization under the federal Internal Revenue Code.

There are 71 NCI-designated cancer centers nationwide. In Washington, the Fred Hutchinson/University of Washington Cancer Consortium is designated as a NCI comprehensive cancer center. This comprehensive cancer center is a collaboration among four partner institutions: the Fred Hutchinson Cancer Research Center, the University of Washington, Seattle Children's Hospital, and the Seattle Cancer Care Alliance.

Designation as a Public Agency.

In 1999 a Washington Court of Appeals adopted the following four-factor balancing test to determine whether an entity is the functional equivalent of a public agency for a given purpose: (1) whether the entity performs a governmental function; (2) the level of government funding; (3) the extent of government involvement or regulation; and (4) whether the entity was created by government.

Establishment of an Employer-Employee Relationship.

Employment standards and benefits generally apply only if an employer-employee

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relationship exists. For purposes of various benefits and tax purposes, there are a variety of multipart tests used to determine whether an employer-employee relationship is established; the test used generally depends on the type of benefit at issue. Some factors that courts have consistently considered across most of the tests are the nature and degree of control over the worker, the power to hire or fire the worker, the power to determine wages, and the degree of control over the working environment.

Summary:

Designation as a Public Agency.

A comprehensive cancer center that enters a collaborative arrangement with an institution of higher education is not a state agency, state employer, quasi-government entity, functional equivalent of a state agency, subject to any obligation or duty of a state agency or state employer, or subject to state or local laws specifically applicable to state agencies solely as a result of that entity's status as a state agency if the comprehensive cancer center:

- does not perform an exclusively governmental function;
- does not receive a majority of its operations funding from the state;
- is not subject to day-to-day management by any state entity; and
- is not created solely by a state entity.

Establishment of an Employer-Employee Relationship.

Employees of a comprehensive cancer center that enter into a collaborative arrangement with an institution of higher education are not state employees nor have any right or entitlement to any benefits conferred upon state employees if the institution of higher education does not:

- directly exercise employer management over the comprehensive cancer center;
- solely determine the compensation, benefits, and working conditions of the comprehensive cancer center employees; or
- engage in collective bargaining or other discussions with the exclusive bargaining representatives of the employees of the comprehensive cancer center.

A "collaborative arrangement" is as a written arrangement between a comprehensive cancer center and an institution of higher education, through which the cancer care programs of the comprehensive cancer center and institution of higher education will be aligned and managed.

For the purpose of the Public Records Act, Open Public Meetings Act, Fair Campaign Practices Act, State Civil Service Law, audit of state agencies, Washington public employees' retirement system, public employees' collective bargaining, procurement of goods and services by the state, and ethics in public service statutes, the definitions of "agency" and "employer" do not include a comprehensive cancer center that enters into a collaborative arrangement with an institution of higher education and that is operated in conformance with the criteria above. However, the Legislature declared its intent that state institutions of higher education maintain its existing responsibilities under state auditing

laws and the Public Records Act, and to preserve assets in the interest of the state including addressing intellectual property rights in the collaborative arrangements with comprehensive cancer centers.

Votes on Final Passage:

House	97	0
Senate	48	1

Effective: June 9, 2022