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SENATE BILL 5266

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State of Washington

55th Legislature

1997 Regular Session

By Senators Horn, Fraser, Newhouse and Schow; by request of Department of Licensing

Read first time 01/21/97. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to regulating engineers and land surveyors;  
2 amending RCW 18.43.035, 18.43.110, and 18.43.130; adding a new section  
3 to chapter 18.43 RCW; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 18.43 RCW  
6 to read as follows:

7 Upon request of the board, and with approval of the director, the  
8 board chair shall appoint up to two individuals to serve as pro tem  
9 members of the board. The appointments are limited, as defined by the  
10 board chair, for the purpose of participating as a temporary member of  
11 the board on any combination of one or more committees or formal  
12 disciplinary hearing panels. An appointed individual must meet the  
13 same qualifications as a regular member of the board. While serving as  
14 a board member pro tem, an appointed person has all the powers, duties,  
15 and immunities of a regular member of the board and is entitled to the  
16 same compensation, including travel expenses, in accordance with RCW  
17 18.43.030. A pro tem appointment may not last for more than one  
18 hundred eighty days unless approved by the director.

1       **Sec. 2.** RCW 18.43.035 and 1986 c 102 s 2 are each amended to read  
2 as follows:

3       The board may adopt and amend bylaws establishing its organization  
4 and method of operation, including but not limited to meetings,  
5 maintenance of books and records, publication of reports, code of  
6 ethics, and rosters, and adoption and use of a seal. Four members of  
7 the board shall constitute a quorum for the conduct of any business of  
8 the board. The board may employ such persons as are necessary to carry  
9 out its duties under this chapter. It may adopt rules (~~and~~  
10 ~~regulations~~) reasonably necessary to administer the provisions of this  
11 chapter. It may conduct investigations upon its own motion or in  
12 response to a written complaint concerning alleged violations of (~~the~~  
13 ~~provisions of~~) this chapter or the rules adopted by the board. In  
14 making such investigations and in all proceedings under RCW 18.43.110,  
15 the chairman of the board or any member of the board acting in his  
16 place may administer oaths or affirmations to witnesses appearing  
17 before the board, subpoena witnesses and compel their attendance, and  
18 require the production of books, records, papers and documents. If any  
19 person shall refuse to obey any subpoena so issued, or shall refuse to  
20 testify or produce any books, records, papers or documents so required  
21 to be produced, the board may present its petition to the superior  
22 court of the county in which such person resides, setting forth the  
23 facts, and thereupon the court shall, in any proper case, enter a  
24 suitable order compelling compliance with (~~the provisions of~~) this  
25 chapter and imposing such other terms and conditions as the court may  
26 deem equitable. The board shall submit to the governor such periodic  
27 reports as may be required. A roster, showing the names and places of  
28 business of all registered professional engineers and land surveyors  
29 may be published for distribution, upon request, to professional  
30 engineers and land surveyors registered under this chapter and to the  
31 public.

32       **Sec. 3.** RCW 18.43.110 and 1989 c 175 s 62 are each amended to read  
33 as follows:

34       The board shall have the exclusive power to fine and reprimand the  
35 registrant and suspend or revoke the certificate of registration of any  
36 registrant who is found guilty of:

37       The practice of any fraud or deceit in obtaining a certificate of  
38 registration; or

1 Any gross negligence, incompetency, or misconduct in the practice  
2 of engineering or land surveying as a registered engineer or land  
3 surveyor.

4 Any person may prefer (~~(charges of)~~) a complaint alleging fraud,  
5 deceit, gross negligence, incompetency, or misconduct against any  
6 registrant(~~(. Such charges)~~) and the complaint shall be in writing and  
7 shall be sworn to by the person making (~~(them and shall be filed with~~  
8 the secretary of the board)) the allegation. The board may also, upon  
9 its own motion, investigate the actions of any person engaged in the  
10 practice of engineering or land surveying for alleged violations of  
11 this chapter or the rules adopted under this chapter.

12 All procedures related to hearings on such charges shall be in  
13 accordance with provisions relating to adjudicative proceedings in  
14 chapter 34.05 RCW, the Administrative Procedure Act.

15 If, after such hearing, a majority of the board vote in favor of  
16 finding the (~~(accused guilty)~~) violations had occurred, the board shall  
17 revoke or suspend the certificate of registration of such registered  
18 professional engineer or land surveyor.

19 The board, for reasons it deems sufficient, may reissue a  
20 certificate of registration to any person whose certificate has been  
21 revoked or suspended, providing a majority of the board vote in favor  
22 of such issuance. A new certificate of registration to replace any  
23 certificate revoked, lost, destroyed, or mutilated may be issued,  
24 subject to the rules of the board, and a charge determined by the  
25 director as provided in RCW 43.24.086 shall be made for such issuance.

26 Any person who shall feel aggrieved by any action of the board in  
27 denying or revoking his certificate of registration may appeal  
28 therefrom to the superior court of the county in which such person  
29 resides, and after full hearing, said court shall make such decree  
30 sustaining or revoking the action of the board as it may deem just and  
31 proper.

32 Fines imposed by the board shall not exceed one thousand dollars  
33 for each offense.

34 In addition to the imposition of civil penalties under this  
35 section, the board may refer violations of this chapter to the  
36 appropriate prosecuting attorney for charges under RCW 18.43.120.

37 **Sec. 4.** RCW 18.43.130 and 1991 c 19 s 6 are each amended to read  
38 as follows:

1 This chapter shall not be construed to prevent or affect:

2 (1) The practice of any other legally recognized profession or  
3 trade; or

4 (2) The practice of a person not a resident and having no  
5 established place of business in this state, practicing or offering to  
6 practice herein the profession of engineering or land surveying, when  
7 such practice does not exceed in the aggregate more than thirty days in  
8 any calendar year: PROVIDED, Such person has been determined by the  
9 board to be legally qualified by registration to practice the said  
10 profession in his or her own state or country in which the requirements  
11 and qualifications for obtaining a certificate of registration are not  
12 lower than those specified in this chapter. The person shall request  
13 such a determination by completing an application prescribed by the  
14 board and accompanied by a fee determined by the director. Upon  
15 approval of the application, the board shall issue a permit authorizing  
16 temporary practice; or

17 (3) The practice of a person not a resident and having no  
18 established place of business in this state, or who has recently become  
19 a resident thereof, practicing or offering to practice herein for more  
20 than thirty days in any calendar year the profession of engineering or  
21 land surveying, if he or she shall have filed with the board an  
22 application for a certificate of registration and shall have paid the  
23 fee required by this chapter: PROVIDED, That such person is legally  
24 qualified by registration to practice engineering or land surveying in  
25 his or her own state or country in which the requirements and  
26 qualifications of obtaining a certificate of registration are not lower  
27 than those specified in this chapter. Such practice shall continue  
28 only for such time as the board requires for the consideration of the  
29 application for registration; or

30 (4) The work of an employee or a subordinate of a person holding a  
31 certificate of registration under this chapter, or an employee of a  
32 person practicing lawfully under provisions of this section: PROVIDED,  
33 That such work does not include final design or decisions and is done  
34 under the direct responsibility, checking, and supervision of a person  
35 holding a certificate of registration under this chapter or a person  
36 practicing lawfully under the provisions of this section; or

37 (5) The work of a person rendering engineering or land surveying  
38 services to a corporation, as an employee of such corporation, when  
39 such services are rendered in carrying on the general business of the

1 corporation and such general business does not consist, either wholly  
2 or in part, of the rendering of engineering services to the general  
3 public: PROVIDED, That such corporation employs at least one person  
4 holding a certificate of registration under this chapter or practicing  
5 lawfully under the provisions of this chapter; or

6 (6) The practice of officers or employees of the government of the  
7 United States while engaged within the state in the practice of the  
8 profession of engineering or land surveying for (~~said~~) the government  
9 of the United States; or

10 (7) Nonresident engineers employed for the purpose of making  
11 engineering examinations; or

12 (8) The practice of engineering or land surveying, or both, in this  
13 state by a corporation or joint stock association: PROVIDED, That

14 (a) (~~Such~~) The corporation (~~shall file~~) has filed with the  
15 board an application for certificate of authorization upon a form to be  
16 prescribed by the board and containing information required to enable  
17 the board to determine whether such corporation is qualified in  
18 accordance with (~~the provisions of~~) this chapter to practice  
19 engineering or land surveying, or both, in this state;

20 (b) (~~Such~~) For engineering, the corporation (~~shall file~~) has  
21 filed with the board a certified copy of a resolution of the board of  
22 directors of the corporation (~~which~~) that shall designate a person  
23 holding a certificate of registration under this chapter as responsible  
24 for the practice of engineering by (~~said~~) the corporation in this  
25 state and shall provide that full authority to make all final  
26 engineering decisions on behalf of (~~said~~) the corporation with  
27 respect to work performed by the corporation in this state shall be  
28 granted and delegated by the board of directors to the person so  
29 designated in (~~said~~) the resolution(~~:- PROVIDED, That~~). For land  
30 surveying, the corporation has filed with the board a certified copy of  
31 a resolution of the board of directors of the corporation which shall  
32 designate a person holding a certificate of registration under this  
33 chapter as responsible for the practice of land surveying by the  
34 corporation in this state and shall provide full authority to make all  
35 final land surveying decisions on behalf of the corporation with  
36 respect to work performed by the corporation in this state be granted  
37 and delegated by the board of directors to the person so designated in  
38 the resolution. If a corporation offers both engineering and land  
39 surveying services, the board of directors shall designate both a

1 licensed engineer and a licensed land surveyor. If a person is  
2 licensed in both engineering and land surveying, the person may be  
3 designated for both professions. The resolution shall further state  
4 that the bylaws of the corporation shall be amended to include the  
5 following provision: "The designated engineer or land surveyor,  
6 respectively, named in the resolution as being in responsible charge,  
7 or an engineer or land surveyor under the designated engineer or land  
8 surveyor's direct supervision, shall make all engineering or land  
9 surveying decisions pertaining to engineering or land surveying  
10 activities in the state of Washington." However, the filing of  
11 ((such)) the resolution shall not relieve the corporation of any  
12 responsibility or liability imposed upon it by law or by contract;

13 (c) ~~((Such corporation shall file with the board a designation in~~  
14 ~~writing setting forth the name or names of a person or persons holding~~  
15 ~~certificates of registration under this chapter who shall be in~~  
16 ~~responsible charge of each project and each major branch of the~~  
17 ~~engineering activities in which the corporation shall specialize in~~  
18 ~~this state. In the event there shall be a change in the person or~~  
19 ~~persons in responsible charge of any project or major branch of the~~  
20 ~~engineering activities, such changes shall be designated in writing and~~  
21 ~~filed with the board within thirty days after the effective date of~~  
22 ~~such changes))~~ If there is a change in the designated engineer or  
23 designated land surveyor, the corporation shall notify the board in  
24 writing within thirty days after the effective date of the change. If  
25 the corporation changes its name, the corporation shall submit a copy  
26 of its amended certificate of authority or amended certificate of  
27 incorporation as filed with the secretary of state within thirty days  
28 of the filing;

29 (d) Upon the filing with the board ~~((of))~~ the application for  
30 certificate for authorization, certified copy of resolution~~((7))~~ and an  
31 affidavit ~~((and designation of persons))~~, the designation of a  
32 designated engineer or designated land surveyor, or both, specified in  
33 ~~((subparagraphs (a)7))~~ ~~(b)((7 and (c)))~~ of this ~~((section))~~ subsection,  
34 a certificate of incorporation or certificate of authorization as filed  
35 with the secretary of state, and a copy of the corporation's current  
36 Washington business license, the board shall issue to ((such)) the  
37 corporation a certificate of authorization to practice engineering or  
38 land surveying, or both, in this state upon a determination by the  
39 board that:

1 (i) (~~The bylaws of the corporation contain provisions that all~~  
2 ~~engineering decisions pertaining to any project or engineering~~  
3 ~~activities in this state shall be made by the specified engineer in~~  
4 ~~responsible charge, or other responsible engineers under his or her~~  
5 ~~direction or supervision)) The designated engineer or designated land  
6 surveyor, or both, hold a certificate of registration in this state in  
7 accordance with this chapter and the certificate is in force;~~

8 (ii) (~~The application for certificate of authorization states the~~  
9 ~~type, or types, of engineering practiced, or to be practiced by such~~  
10 ~~corporation;~~) The designated engineer or designated land surveyor, or  
11 both, are not designated in responsible charge for another corporation  
12 or a limited liability company; and

13 (iii) (~~A current certified financial statement accurately~~  
14 ~~reflecting the financial condition of the corporation has been filed~~  
15 ~~with the board and is available for public inspection;~~

16 (iv) ~~The applicant corporation has the ability to provide through~~  
17 ~~qualified engineering personnel, professional services or creative work~~  
18 ~~requiring engineering experience, and that with respect to the~~  
19 ~~engineering services which the corporation undertakes or offers to~~  
20 ~~undertake such personnel have the ability to apply special knowledge of~~  
21 ~~the mathematical, physical, and engineering sciences to such~~  
22 ~~professional services or creative work as consultation, investigation,~~  
23 ~~evaluation, planning, design, and supervision of construction for the~~  
24 ~~purpose of assuring compliance with specifications and design, in~~  
25 ~~connection with any public or private utilities, structures, buildings,~~  
26 ~~machines, equipment, processes, works, or projects;~~

27 (v) ~~The application for certificate of authorization states the~~  
28 ~~professional records of the designated person or persons who shall be~~  
29 ~~in responsible charge of each project and each major branch of~~  
30 ~~engineering activities in which the corporation shall specialize;~~

31 (vi) ~~The application for certificate of authorization states the~~  
32 ~~experience of the corporation, if any, in furnishing engineering~~  
33 ~~services during the preceding five year period and states the~~  
34 ~~experience of the corporation, if any, in the furnishing of all~~  
35 ~~feasibility and advisory studies made within the state of Washington;~~

36 (vii) ~~The applicant corporation meets such other requirements~~  
37 ~~related to professional competence in the furnishing of engineering~~  
38 ~~services as may be established and promulgated by the board in~~  
39 ~~furtherance of the objectives and provisions of this chapter; and~~

1        Upon a determination by the board based upon an evaluation of the  
2 foregoing findings and information that the applicant corporation is  
3 possessed of the ability and competence to furnish engineering services  
4 in the public interest)) The corporation is licensed with the secretary  
5 of state and holds a current unified business identification number and  
6 the board determines, based on evaluating the findings and information  
7 in this section, that the applicant corporation possesses the ability  
8 and competence to furnish engineering or land surveying services, or  
9 both, in the public interest.

10        The board may ~~((in the))~~ exercise ~~((of))~~ its discretion to refuse  
11 to issue or it may suspend ~~((and/))~~ or revoke a certificate of  
12 authorization issued to a corporation ~~((where))~~ if the board ~~((shall))~~  
13 finds that any of the officers, directors, incorporators, or the  
14 stockholders holding a majority of stock of such corporation has  
15 committed misconduct or malpractice as defined in RCW 18.43.105 or has  
16 been found personally responsible for misconduct or malpractice under  
17 ~~((the provisions of subsections))~~ (f) and (g) ~~((hereof))~~ of this  
18 subsection.

19        ~~((The certificate of authorization shall specify the major branches~~  
20 ~~of engineering of which the corporation has designated a person or~~  
21 ~~persons in responsible charge as provided in subsection (8)(c) of this~~  
22 ~~section.~~

23        ~~(e) In the event a corporation, organized solely by a group of~~  
24 ~~engineers, each holding a certificate of registration under this~~  
25 ~~chapter, applies for a certificate of authorization, the board may, in~~  
26 ~~its discretion, grant a certificate of authorization to such~~  
27 ~~corporation based on a review of the professional records of such~~  
28 ~~incorporators, in lieu of the required qualifications set forth in this~~  
29 ~~subsection. In the event the ownership of such corporation shall be~~  
30 ~~altered, the corporation shall apply for a revised certificate of~~  
31 ~~authorization, based upon the professional records of the owners, if~~  
32 ~~exclusively engineers or, otherwise, under the qualifications required~~  
33 ~~by subparagraphs (a), (b), (c), and (d) hereof.))~~ (e) Engineers or land  
34 surveyors organized as a professional service corporation under chapter  
35 18.100 RCW are exempt from applying for a certificate of authorization  
36 under this chapter.

37        (f) Any corporation authorized to practice engineering under this  
38 chapter, together with its directors and officers for their own  
39 individual acts, are responsible to the same degree as an individual



1 registered engineer, and must conduct its business without misconduct  
2 or malpractice in the practice of engineering as defined in this  
3 chapter.

4 (g) Any corporation (~~((which has been duly))~~) that is certified under  
5 (~~((the provisions of))~~) this chapter (~~((and has engaged in the practice of~~  
6 ~~engineering shall have its certificate of authorization either~~  
7 ~~suspended or revoked by the board if, after a proper hearing, the board~~  
8 ~~shall find that the corporation has committed misconduct or malpractice~~  
9 ~~as defined in RCW 18.43.105. In such case any individual engineer~~  
10 ~~holding a certificate of registration under this chapter, involved in~~  
11 ~~such malpractice or misconduct, shall have his or her certificate of~~  
12 ~~registration suspended or revoked also))~~ is subject to the authority of  
13 the board as provided in RCW 18.43.035, 18.43.105, 18.43.110, and  
14 18.43.120.

15 (h) All plans, specifications, designs, and reports when issued in  
16 connection with work performed by a corporation under its certificate  
17 of authorization shall be prepared by or under the (~~((responsible~~  
18 ~~charge))~~) direct supervision of and shall be signed by and shall be  
19 stamped with the official seal of a person holding a certificate of  
20 registration under this chapter.

21 (i) For each certificate of authorization issued under (~~((the~~  
22 ~~provisions of))~~) this subsection (8) (~~((of this section))~~) there shall be  
23 paid an initial fee determined by the director as provided in RCW  
24 43.24.086 and an annual renewal fee determined by the director as  
25 provided in RCW 43.24.086.

26 (9) The practice of engineering and/or land surveying in this state  
27 by a partnership(~~(: PROVIDED, That~~

28 (a) ~~A majority of the members of the partnership are engineers or~~  
29 ~~architects or land surveyors duly certificated by the state of~~  
30 ~~Washington or by a state, territory, possession, district, or foreign~~  
31 ~~country meeting the reciprocal provisions of RCW 18.43.100: PROVIDED,~~  
32 ~~That at least one of the members is a professional engineer or land~~  
33 ~~surveyor holding a certificate issued by the director under the~~  
34 ~~provisions of RCW 18.43.070; and~~

35 (b) ~~Except where all members of the partnership are professional~~  
36 ~~engineers or land surveyors or a combination of professional engineers~~  
37 ~~and land surveyors or where all members of the partnership are either~~  
38 ~~professional engineers or land surveyors in combination with an~~  
39 ~~architect or architects all of which are holding certificates of~~

1 ~~qualification therefor issued under the laws of the state of~~  
2 ~~Washington, the partnership shall file with the board an instrument~~  
3 ~~executed by a partner on behalf of the partnership designating the~~  
4 ~~persons responsible for the practice of engineering by the partnership~~  
5 ~~in this state and in all other respects such person so designated and~~  
6 ~~such partnership shall meet the same qualifications and shall be~~  
7 ~~subject to the same requirements and the same penalties as those~~  
8 ~~pertaining to corporations and to the responsible persons designated by~~  
9 ~~corporations as provided in subsection (8) of this section.~~

10 For each certificate of authorization issued under the provisions  
11 of this subsection (9) of this section there shall be paid an initial  
12 fee determined by the director as provided in RCW 43.24.086 and an  
13 annual renewal fee determined by the director as provided in RCW  
14 43.24.086)) if the partnership employs at least one person holding a  
15 valid certificate of registration under this chapter to practice  
16 engineering or land surveying, or both. The board shall not issue  
17 certificates of authorization to partnerships after July 1, 1998.  
18 Partnerships currently registered with the board are not required to  
19 pay an annual renewal fee after July 1, 1998.

20 (10) The practice of engineering or land surveying, or both, in  
21 this state by limited liability companies: Provided, That

22 (a) The limited liability company has filed with the board an  
23 application for certificate of authorization upon a form to be  
24 prescribed by the board and containing information required to enable  
25 the board to determine whether the limited liability company is  
26 qualified under this chapter to practice either or both engineering or  
27 land surveying in this state.

28 (b) The limited liability company has filed with the board a  
29 certified copy of a resolution by the company manager or managers that  
30 shall designate a person holding a certificate of registration under  
31 this chapter as being responsible for the practice of engineering or  
32 land surveying, or both, by the limited liability company in this state  
33 and that the designated person has full authority to make all final  
34 engineering or land surveying decisions on behalf of the limited  
35 liability company with respect to work performed by the limited  
36 liability company in this state. The resolution shall further state  
37 that the limited liability company agreement shall be amended to  
38 include the following provision: "The designated engineer or land  
39 surveyor, respectively, named in the resolution as being in responsible

1 charge, or an engineer or land surveyor under the designated engineer  
2 or land surveyor's direct supervision, shall make all engineering or  
3 land surveying decisions pertaining to engineering or land surveying  
4 activities in the state of Washington." However, the filing of the  
5 resolution shall not relieve the limited liability company of  
6 responsibility or liability imposed upon it by law or by contract.

7 (c) The designated engineer for the limited liability company must  
8 hold a current professional engineer license issued by this state.

9 The designated land surveyor for the limited liability company must  
10 hold a current professional land surveyor license issued by this state.

11 If a person is licensed as both a professional engineer and as a  
12 professional land surveyor in this state, then the limited liability  
13 company may designate the person as being in responsible charge for  
14 both professions.

15 If there is a change in the designated engineer or designated land  
16 surveyor, the limited liability company shall notify the board in  
17 writing within thirty days after the effective date of the change. If  
18 the limited liability company changes its name, the company shall  
19 submit to the board a copy of the certificate of amendment filed with  
20 the secretary of state's office.

21 (d) Upon the filing with the board the application for certificate  
22 of authorization, a certified copy of the resolution, an affidavit from  
23 the designated engineer or the designated land surveyor, or both,  
24 specified in (b) and (c) of this subsection, a copy of the certificate  
25 of formation as filed with the secretary of state, and a copy of the  
26 company's current business license, the board shall issue to the  
27 limited liability company a certificate of authorization to practice  
28 engineering or land surveying, or both, in this state upon  
29 determination by the board that:

30 (i) The designated engineer or designated land surveyor, or both,  
31 hold a certificate of registration in this state under this chapter and  
32 the certificate is in force;

33 (ii) The designated engineer or designated land surveyor, or both,  
34 are not designated in responsible charge for another limited liability  
35 company or a corporation;

36 (iii) The limited liability company is licensed with the secretary  
37 of state and has a current unified business identification number and  
38 that the board determines, based on evaluating the findings and  
39 information under this subsection, that the applicant limited liability

1 company possesses the ability and competence to furnish either or both  
2 engineering or land surveying services in the public interest.

3 The board may exercise its discretion to refuse to issue, or it may  
4 suspend or revoke a certificate of authorization issued to a limited  
5 liability company if the board finds that any of the managers or  
6 members holding a majority interest in the limited liability company  
7 has committed misconduct or malpractice as defined in RCW 18.43.105 or  
8 has been found personally responsible for misconduct or malpractice  
9 under the provisions of (f) and (g) of this subsection.

10 (e) Engineers or land surveyors organized as a professional limited  
11 liability company are exempt from applying for a certificate of  
12 authorization under this chapter.

13 (f) Any limited liability company authorized to practice  
14 engineering or land surveying, or both, under this chapter, together  
15 with its manager or managers and members for their own individual acts,  
16 are responsible to the same degree as an individual registered engineer  
17 or registered land surveyor, and must conduct their business without  
18 misconduct or malpractice in the practice of engineering or land  
19 surveying, or both.

20 (g) A limited liability company that is certified under this  
21 chapter is subject to the authority of the board as provided in RCW  
22 18.43.035, 18.43.105, 18.43.110, and 18.43.120.

23 (h) All plans, specifications, designs, and reports when issued in  
24 connection with work performed by a limited liability company under its  
25 certificate of authorization shall be prepared by or under the direct  
26 supervision of and shall be signed by and shall be stamped with the  
27 official seal of a person holding a certificate of registration under  
28 this chapter.

29 (i) For each certificate of authorization issued under this  
30 subsection (10) there shall be paid an initial fee determined by the  
31 director as provided in RCW 43.24.086 and an annual renewal fee  
32 determined by the director as provided in RCW 43.24.086.

33 NEW SECTION. Sec. 5. Section 4 of this act takes effect July 1,  
34 1998.

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