
SUBSTITUTE SENATE BILL 6222

State of Washington

53rd Legislature

1994 Regular Session

By Senate Committee on Ecology & Parks (originally sponsored by Senators Fraser, Amondson, L. Smith, Anderson, M. Rasmussen, Morton and Roach)

Read first time 02/01/94.

1 AN ACT Relating to the establishment of a Washington state horse
2 park; reenacting and amending RCW 41.06.070 and 43.19.190; adding a new
3 section to chapter 41.05 RCW; adding a new section to chapter 41.04
4 RCW; adding a new section to chapter 41.40 RCW; adding a new section to
5 chapter 43.01 RCW; and adding a new chapter to Title 67 RCW.

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

7 NEW SECTION. **Sec. 1.** FINDINGS. (1) The legislature finds that:

8 (a) Horses are part of a large, highly diverse and vital industry
9 with significant economic, recreational, and educational contributions
10 to our way of life;

11 (b) Horses contribute approximately fifteen billion dollars
12 annually to the gross national product and four hundred forty-one
13 million dollars to Washington state's economy;

14 (c) Horse-related businesses are a source of full and part-time
15 employment for thousands of state residents;

16 (d) Horses provide recreation for equestrians and spectators alike,
17 through such organized equestrian events as racing, polo, horse shows,
18 draft horse pulls, mule and donkey events, dressage, jumping, gymkhana,

1 competitive trail riding, barrel racing, rodeo, driving, stock horse
2 classes with cattle, and steeplechase;

3 (e) Horses provide recreation and personal development for youth
4 and therapeutic service and treatment to disabled citizens of all ages
5 with varied physical and mental disabilities;

6 (f) There is no facility in the Pacific Northwest with the acreage,
7 services, and capacity to host large regional horse shows, national
8 championships, or Olympics-quality events;

9 (g) Establishment of a first-class horse park facility can meet
10 important needs of the state's horse industry, attract investment, and
11 bring thousands of new exhibitors and tourists to the state from
12 throughout the region and beyond; and

13 (h) The feasibility of a major horse park has been examined
14 positively in a study prepared for the Lewis county economic
15 development council.

16 (2) It is therefore the purpose of this chapter to support and
17 advance the public and private partnerships necessary for the
18 establishment, development, and operation of a Washington state horse
19 park as being in the public interest and contributing to the public
20 welfare.

21 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly
22 indicates otherwise, the definitions in this section apply throughout
23 this chapter.

24 (1) "Horses" means and includes all domesticated members of the
25 taxonomic family Equidae, including, but not limited to, horses,
26 donkeys, and mules.

27 (2) "Center" means the Mount St. Helens equestrian center facility,
28 established pursuant to this chapter.

29 (3) "Authority" means the Washington state horse park authority, a
30 public nonprofit corporation authorized to be established pursuant to
31 this chapter.

32 (4) "Foundation" means the Mount St. Helens equestrian center
33 foundation, a private nonprofit corporation previously created and
34 existing on the effective date of this act.

35 (5) "Master plan" means the Mount St. Helens equestrian center
36 development plan and associated design documents produced under the
37 contract to the Washington state parks and recreation commission, or

1 subsequent versions or alternatives, if any, as might be adopted by the
2 authority board.

3 (6) "Authority fund" means the Washington state horse park
4 authority fund, which shall consist of all moneys under the control of
5 a treasurer or custodian responsible to the board of directors of the
6 Washington state horse park authority.

7 (7) "Authority board" means the board of directors of the
8 Washington state horse park authority.

9 (8) "Foundation board" means the board of directors of the Mount
10 St. Helens equestrian center foundation.

11 NEW SECTION. **Sec. 3.** CENTER ESTABLISHMENT. The Mount St. Helens
12 equestrian center is hereby established and shall be located at a site
13 in Lewis county approved by the Washington state parks and recreation
14 commission. The center shall be owned and operated by the authority.

15 NEW SECTION. **Sec. 4.** AUTHORITY FORMATION. (1) The governor is
16 authorized to form a public nonprofit corporation in the same manner as
17 a private nonprofit corporation is formed under chapter 24.03 RCW,
18 which corporation shall be designated the Washington state horse park
19 authority. The authority shall be an instrumentality of the state and
20 have all the powers and be subject to the same restrictions as are
21 private nonprofit corporations, but shall exercise those powers only
22 for carrying out the purposes of this chapter and those purposes
23 necessarily implied therefrom.

24 (2) The purpose of the authority shall be to oversee and direct the
25 planning, development, marketing, and operation of the center,
26 consistent with the master plan for center development, and to work in
27 creative partnership with the foundation to coordinate the development,
28 operation, and maintenance of the center with the fund-raising,
29 financial management, and other functions of the foundation.

30 (3) The authority shall be governed by an eleven-member board of
31 directors composed as follows:

32 (a) The director of the Washington state parks and recreation
33 commission, ex officio;

34 (b) The director of the department of community, trade, and
35 economic development, ex officio;

36 (c) The dean of the college of veterinary medicine, Washington
37 State University, ex officio;

1 (d) One member to be appointed to a three-year term by the county
2 commissioners of Lewis county;

3 (e) One member to be appointed to a three-year term by the
4 foundation board;

5 (f) Six members who shall be appointed by the governor to three-
6 year terms, except that two of these original appointees shall serve
7 for one year, two for two years, and two for three years.

8 (4) The governor shall solicit nominations of candidates for
9 appointment from the Washington state horse council, the back country
10 horsemen of Washington, the Washington state horsemen, the equestrians
11 institute, and such other active horse organizations as will contribute
12 to the identification, nomination, and appointment of individuals
13 knowledgeable about horses and the organized Washington equestrian
14 community. The governor shall make appointments with a view to fairly
15 represent the geographic and sports discipline diversity of the state's
16 equestrians. At least one of the gubernatorial appointees shall have
17 business experience relevant to the organization of horse shows or
18 operation of a horse show facility.

19 (5) Authority board members shall serve without compensation,
20 except they shall be reimbursed for travel expenses under RCW 43.03.050
21 and 43.03.060.

22 (6) The authority board shall elect from among its members a
23 chairperson and a vice-chairperson, and such other officers as it deems
24 appropriate. The authority shall be authorized to make and alter
25 bylaws, not inconsistent with its articles of incorporation or the laws
26 of this state, providing for the call of its meetings, which shall be
27 held at least quarterly, and for its operating procedures. A majority
28 of members serving at any one time shall constitute a quorum for the
29 transaction of business.

30 NEW SECTION. **Sec. 5.** POWERS. In order to carry out its purposes,
31 the authority is empowered to:

32 (1) Maintain an office or offices;

33 (2) Sue and be sued in its own name;

34 (3) Engage consultants, agents, attorneys (subject to approval by
35 the attorney general), bond underwriters, financing experts, and other
36 advisers, contract with federal, state, and local governmental entities
37 for services, and employ and discharge at its discretion such

1 employees, agents, and other personnel as the authority deems
2 necessary, useful, or convenient to accomplish its purposes;

3 (4) Make and execute all manner of contracts, agreements,
4 instruments and financing documents with public and private parties as
5 the authority deems necessary, useful, or convenient to accomplish its
6 purposes: PROVIDED, That such contracts or other obligations shall not
7 be undertaken in the name of the state of Washington but only in the
8 name of the authority;

9 (5) Acquire, accept, hold, administer, and receive gifts and
10 bequests of money, services, securities, real estate, or other property
11 from whatever source derived, absolutely or in trust; sell, assign,
12 lease, encumber, mortgage, or otherwise dispose of the same in such a
13 manner as the authority deems necessary, useful, or convenient to
14 accomplish its purposes;

15 (6) Place, hold, and administer the authority fund, into which such
16 moneys and liquidated properties as the authority acquires shall be
17 deposited, through operating capital, or other accounts as it deems
18 advisable;

19 (7) Open and maintain accounts in public depositories qualified
20 under chapter 39.58 RCW, and otherwise provide for the investment of
21 any funds not required for immediate disbursement, and provide for the
22 selection of investments;

23 (8) Borrow money and pledge the assets of the authority as security
24 for any indebtedness: PROVIDED, That the full faith and credit of the
25 state of Washington shall not be pledged to pay any indebtedness;

26 (9) Apply for and accept subventions, grants, loans, advances, and
27 contributions from any source of money, property, labor, or other
28 things of value, to be held, used, and applied as the authority deems
29 necessary, useful, or convenient to accomplish its purposes;

30 (10) Issue tax-exempt, nonrecourse revenue bonds in the name of the
31 authority, which bonds shall be obligations only of the authority, and
32 shall be payable only from the special fund or funds created by the
33 authority for their payment;

34 (11) Appear in its own behalf before boards, commissions,
35 departments, or agencies of federal, state, or local government;

36 (12) Establish, revise, and collect such fees and charges as the
37 authority deems necessary, useful, or convenient to accomplish its
38 purposes;

1 (13) Make such expenditures as are appropriate for paying the
2 administrative costs and expenses of the authority in carrying out the
3 provisions of this chapter;

4 (14) Establish such reserves and special funds, and controls on
5 deposits to and disbursements from them, as the authority deems
6 necessary, useful, or convenient to accomplish its purposes;

7 (15) Enact such procedures governing the operation, maintenance, or
8 use of property under its custody and control as it deems necessary,
9 useful, or convenient to accomplish its purposes;

10 (16) Authorize use of the center facilities by the general public
11 and by and for compatible nonequestrian events as the authority board
12 determines reasonable, so long as the primacy of the center for equine-
13 related purposes is not compromised;

14 (17) Insure its obligations and potential liability through the
15 mechanism of the self-insurance fund provided by chapter 4.92 RCW, and
16 if the authority determines it economically or otherwise advantageous,
17 procure such insurance in such amounts and from such insurers as the
18 authority deems desirable, including, but not limited to, insurance
19 against any loss or damage to its property or other assets, public
20 liability insurance for injuries to persons or property, and directors
21 and officers liability insurance for injuries;

22 (18) Delegate any of its powers and duties, if consistent with the
23 purposes of this chapter;

24 (19) Enter into cooperative agreements with and provide for private
25 nonprofit groups to use center facilities and property to raise money
26 to contribute gifts, grants, and support to the authority for the
27 purposes of this chapter, and such gifts may be in the form of
28 volunteer labor and facilities developed or built, in part or in whole,
29 for public use;

30 (20) Grant concessions or leases at the center upon such rentals,
31 fees, or percentage of income or profits and for such terms, in no
32 event longer than twenty-five years, and upon such conditions as shall
33 be approved by the authority;

34 (21) Honor credit cards in payment for food and beverage purchases,
35 rentals of space or facilities, and other goods and services offered by
36 the authority in effecting the purposes for which it is formed; and

37 (22) Generally to do any and all lawful acts necessary or
38 appropriate to carry out the purposes for which the authority and the
39 center are created.

1 NEW SECTION. **Sec. 6.** LIABILITY OF STATE, ETC. (1) Obligations
2 incurred by the authority and any other liabilities or claims against
3 the authority shall be enforced only against the assets of such
4 authority and no liability for the debts or actions of the authority
5 shall exist against either the state of Washington, the Washington
6 state parks and recreation commission, or any other subdivision or
7 instrumentality of the state, or against any board member, officer,
8 employee, or agent of the authority in his or her individual capacity.
9 The members of the authority board and employees of the authority shall
10 not be held responsible individually in any way whatsoever to any
11 person for errors in judgment, mistakes, or other acts, either of
12 commission or omission, as principal, agent, person, or employee,
13 except for their own individual acts of dishonesty or crime. No such
14 person or employee shall be held responsible individually for any act
15 or omission of any other member of the authority board, or of any
16 employee of the authority. The liability of such members and employees
17 shall be several and not joint and no such member or employee shall be
18 liable for the default of any other member or employee. However,
19 nothing in this section shall prevent the authority from insuring its
20 obligations and potential liability through the mechanism of the self-
21 insurance fund provided by chapter 4.92 RCW.

22 (2) In the event that any land owned or managed by the state of
23 Washington or any subdivision thereof, including a municipal
24 subdivision of the state, shall be made available under lease or other
25 agreement to the authority for the purpose of constructing and
26 operating the center established under section 3 of this act, the
27 agency or subdivision of the state managing such land shall ensure that
28 the authority has sufficient financial responsibility for any
29 remediation of site contamination by hazardous substances that may
30 occur in the use of the land for such purposes. The land managing
31 agency shall require that the authority demonstrate that such financial
32 responsibility will be maintained and available for site remediation
33 should the authority be dissolved and its assets administered through
34 bankruptcy proceedings under federal law.

35 NEW SECTION. **Sec. 7.** REVENUE BONDS--ISSUANCE. (1) The authority
36 may issue nonrecourse revenue bonds in order to obtain the funds to
37 carry out the purposes authorized in this chapter. The bonds shall be

1 special obligations of the authority, payable solely out of the special
2 fund or funds established by the authority for their repayment.

3 (2) Any bonds issued under this chapter may be secured by a
4 financing document between the authority and the purchasers or owners
5 of such bonds or between the authority and a corporate trustee, which
6 may be any trust company or bank having the powers of a trust company
7 within or without the state.

8 (a) The financing document may pledge or assign, in whole or in
9 part, the revenues and funds held or to be received by the authority,
10 any present or future contract or other rights to receive the same, and
11 the proceeds thereof.

12 (b) The financing document may contain such provisions for
13 protecting and enforcing the rights, security, and remedies of bond
14 owners as may be reasonable and proper, including, without limiting the
15 generality of the foregoing, provisions defining defaults and providing
16 for remedies in the event of default which may include the acceleration
17 of maturities, restrictions on the individual rights of action by bond
18 owners, and covenants setting forth duties of and limitations on the
19 authority in the conduct of its programs and the management of its
20 property.

21 (c) In addition to other security provided in this chapter or
22 otherwise by law, bonds issued by the authority may be secured, in
23 whole or in part, by financial guaranties, by insurance or by letters
24 of credit issued to the authority or a trustee or any other person, by
25 any bank, trust company, insurance or surety company, or other
26 financial institution, within or without the state. The authority may
27 pledge or assign, in whole or in part, the revenues and funds held or
28 to be received by the authority, any present or future contract or
29 other rights to receive the same, and the proceeds thereof, as security
30 for such guaranties or insurance or for the reimbursement by the
31 authority to any issuer of such letter of credit of any payments made
32 under such letter of credit.

33 (3) Without limiting the powers of the authority contained in this
34 chapter, in connection with each issue of its bonds, the authority
35 shall create and establish one or more special funds, including, but
36 not limited to, debt service and sinking funds, reserve funds, project
37 funds, and such other special funds as the authority deems necessary,
38 useful, or convenient.

1 (4) Any security interest created against the unexpected bond
2 proceeds and against the special funds created by the authority shall
3 be immediately valid and binding against the money and any securities
4 in which the money may be invested without authority or trustee
5 possession. The security interest shall be prior to any securities,
6 without filing or recording under article 9 of the uniform commercial
7 code, Title 62A RCW, and regardless of whether the party has notice of
8 the security interest.

9 (5) The bonds may be issued as serial bonds, term bonds, or any
10 other type of bond instrument consistent with the provisions of this
11 chapter. The bonds shall bear such date or dates; mature at such time
12 or times; bear interest at such rate or rates, either fixed or
13 variable; be payable at such time or times; be in such denominations;
14 be in such form; bear such privileges of transferability,
15 exchangeability, and interchangeability; be subject to such terms of
16 redemption; and be sold at public or private sale, in such manner, at
17 such time or times, and at such price or prices as the authority shall
18 determine. The bonds shall be executed by the manual or facsimile
19 signatures of the authority's chairperson and either its secretary or
20 executive director, if any, and may be authenticated by the trustee (if
21 the authority determines to use a trustee) or any registrar which may
22 be designated for the bonds by the authority.

23 (6) Bonds may be issued by the authority to refund other
24 outstanding authority bonds, at or prior to maturity of, and to pay any
25 redemption premium on, the outstanding bonds. Bonds issued for
26 refunding purposes may be combined with bonds issued for the financing
27 or refinancing of new projects. Pending the application of the
28 proceeds of the refunding bonds to the redemption of the bonds to be
29 redeemed, the authority may enter into an agreement or agreements with
30 a corporate trustee regarding the interim investment of the proceeds
31 and the application of the proceeds and the earnings on the proceeds to
32 the payment of the principal and interest on, and the redemption of,
33 the bonds to be redeemed.

34 (7) The bonds of the authority may be negotiable instruments under
35 Title 62A RCW.

36 (8) Neither the members of the authority board, nor the authority's
37 employees or agents, nor any person executing the bonds shall be
38 personally liable on the bonds or be subject to any personal liability
39 or accountability by reason of the issuance of the bonds.

1 (9) The authority may purchase its bonds with any of its funds
2 available for the purchase. The authority may hold, pledge, cancel, or
3 resell the bonds subject to and in accordance with agreements with bond
4 owners.

5 (10) The authority shall not exceed fifty million dollars in total
6 outstanding debt at any time.

7 (11) The state finance committee shall be notified in advance of
8 the issuance of bonds by the authority in order to promote the orderly
9 offering of obligations in the financial markets.

10 NEW SECTION. Sec. 8. REVENUE BONDS--CONTRACTS--RESTRICTIONS. (1)
11 Bonds issued by the authority under this chapter shall not be deemed to
12 constitute obligations, either general, special, or moral, of the state
13 or of any political subdivision of the state, or pledge of the faith
14 and credit of the state or of any political subdivision, or general
15 obligations of the authority. The bonds shall be special obligations
16 of the authority and shall be payable solely from the special fund or
17 funds created by the authority for their repayment. The issuance of
18 bonds under this chapter shall not obligate, directly, indirectly, or
19 contingently, the state or any political subdivision of the state to
20 levy any taxes or appropriate or expend any funds for the payment of
21 the principal or interest on the bonds. The substance of the
22 limitations included in this subsection shall be plainly printed,
23 written, engraved, or reproduced on each bond and in any disclosure
24 document prepared in conjunction with the offer of or sale of bonds.

25 (2) Neither the proceeds or bonds issued under this chapter nor any
26 money used or to be used to pay the principal of, premium, if any, or
27 interest on the bonds shall constitute public money or property. All
28 of such money shall be kept segregated and set apart from funds of the
29 state and any political subdivision of the state and shall not be
30 subject to appropriation or allotment by the state or subject to the
31 provisions of chapter 43.88 RCW.

32 (3) Contracts entered into by the authority shall be entered into
33 in the name of the authority and not in the name of the state. The
34 obligations of the authority under such contracts shall be obligations
35 only of the authority and shall not, in any way, constitute obligations
36 of the state.

1 NEW SECTION. **Sec. 9.** REVENUE BONDS--MONEY RECEIVED--TRUST FUND.

2 All money received by or on behalf of the authority with respect to
3 this issuance of its bonds shall be trust funds to be held and applied
4 solely as provided in this chapter. The authority, in lieu of
5 receiving and applying the moneys itself, may enter into trust
6 agreement or indenture with one or more banks or trust companies having
7 the power and authority to conduct trust business in the state to:

8 (1) Perform all or any part of the obligations of the authority
9 with respect to:

10 (a) Bonds issued by it;

11 (b) The receipt, investment, and application of the proceeds of the
12 bonds and money available from other sources for the payment of the
13 bonds; and

14 (c) Other matters relating to the exercise of the authority's
15 powers under this chapter;

16 (2) Receive, hold, preserve, and enforce any security interest or
17 evidence of security interest granted by a participant for purposes of
18 securing the payment of the bonds; and

19 (3) Act on behalf of the authority for purposes of assuring or
20 enforcing the payment of the bonds, when due.

21 NEW SECTION. **Sec. 10.** REVENUE BONDS--OWNER AND TRUSTEE--
22 ENFORCEMENT OF RIGHTS. Any owner of bonds of the authority issued
23 under this chapter, and the trustee under any trust agreement or
24 indenture, may, either at law or in equity, by suit, action, mandamus,
25 or other proceeding, protect and enforce any of their respective
26 rights, and may become the purchaser at any foreclosure sale if the
27 person is the highest bidder, except to the extent the rights given are
28 restricted by the authority in any bond resolution or trust agreement
29 or indenture authorizing the issuance of the bonds.

30 NEW SECTION. **Sec. 11.** REVENUE BONDS--BONDS AS LEGAL INVESTMENT.
31 The bonds of the authority are securities in which all public officers
32 and bodies of this state and all counties, cities, municipal
33 corporations, and political subdivisions, all banks, eligible banking
34 organizations, bankers, trust companies, savings banks and
35 institutions, building and loan associations, savings and loan
36 associations, investment companies, insurance companies and
37 associations, all executors, administrators, guardians, trustees, and

1 other fiduciaries may legally invest any sinking funds, moneys, or
2 other funds belonging to them or within their control.

3 NEW SECTION. **Sec. 12.** REVENUE BONDS--CHAPTER AS AN ALTERNATIVE
4 BOND ISSUANCE METHOD. This chapter provides a complete, additional and
5 alternative method for accomplishing the purposes of this chapter and
6 shall be regarded as supplemental and additional to powers conferred by
7 other laws. The issuance of bonds and refunding bonds under this
8 chapter need not comply with the requirements of any other law
9 applicable to the issuance of bonds.

10 NEW SECTION. **Sec. 13.** REVENUE BONDS--CONSTRUCTION. The
11 provisions of this chapter should be construed liberally to effectuate
12 its purpose. Insofar as the provisions of this chapter are
13 inconsistent with the provisions of any general or special law, or
14 parts thereof, the provisions of this chapter are controlling.

15 NEW SECTION. **Sec. 14.** AUTHORITY FUND A TRUST FUND. All moneys
16 received by the authority from any and all sources for, and in support
17 of, the purposes for which the authority and center are established
18 under this chapter, including those derived from center operations,
19 shall be trust funds to be held and applied solely as provided in this
20 chapter.

21 NEW SECTION. **Sec. 15.** OTHER FUNCTIONS AUTHORIZED. The following
22 additional purposes and functions are explicitly recognized as
23 appropriate for the center in achieving the purposes for which it is
24 established, whenever the authority board determines such functions to
25 be economically and otherwise feasible and desirable:

26 (1) Developing and leasing administrative and other office space,
27 or other compatible facilities, for organizations served by the center
28 or compatible with the purposes for which it is established;

29 (2) Providing space and facilities for Washington State
30 University's veterinary medicine and animal science programs as they
31 relate to animal research, education, and extension; and

32 (3) Providing opportunity for the center to further the
33 responsibility of the horse racing commission under RCW 67.16.101 to
34 encourage the training and development of the equine industry in the
35 state of Washington whether the result of this training and development

1 results in legalized horse racing or in the recreational use of horses.
2 The center shall be a qualifying facility for financial assistance
3 under RCW 67.16.101(4).

4 NEW SECTION. **Sec. 16.** AGENCY COLLABORATION. The following
5 agencies are directed to explore with the authority, foundation, and
6 appropriate local governments, opportunities for collaboration and
7 cooperation:

8 (1) The department of agriculture to further its responsibilities
9 for the well-being of the equine agricultural industry;

10 (2) The department of community, trade, and economic development
11 with respect to community development block grant assistance, community
12 economic revitalization board projects, local development matching
13 funds, public works trust fund, business development, and tourism
14 development;

15 (3) Washington State University, especially the college of
16 agriculture and home economics, department of animal sciences, and the
17 college of veterinary medicine with respect to opportunities for animal
18 research, education, and extension, possible placement of related
19 university facilities at the center;

20 (4) The state parks and recreation commission with respect to site
21 land acquisition, and other state parks purposes;

22 (5) The department of natural resources with respect to site land
23 acquisition in cooperation with Lewis county and the state parks and
24 recreation commission;

25 (6) The department of ecology, especially the water quality
26 financial assistance and water quality programs, with respect to
27 opportunities for making the center's human and animal waste treatment
28 facilities demonstration models for waste handling to protect water
29 quality;

30 (7) South Puget Sound Community College with respect to
31 opportunities for collaboration with its horseshoeing technology
32 program; and

33 (8) Centralia Community College with respect to opportunities for
34 education and training related to business, tourism, and equine support
35 services.

36 NEW SECTION. **Sec. 17.** FINANCIAL REPORTS/AUDIT. The authority
37 shall keep accurate records of all its receipts and disbursements and

1 shall prepare annual financial statements presenting the financial
2 position and results of operations of the authority fund, and any other
3 funds utilized to account for the operations of the center, as of June
4 30 for each fiscal year. Copies of these statements shall be filed
5 with the office of the secretary of state and with the state auditor,
6 who may conduct audits of the authority as provided in chapter 43.09
7 RCW.

8 NEW SECTION. **Sec. 18.** PERSONNEL EXEMPTIONS. In order to allow
9 the authority flexibility in its personnel policies, the authority is
10 exempt from chapters 41.06, 41.05, 41.04, and 41.40 RCW and RCW
11 43.01.040 through 43.01.044.

12 **Sec. 19.** RCW 41.06.070 and 1993 sp.s. c 2 s 15 and 1993 c 379 s
13 306 are each reenacted and amended to read as follows:

14 (1) The provisions of this chapter do not apply to:

15 (a) The members of the legislature or to any employee of, or
16 position in, the legislative branch of the state government including
17 members, officers, and employees of the legislative council,
18 legislative budget committee, statute law committee, and any interim
19 committee of the legislature;

20 (b) The justices of the supreme court, judges of the court of
21 appeals, judges of the superior courts or of the inferior courts, or to
22 any employee of, or position in the judicial branch of state
23 government;

24 (c) Officers, academic personnel, and employees of technical
25 colleges;

26 (d) The officers of the Washington state patrol;

27 (e) Elective officers of the state;

28 (f) The chief executive officer of each agency;

29 (g) In the departments of employment security, social and health
30 services, the director and the director's confidential secretary; in
31 all other departments, the executive head of which is an individual
32 appointed by the governor, the director, his or her confidential
33 secretary, and his or her statutory assistant directors;

34 (h) In the case of a multimember board, commission, or committee,
35 whether the members thereof are elected, appointed by the governor or
36 other authority, serve ex officio, or are otherwise chosen:

37 (i) All members of such boards, commissions, or committees;

1 (ii) If the members of the board, commission, or committee serve on
2 a part-time basis and there is a statutory executive officer: The
3 secretary of the board, commission, or committee; the chief executive
4 officer of the board, commission, or committee; and the confidential
5 secretary of the chief executive officer of the board, commission, or
6 committee;

7 (iii) If the members of the board, commission, or committee serve
8 on a full-time basis: The chief executive officer or administrative
9 officer as designated by the board, commission, or committee; and a
10 confidential secretary to the chair of the board, commission, or
11 committee;

12 (iv) If all members of the board, commission, or committee serve ex
13 officio: The chief executive officer; and the confidential secretary
14 of such chief executive officer;

15 (i) The confidential secretaries and administrative assistants in
16 the immediate offices of the elective officers of the state;

17 (j) Assistant attorneys general;

18 (k) Commissioned and enlisted personnel in the military service of
19 the state;

20 (l) Inmate, student, part-time, or temporary employees, and part-
21 time professional consultants, as defined by the Washington personnel
22 resources board;

23 (m) The public printer or to any employees of or positions in the
24 state printing plant;

25 (n) Officers and employees of the Washington state fruit
26 commission;

27 (o) Officers and employees of the Washington state apple
28 advertising commission;

29 (p) Officers and employees of the Washington state dairy products
30 commission;

31 (q) Officers and employees of the Washington tree fruit research
32 commission;

33 (r) Officers and employees of the Washington state beef commission;

34 (s) Officers and employees of any commission formed under chapter
35 15.66 RCW;

36 (t) Officers and employees of the state wheat commission formed
37 under chapter 15.63 RCW;

38 (u) Officers and employees of agricultural commissions formed under
39 chapter 15.65 RCW;

1 (v) Officers and employees of the nonprofit corporation formed
2 under chapter 67.40 RCW and chapter 67.-- RCW (sections 1 through 18 of
3 this act);

4 (w) Liquor vendors appointed by the Washington state liquor control
5 board pursuant to RCW 66.08.050: PROVIDED, HOWEVER, That rules adopted
6 by the Washington personnel resources board pursuant to RCW 41.06.150
7 regarding the basis for, and procedures to be followed for, the
8 dismissal, suspension, or demotion of an employee, and appeals
9 therefrom shall be fully applicable to liquor vendors except those part
10 time agency vendors employed by the liquor control board when, in
11 addition to the sale of liquor for the state, they sell goods, wares,
12 merchandise, or services as a self-sustaining private retail business;

13 (x) Executive assistants for personnel administration and labor
14 relations in all state agencies employing such executive assistants
15 including but not limited to all departments, offices, commissions,
16 committees, boards, or other bodies subject to the provisions of this
17 chapter and this subsection shall prevail over any provision of law
18 inconsistent herewith unless specific exception is made in such law;

19 (y) In each agency with fifty or more employees: Deputy agency
20 heads, assistant directors or division directors, and not more than
21 three principal policy assistants who report directly to the agency
22 head or deputy agency heads;

23 (z) All employees of the marine employees' commission;

24 (aa) Up to a total of five senior staff positions of the western
25 library network under chapter 27.26 RCW responsible for formulating
26 policy or for directing program management of a major administrative
27 unit. This subsection shall expire on June 30, 1997.

28 (2) The following classifications, positions, and employees of
29 institutions of higher education and related boards are hereby exempted
30 from coverage of this chapter:

31 (a) Members of the governing board of each institution of higher
32 education and related boards, all presidents, vice-presidents and their
33 confidential secretaries, administrative and personal assistants;
34 deans, directors, and chairs; academic personnel; and executive heads
35 of major administrative or academic divisions employed by institutions
36 of higher education; principal assistants to executive heads of major
37 administrative or academic divisions; other managerial or professional
38 employees in an institution or related board having substantial
39 responsibility for directing or controlling program operations and

1 accountable for allocation of resources and program results, or for the
2 formulation of institutional policy, or for carrying out personnel
3 administration or labor relations functions, legislative relations,
4 public information, development, senior computer systems and network
5 programming, or internal audits and investigations; and any employee of
6 a community college district whose place of work is one which is
7 physically located outside the state of Washington and who is employed
8 pursuant to RCW 28B.50.092 and assigned to an educational program
9 operating outside of the state of Washington;

10 (b) Student, part-time, or temporary employees, and part-time
11 professional consultants, as defined by the Washington personnel
12 resources board, employed by institutions of higher education and
13 related boards;

14 (c) The governing board of each institution, and related boards,
15 may also exempt from this chapter classifications involving research
16 activities, counseling of students, extension or continuing education
17 activities, graphic arts or publications activities requiring
18 prescribed academic preparation or special training as determined by
19 the board: PROVIDED, That no nonacademic employee engaged in office,
20 clerical, maintenance, or food and trade services may be exempted by
21 the board under this provision;

22 (d) Printing craft employees in the department of printing at the
23 University of Washington.

24 (3) In addition to the exemptions specifically provided by this
25 chapter, the Washington personnel resources board may provide for
26 further exemptions pursuant to the following procedures. The governor
27 or other appropriate elected official may submit requests for exemption
28 to the Washington personnel resources board stating the reasons for
29 requesting such exemptions. The Washington personnel resources board
30 shall hold a public hearing, after proper notice, on requests submitted
31 pursuant to this subsection. If the board determines that the position
32 for which exemption is requested is one involving substantial
33 responsibility for the formulation of basic agency or executive policy
34 or one involving directing and controlling program operations of an
35 agency or a major administrative division thereof, the Washington
36 personnel resources board shall grant the request and such
37 determination shall be final as to any decision made before July 1,
38 1993. The total number of additional exemptions permitted under this
39 subsection shall not exceed one percent of the number of employees in

1 the classified service not including employees of institutions of
2 higher education and related boards for those agencies not directly
3 under the authority of any elected public official other than the
4 governor, and shall not exceed a total of twenty-five for all agencies
5 under the authority of elected public officials other than the
6 governor. The Washington personnel resources board shall report to
7 each regular session of the legislature during an odd-numbered year all
8 exemptions granted under subsections (1) (x) and (y) and (2) of this
9 section, together with the reasons for such exemptions.

10 The salary and fringe benefits of all positions presently or
11 hereafter exempted except for the chief executive officer of each
12 agency, full-time members of boards and commissions, administrative
13 assistants and confidential secretaries in the immediate office of an
14 elected state official, and the personnel listed in subsections (1) (j)
15 through (v) and (2) of this section, shall be determined by the
16 Washington personnel resources board.

17 Any person holding a classified position subject to the provisions
18 of this chapter shall, when and if such position is subsequently
19 exempted from the application of this chapter, be afforded the
20 following rights: If such person previously held permanent status in
21 another classified position, such person shall have a right of
22 reversion to the highest class of position previously held, or to a
23 position of similar nature and salary.

24 Any classified employee having civil service status in a classified
25 position who accepts an appointment in an exempt position shall have
26 the right of reversion to the highest class of position previously
27 held, or to a position of similar nature and salary.

28 A person occupying an exempt position who is terminated from the
29 position for gross misconduct or malfeasance does not have the right of
30 reversion to a classified position as provided for in this section.

31 NEW SECTION. **Sec. 20.** A new section is added to chapter 41.05 RCW
32 to read as follows:

33 The provisions of this chapter shall not be applicable to the
34 officers and employees of the nonprofit corporation formed under
35 chapter 67.-- RCW (sections 1 through 18 of this act).

36 NEW SECTION. **Sec. 21.** A new section is added to chapter 41.04 RCW
37 to read as follows:

1 The provisions of this chapter shall not be applicable to the
2 officers and employees of the nonprofit corporation formed under
3 chapter 67.-- RCW (sections 1 through 18 of this act).

4 NEW SECTION. **Sec. 22.** A new section is added to chapter 41.40 RCW
5 to read as follows:

6 The provisions of this chapter shall not be applicable to the
7 officers and employees of the nonprofit corporation formed under
8 chapter 67.-- RCW (sections 1 through 18 of this act).

9 NEW SECTION. **Sec. 23.** A new section is added to chapter 43.01 RCW
10 to read as follows:

11 The provisions of RCW 43.01.040 through 43.01.044 shall not be
12 applicable to the officers and employees of the nonprofit corporation
13 formed under chapter 67.-- RCW (sections 1 through 18 of this act).

14 **Sec. 24.** RCW 43.19.190 and 1993 sp.s. c 10 s 2 and 1993 c 379 s
15 102 are each reenacted and amended to read as follows:

16 The director of general administration, through the state
17 purchasing and material control director, shall:

18 (1) Establish and staff such administrative organizational units
19 within the division of purchasing as may be necessary for effective
20 administration of the provisions of RCW 43.19.190 through 43.19.1939;

21 (2) Purchase all material, supplies, services, and equipment needed
22 for the support, maintenance, and use of all state institutions,
23 colleges, community colleges, technical colleges, college districts,
24 and universities, the offices of the elective state officers, the
25 supreme court, the court of appeals, the administrative and other
26 departments of state government, and the offices of all appointive
27 officers of the state: PROVIDED, That the provisions of RCW 43.19.190
28 through 43.19.1937 do not apply in any manner to the operation of the
29 state legislature except as requested by the legislature: PROVIDED,
30 That any agency may purchase material, supplies, services, and
31 equipment for which the agency has notified the purchasing and material
32 control director that it is more cost-effective for the agency to make
33 the purchase directly from the vendor: PROVIDED, That primary
34 authority for the purchase of specialized equipment, instructional, and
35 research material for their own use shall rest with the colleges,
36 community colleges, and universities: PROVIDED FURTHER, That

1 universities operating hospitals and the state purchasing and material
2 control director, as the agent for state hospitals as defined in RCW
3 72.23.010, and for health care programs provided in state correctional
4 institutions as defined in RCW 72.65.010(3) and veterans' institutions
5 as defined in RCW 72.36.010 and 72.36.070, may make purchases for
6 hospital operation by participating in contracts for materials,
7 supplies, and equipment entered into by nonprofit cooperative hospital
8 group purchasing organizations: PROVIDED FURTHER, That primary
9 authority for the purchase of materials, supplies, and equipment for
10 resale to other than public agencies shall rest with the state agency
11 concerned: PROVIDED FURTHER, That authority to purchase services as
12 included herein does not apply to personal services as defined in
13 chapter 39.29 RCW, unless such organization specifically requests
14 assistance from the division of purchasing in obtaining personal
15 services and resources are available within the division to provide
16 such assistance: PROVIDED FURTHER, That the authority for the purchase
17 of insurance and bonds shall rest with the risk manager under RCW
18 43.19.1935: PROVIDED FURTHER, That, except for the authority of the
19 risk manager to purchase insurance and bonds, the director is not
20 required to provide purchasing services for institutions of higher
21 education that choose to exercise independent purchasing authority
22 under RCW 28B.10.029: PROVIDED FURTHER, That primary authority for the
23 purchase of materials, supplies, equipment, and services by the public
24 nonprofit corporation created pursuant to the authority in chapter 67.-
25 - RCW (sections 1 through 18 of this act) shall rest with said public
26 nonprofit corporation;

27 (3) Provide the required staff assistance for the state supply
28 management advisory board through the division of purchasing;

29 (4) Have authority to delegate to state agencies authorization to
30 purchase or sell, which authorization shall specify restrictions as to
31 dollar amount or to specific types of material, equipment, services,
32 and supplies: PROVIDED, That acceptance of the purchasing
33 authorization by a state agency does not relieve such agency from
34 conformance with other sections of RCW 43.19.190 through 43.19.1939, or
35 from policies established by the director after consultation with the
36 state supply management advisory board: PROVIDED FURTHER, That
37 delegation of such authorization to a state agency, including an
38 educational institution to which this section applies, to purchase or
39 sell material, equipment, services, and supplies shall not be granted,

1 or otherwise continued under a previous authorization, if such agency
2 is not in substantial compliance with overall state purchasing and
3 material control policies as established herein;

4 (5) Contract for the testing of material, supplies, and equipment
5 with public and private agencies as necessary and advisable to protect
6 the interests of the state;

7 (6) Prescribe the manner of inspecting all deliveries of supplies,
8 materials, and equipment purchased through the division;

9 (7) Prescribe the manner in which supplies, materials, and
10 equipment purchased through the division shall be delivered, stored,
11 and distributed;

12 (8) Provide for the maintenance of a catalogue library,
13 manufacturers' and wholesalers' lists, and current market information;

14 (9) Provide for a commodity classification system and may, in
15 addition, provide for the adoption of standard specifications after
16 receiving the recommendation of the supply management advisory board;

17 (10) Provide for the maintenance of inventory records of supplies,
18 materials, and other property;

19 (11) Prepare rules and regulations governing the relationship and
20 procedures between the division of purchasing and state agencies and
21 vendors;

22 (12) Publish procedures and guidelines for compliance by all state
23 agencies, including those educational institutions to which this
24 section applies, which implement overall state purchasing and material
25 control policies;

26 (13) Conduct periodic visits to state agencies, including those
27 educational institutions to which this section applies, to determine if
28 statutory provisions and supporting purchasing and material control
29 policies are being fully implemented, and based upon such visits, take
30 corrective action to achieve compliance with established purchasing and
31 material control policies under existing statutes when required.

32 NEW SECTION. **Sec. 25.** CAPTIONS. Captions as used in this chapter
33 constitute no part of the law.

34 NEW SECTION. **Sec. 26.** NEW CHAPTER IN RCW. Sections 1 through 18
35 and 25 of this act shall constitute a new chapter in Title 67 RCW.

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