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**ENGROSSED SECOND SUBSTITUTE SENATE BILL 5188**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Kuderer, Nguyen, Conway, Darneille, Das, Dhingra, Hasegawa, Hunt, Liias, Lovelett, Stanford, Van De Wege, Wellman, and Wilson, C.)

AN ACT Relating to the creation of the Washington state public financial cooperative; amending RCW 39.59.040, 42.56.270, 42.56.400, 43.10.067, and 43.84.080; reenacting and amending RCW 43.56.400; adding a new section to chapter 43.190 RCW; adding a new chapter to Title 43 RCW; creating a new section; providing an effective date; and providing an expiration date.

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

NEW SECTION. **Sec.**  FINDINGS AND INTENT. The legislature finds that there exists in the state of Washington billions of dollars of critical local projects for the planning, acquisition, construction, repair, replacement, rehabilitation, or improvement of streets and roads, bridges, water systems, storm and sanitary sewage systems, solid waste handling, communications systems, housing, and other public infrastructure and economic development projects. But while some local governments successfully borrow for infrastructure and economic development capital projects through private sector lenders and the bond markets, other government entities do not have the same access to capital at attractive rates to be used in building out public infrastructure.

It is the policy of the state of Washington to encourage self-reliance by local and tribal governments in meeting their public works and economic development needs, and to assist in the financing of critical public works and economic development projects by providing effective mechanisms for making and financing loans and providing financing guarantees that do not create state debt. It is also the policy of the state to provide technical assistance to government entities for these projects.

It is further the policy of the state to foster and promote by all reasonable means the provision of adequate capital markets and facilities for borrowing money by local governments in the state to finance infrastructure improvements, and to the greatest extent possible to reduce costs of borrowed money to taxpayers and residents of the state.

The legislature finds that a Washington state public financial cooperative would provide opportunities for local and tribal government entities to competitively finance a broad array of public infrastructure and economic development projects, including housing, at competitive rates with low administrative costs. A state public financial cooperative will complement the existing banking system by filling gaps that the system cannot or will not fill, and it will be uniquely positioned to provide specialized technical assistance to the diverse needs of local and tribal government entities.

It is the purpose of this chapter to establish a Washington state public financial cooperative to act as a financial conduit that, without creating state debt, can receive funds from state, local, and tribal government entities, issue and make loans to those entities, and issue bonds in a manner that does not create state debt, to help facilitate access to needed capital by local and tribal government entities on reasonable terms and rates.

The state public financial cooperative will have full powers to borrow money and to issue its bonds and notes in a manner that does not create state debt in order to make capital funds available for borrowing by local and tribal government entities, and those powers will enable the state public financial cooperative to carry out the declared policies of this act, which are in the public interest of the state and its taxpayers and residents.

NEW SECTION. **Sec.**  DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the operating board of the cooperative established in section 3 of this act.

(2) "Bonds" means any bonds, notes, debentures, interim certificates, conditional sales or lease financing agreements, lines of credit, forward purchase agreements, investment agreements, and other banking or financial arrangements, guaranties, or other obligations issued by or entered into by the cooperative, which does not create state debt. Such bonds may be issued on either a tax-exempt or taxable basis.

(3) "Borrower" means one or more local or tribal governments.

(4) "Cooperative" means the Washington state public financial cooperative established in section 3 of this act, or any board, body, commission, department, or officer succeeding to the principal functions of the cooperative or to whom the powers conferred upon the cooperative are given by law.

(5) "Financial assistance" means the infusion of capital to a borrower for use in the planning, acquisition, construction, repair, replacement, rehabilitation, development, and expansion of infrastructure and economic development projects.

(6) "Financing agreements" means, and includes without limitation, a contractual arrangement with a borrower whereby the cooperative obtains rights from a borrower in exchange for the granting of financial assistance to the borrower.

(7) "Financing document" means an instrument executed by the cooperative and one or more borrowers pertaining to the issuance of or security for bonds, or the application of the proceeds of bonds or other funds of, or payable to, the cooperative. A financing document may include, but need not be limited to, a lease, installment sale agreement, conditional sale agreement, mortgage, loan agreement, trust agreement or indenture, security agreement, letter or line of credit, reimbursement agreement, insurance policy, guaranty agreement, or currency or interest rate swap agreement. A financing document also may be an agreement between the cooperative and an eligible banking organization which has agreed to make a loan to a borrower.

(8) "Infrastructure projects" means undertakings for the planning, acquisition, construction, repair, replacement, rehabilitation, or improvement of streets and roads, bridges, water systems, storm and sanitary sewage systems, solid waste handling, pollution control facilities, schools, communications systems, docks and wharves, mass transportation facilities and equipment, public housing, fire suppressing and emergency services equipment and facilities, energy generating, conservation, or transmission facilities, and other public infrastructure deemed eligible by the board.

(9) "Local government" means any Washington city, town, county, special purpose district, authority, instrumentality, or other local municipal or interlocal entity created pursuant to Washington law.

(10) "Member" means the state government, a local government, or a tribal government that has joined the cooperative consistent with section 4 of this act.

(11) "Project costs" means costs of:

(a) Acquisition, lease, construction, reconstruction, remodeling, refurbishing, rehabilitation, extension, and enlargement of land, rights to land, buildings, structures, docks, wharves, fixtures, machinery, equipment, excavations, paving, landscaping, utilities, approaches, roadways and parking, handling and storage areas, and similar ancillary facilities, and any other real or personal property included in an infrastructure project;

(b) Architectural, engineering, consulting, accounting, and legal costs related directly to the development, financing, acquisition, lease, construction, reconstruction, remodeling, refurbishing, rehabilitation, extension, and enlargement of an infrastructure project, including costs of studies assessing the feasibility of an infrastructure project;

(c) Finance costs, including the costs of credit enhancement and discounts, if any, the costs of issuing revenue bonds, and the costs incurred in carrying out any financing document;

(d) Start-up costs, working capital, capitalized research and development costs, capitalized interest during construction and during the 18 months after estimated completion of construction, and capitalized debt service or repair and replacement or other appropriate reserves;

(e) The refunding of any outstanding obligations incurred for any of the costs outlined in this subsection; and

(f) Other costs incidental to any of the costs listed in this subsection.

(12) "State" means the state of Washington and any department, agency, or instrumentality thereof other than the cooperative.

(13) "Tribal government" means the governing body of a federally recognized Indian tribe.

NEW SECTION. **Sec.**  ESTABLISHMENT. (1) The Washington state public financial cooperative is established as a public body corporate and politic, with perpetual corporate succession, constituting an instrumentality of the state of Washington exercising essential governmental functions. The cooperative is a public body within the meaning of RCW 39.53.010.

(2)(a) The cooperative is activated when:

(i) The state treasurer completes a study that provides recommendations on staffing and operational needs for the cooperative to be administered by the Washington state housing finance commission. The state treasurer shall contract with a consultant with expertise in developing detailed operating plans for financial institutions using an appropriation from the general fund to complete the study. The study must ensure that the administration of the cooperative does not interfere with the core mission of the Washington state housing finance commission;

(ii) An appropriation that is sufficient to capitalize the cooperative so that it can issue debt with a competitive rating is provided; and

(iii) Executed articles of activation in a form approved by the state finance committee are filed with the secretary of state.

(b) The cooperative is deemed to have been formed as of the date of filing articles of activation under (a)(iii) of this subsection. The articles of activation must be approved by the legislative authority of each of the member local or tribal governments that subsequently becomes a member. Each member local or tribal government must provide to the cooperative a contribution of an amount approved by the state finance committee, and the board may subsequently adjust the minimum contribution level for current and new members. Any amendments to the articles of activation must be filed with the secretary of state and will become effective on the date of filing.

(3) A duplicate of the original articles of activation and amended articles of activation must be filed with the department of financial institutions. The filing of amended articles of activation must include the text of each amendment adopted and the date of its adoption. The cooperative must also file the following with the department of financial institutions:

(a) The address of the location of the main office of the cooperative;

(b) The names and places of residence of the persons who are directors under this section;

(c) The name and place of residence of the executive director hired by the board in accordance with this section;

(d) Bylaws and regulations adopted and amended by the board under section 4 of this act; and

(e) Any other information the director of the department of financial institutions deems necessary to perform a review of the funds placed with the cooperative and the accounts and transactions of the cooperative in carrying out the cooperative's duties, as provided in this section.

(4)(a) The operating board of the cooperative consists of nine directors. Terms of directors are four years, with half of the initial directors other than the initial chair serving two-year terms as determined by lot, with those positions being filled for four-year terms thereafter.

(b) Five member-appointed directors must be selected by a majority of the members of the cooperative. Member-appointed directors must be elected local or tribal government officials. Three public directors must be appointed by the governor and confirmed by the senate. The public directors must be residents of the state appointed by the governor on the basis of their interest and expertise in finance, accounting, budgeting, economic development, infrastructure planning, design, construction, or project management. The state treasurer shall serve as an ex officio director.

(c) One of the public members shall be appointed by the governor as chair of the board and shall serve as chair at the pleasure of the governor. The initial chair must serve a full four-year term. The cooperative may select from its membership such other officers of the cooperative as it deems appropriate, including without limitation a secretary and a treasurer.

(d) In the event of a vacancy on the board due to death, resignation, lack of qualification to serve as a director, or otherwise, a successor for the remainder of the unexpired term shall be selected in the same manner as the selection of the director whose position has become vacant. Any independent member of the cooperative may be removed by the governor for misfeasance, malfeasance, or willful neglect of duty after notice and a public hearing, unless such notice and hearing are expressly waived in writing by the affected public member.

(e) The state treasurer may designate an employee to act on his or her behalf in all respects with regard to any matter to come before the cooperative. Such designation must be made in writing in such manner as is specified by the rules of the cooperative.

(f) A majority of the directors constitutes a quorum.

(g) The directors of the cooperative serve without compensation but are entitled to reimbursement, solely from the funds of the cooperative, for expenses incurred in the discharge of their duties under this chapter.

(5) The state finance committee serves as the oversight board of the cooperative. In that capacity, the state finance committee must carry out the responsibilities specified in this chapter. In addition, the state finance committee may at its discretion require independent audits of the accounts and transactions of the cooperative and the methods, procedures, and operation of the cooperative in carrying out its duties.

(6) The cooperative is a state agency subject to audit by the state auditor under chapter 43.09 RCW. In addition, the department of financial institutions may, at the discretion of the director of financial institutions, review the funds placed with the cooperative and the accounts and transactions of the cooperative in carrying out the cooperative's duties. Nothing in this subsection establishes that the cooperative is an institution or entity otherwise subject to the jurisdiction of the department of financial institutions.

(7) The board has the authority to hire and fire an executive director. The executive director shall be funded in the Washington state housing finance commission budget and shall administer and operate the Washington state public financial cooperative.

(8) The cooperative's administration and operation must be performed by employees of the Washington state housing finance commission, subject to the terms of one or more agreements between the cooperative and the commission concerning responsibilities of the commission's staff and compensation of the commission.

(9) The board must approve the budget of the cooperative annually.

(10) The board shall establish an internal audit committee.

(11) The cooperative shall have a goal of providing 35 percent of the amount it lends on an annual basis to support housing in low to moderate-income areas, beginning five years after the cooperative has been activated as provided in this section.

(12) The cooperative must not be or constitute a bank or trust company within the jurisdiction or under the control of the director of financial institutions, the comptroller of the currency of the United States of America, or the United States department of the treasury.

(13) The cooperative must not be or constitute a bank, broker, or dealer in securities within the meaning of, or subject to the provisions of, any securities, securities exchange, or securities dealers' law of the United States of America or this state.

(14) The cooperative is not a public depositary for any purpose under chapter 39.58 RCW.

(15) The cooperative may not issue bonds in a manner that would create state debt.

NEW SECTION. **Sec.**  POWERS. The cooperative is authorized to:

(1) Sue and be sued in its own name, and plead and be impleaded;

(2) Adopt and alter an official seal;

(3) Make and enforce bylaws and regulations for the conduct of its business and for the use of its services and facilities;

(4) Engage such independent consultants, attorneys, and advisers as the cooperative deems necessary, useful, or convenient to accomplish its purposes, and, subject to section 5(6) of this act, contract with federal, state, and local or tribal governmental entities for services;

(5) Make and execute all manner of contracts, agreements, and instruments and financing documents with public and private parties as the cooperative deems necessary, useful, or convenient to accomplish its purposes;

(6) Acquire, hold, use, and dispose of real or personal property, or any interest therein, in the name of the cooperative, and to sell, assign, lease, encumber, mortgage, or otherwise dispose of the same in such manner as the cooperative deems necessary, useful, or convenient to accomplish its purposes;

(7) Acquire, hold, use, and dispose of its income, revenues, funds, and money;

(8) Receive funds from state, local, or tribal governments, invest those moneys in lawful funds, including without limitation investments in loans made by the cooperative to borrowers;

(9) Open and maintain accounts in qualified public depositaries; in the federal reserve bank of San Francisco, in the national cooperative bank, in a federal home loan bank, or in any other federal financing entity, and otherwise provide for the investment of any funds not required for immediate disbursement and provide for the selection of investments. The cooperative may participate in and use the federal reserve banks payments systems and account services;

(10) Appear in its own behalf before boards, commissions, departments, or agencies of federal, state, local, or tribal governments;

(11) Procure such insurance of such types, in such amounts, and from such insurers as the cooperative deems desirable including, but not limited to, insurance against any loss or damage to its property or other assets, public liability insurance for injuries to persons or property, and directors and officers liability insurance;

(12) Accept gifts or grants from the United States, or from any governmental unit or person, firm, or corporation, carry out the terms or provisions or make agreements with respect to the gifts or grants, and do all things necessary, useful, desirable, or convenient in connection with procuring, accepting, or disposing of the gifts or grants;

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

(14) Borrow money and issue its bonds consistent with this chapter and provide for and secure their payment, provide for the rights of bond owners and purchasers, and hold and dispose of any of its bonds;

(15) For the purpose of facilitating the financing of infrastructure and economic development activity in the state of Washington by the state or local or tribal governments, develop and conduct a program or programs to make loans to borrowers for project costs of infrastructure and economic development projects. Those loans may be made from the proceeds of bonds issued by the cooperative, from funds held by the cooperative, and from other assets of the cooperative including contributions. The cooperative may develop and conduct a program that will stimulate and encourage the development of infrastructure and economic development projects by the infusion of financial assistance for state, local, or tribal governments;

(16) Establish guidelines for the engagement by state, local, or tribal governments in programs conducted by the cooperative under this chapter. The cooperative may prescribe the form of application or procedure required of a borrower for a loan, fix the terms and conditions of the loan or purchase, and enter into financing agreements and other financing documents with borrowers with respect to loans and other forms of financial assistance;

(17) Establish, revise, and collect such member contributions and such fees and charges as the cooperative deems necessary, useful, or convenient to accomplish its purposes. Members are authorized to make such contributions, and state, local, and tribal governments are authorized to pay such fees and charges;

(18) Make such expenditures as are appropriate for paying the administrative costs and expenses of the cooperative in carrying out the provisions of this chapter;

(19) Establish such reserves and special funds, including but not limited to debt service and sinking funds, reserve funds, project funds, and such other special funds as the cooperative deems necessary, useful, or convenient, and controls on funds to and from them, as the cooperative deems necessary, useful, or convenient to accomplish its purposes;

(20) Provide financial assistance and other forms of assistance to state, local, or tribal governments by providing information, advice, guidelines, forms, and procedures for implementing their financing programs;

(21) When authorized by not less than two-thirds of the members of the board, make distributions to members of amounts that the board deems surplus to the needs of the cooperative;

(22) Engage outside legal counsel, while receiving counsel on a routine basis from the office of the attorney general;

(23) Adopt rules concerning its exercise of the powers authorized by this chapter; and

(24) Exercise any other power the cooperative deems necessary, useful, or convenient to accomplish its purposes and exercise the powers expressly granted in this chapter.

NEW SECTION. **Sec.**  FINANCING POWERS. (1) Bonds issued under this chapter must be issued in the name of the cooperative. The bonds are not obligations of the state of Washington, may not create state debt, and are obligations only of the cooperative payable from the special fund or funds created by the cooperative for their payment. Such funds are not public moneys or funds of the state of Washington and at all times must be kept segregated and set apart from other funds.

(2) Bonds issued under this chapter must contain a recital on their face to the effect that payment of the principal of, interest on, and prepayment premium, if any, on the bonds, is a valid claim only as against the special fund or funds relating thereto, that neither the faith and credit nor the taxing power of the state or any municipal corporation, subdivision, or agency of the state, other than the cooperative as set forth in this chapter, is pledged to the payment of the principal of, interest on, and prepayment premium, if any, on the bonds. Contracts entered into by the cooperative must be entered into in the name of the cooperative and not in the name of the state of Washington. The obligations of the cooperative under the contracts must be obligations only of the cooperative and are not in any way obligations of the state of Washington.

(3) The cooperative's bonds must bear such date or dates, mature at such time or times, be in such denominations, be in such form, be registered or registrable in such manner, be made transferable, exchangeable, and interchangeable, be payable in such medium of payment, at such place or places, be subject to such terms of redemption, bear such fixed or variable rate or rates of interest, be payable at such time or times, and be sold in such manner and at such price or prices, as the cooperative determines. The bonds shall be executed by the chair, by either its duly elected secretary or its treasurer, and by the trustee or paying agent if the cooperative determines to use a trustee or paying agent for the bonds. Execution of the bonds may be by manual or facsimile signature. The bonds of the cooperative may be negotiable instruments under Title 62A RCW.

(4) The bonds of the cooperative are subject to such terms, conditions, covenants, and protective provisions as are found necessary or desirable by the cooperative including, but not limited to, pledges of the cooperative's assets, setting aside of reserves, limitations on additional forms of indebtedness, and the mortgaging of all or any part of the cooperative's real or personal property, then owned or thereafter acquired, and other provisions the cooperative finds are necessary or desirable for the security of bond owners.

(5) Any bonds issued under this chapter may be secured by a financing document between the cooperative and the purchasers or owners of such bonds or between the cooperative and a corporate trustee appointed by the cooperative, which may be any trust company or bank having the powers of a trust company within or without the state. The financing document may pledge or assign, in whole or in part, the revenues and funds held or to be received by the cooperative, any present or future contract or other rights to receive the same, and the proceeds thereof. The financing document may contain such provisions for protecting and enforcing the rights, security, and remedies of bond owners as may be reasonable and proper including, without limiting the generality of the foregoing, provisions defining defaults and providing for remedies in the event of default which may include the acceleration of maturities, restrictions on the individual rights of action by bond owners, and covenants setting forth duties of and limitations on the cooperative in conduct of its programs and the management of its property. In addition to other security provided in this chapter or otherwise by law, bonds issued by the cooperative may be secured, in whole or in part, by a pledge of the assets of the cooperative, including contributions of the members, or by financial guaranties, insurance or letters of credit issued to the cooperative or a trustee or any other person, by any bank, trust company, insurance or surety company, or other financial institution, within or without the state. The cooperative may pledge or assign, in whole or in part, the revenues and funds held or to be received by the cooperative, any present or future contract or other rights to receive the same, and the proceeds thereof, as security for such guaranties or insurance or for the reimbursement by the cooperative to any issuer of such letter of credit of any payments made under such letter of credit. No individual member is liable to the cooperative, to the cooperative's trustee, or to any other person in amounts exceeding the member's contribution unless authorized by a majority of the members of the cooperative.

(6) The cooperative may enter into financing documents with borrowers regarding bonds issued by the cooperative that may provide for the payment by each borrower of amounts sufficient, together with other revenues available to the cooperative, if any, to:

(a) Pay the borrower's share of the fees established by the cooperative;

(b) Pay the principal of, premium, if any, and interest on outstanding bonds of the cooperative issued in respect of such borrower as the same shall become due and payable; and

(c) Create and maintain reserves required or provided for by the cooperative in connection with the issuance of such bonds. The payments are not subject to supervision or regulation by any department, committee, board, body, bureau, or agency of the state other than the cooperative.

(7) Any security interest created in the unexpended bond proceeds and in the special funds created by the cooperative must be immediately valid and binding against such moneys and any securities in which such moneys may be invested without cooperative or trustee possession thereof, and the security interest is prior to any party having any competing claim in such moneys or securities, without filing or recording pursuant to chapter 62A.9A RCW and regardless of whether the party has notice of the security interest.

(8) When issuing bonds, the cooperative may provide for the future issuance of additional bonds or parity debt on a parity with outstanding bonds, and the terms and conditions of their issuance. The cooperative may refund or advance refund any bond of the cooperative in accordance with chapter 39.53 RCW or issue bonds with a subordinate lien against the fund or funds securing outstanding bonds. Bonds issued for refunding purposes may be combined with bonds issued for the financing or refinancing of new projects. Pending the application of the proceeds of the refunding bonds to the redemption of the bonds to be redeemed, the cooperative may enter into an agreement or agreements with a corporate trustee regarding the interim investment of the proceeds and the application of the proceeds and the earnings on the proceeds to the payment of the principal of and interest on, and the redemption of, the bonds to be redeemed.

(9) All money received by or on behalf of the cooperative with respect to this issuance of its bonds are trust funds to be held and applied solely as provided in this chapter. The cooperative, in lieu of receiving and applying the moneys itself, may enter into a trust agreement or indenture with one or more banks, including the national cooperative bank, or trust companies having the power and bank to conduct trust business in the state to:

(a) Perform all or any part of the obligations of the cooperative with respect to: (i) Bonds issued by it; (ii) the receipt, investment, and application of the proceeds of the bonds and money paid by a participant or available from other sources for the payment of the bonds; (iii) the enforcement of the obligations of a borrower in connection with the financing or refinancing of any project; and (iv) other matters relating to the exercise of the cooperative's powers under this chapter;

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

(c) Act on behalf of the cooperative or the owners of bonds of the cooperative for purposes of assuring or enforcing the payment of the bonds, when due.

(10) The cooperative may purchase its bonds with any of its funds available for the purchase. The cooperative may hold, pledge, cancel, or resell the bonds subject to and in accordance with agreements with bond owners.

(11) The chair of the state finance cooperative or the chair's designee must be notified in advance of the issuance of bonds by the cooperative in order to promote the orderly offering of obligations in the financial markets.

(12) Neither the members of the cooperative, nor its directors or agents, nor employees of the Washington state housing finance commission, nor any person executing the bonds, is personally liable on the bonds or subject to any personal liability or accountability by reason of the issuance of the bonds.

(13) The cooperative may, out of any fund available therefor, purchase its bonds in the open market.

(14) Any owner of bonds of the cooperative issued under this chapter, and the trustee under any trust agreement or indenture, may, either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any of their respective rights, and may become the purchaser at any foreclosure sale if the person is the highest bidder, except to the extent the rights given are restricted by the cooperative in any bond resolution or trust agreement or indenture authorizing the issuance of the bonds.

(15) The cooperative may charge for its costs and services in review or consideration of a proposed loan to a state, local, or tribal government, whether or not the loan is made.

(16) To the extent permitted under its contracts with the owners of bonds of the cooperative, the cooperative may consent to modification of the rate of interest, time and payment of installment of principal or interest, security, or any other term of a bond or note, loan to a state, local, or tribal government, contract, or agreement of any kind to which the cooperative authority is a party.

(17) The bonds of the cooperative are securities in which all public officers and bodies of this state and all counties, cities, municipal corporations, and political subdivisions, all banks, eligible banking organizations, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, insurance companies and associations, and all executors, administrators, guardians, trustees, and other fiduciaries may legally invest any sinking funds, moneys, or other funds belonging to them or within their control.

(18) This section provides a complete, additional, and alternative method for accomplishing the purposes of this chapter and shall be regarded as supplemental and additional to powers conferred by other laws. The issuance of bonds and refunding bonds under this chapter need not comply with the requirements of any other law applicable to the issuance of bonds. Insofar as the provisions of this chapter are inconsistent with the provisions of any general or special law, or parts thereof, the provisions of this chapter are controlling.

NEW SECTION. **Sec.**  A new section is added to chapter 43.190 RCW to read as follows:

Employees of the Washington state housing finance commission shall primarily administer and operate the Washington state public financial cooperative, as provided by section 3(8) of this act. The cooperative may consult with other state agencies at its discretion and without the approval of the Washington state housing finance commission.

**Sec.**  RCW 39.59.040 and 2016 c 152 s 11 are each amended to read as follows:

Any local government in the state of Washington may invest in:

(1) Bonds of the state of Washington and any local government in the state of Washington;

(2) General obligation bonds of a state and general obligation bonds of a local government of a state, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognized rating agency;

(3) Subject to compliance with RCW 39.56.030, registered warrants of a local government in the same county as the government making the investment;

(4) Certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States; or United States dollar denominated bonds, notes, or other obligations that are issued or guaranteed by supranational institutions, provided that, at the time of investment, the institution has the United States government as its largest shareholder;

(5) Federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system;

(6) Bankers' acceptances purchased on the secondary market;

(7) Commercial paper purchased in the secondary market, provided that any local government of the state of Washington that invests in such commercial paper must adhere to the investment policies and procedures adopted by the state investment board; ((~~and~~))

(8) Corporate notes purchased on the secondary market, provided that any local government of the state of Washington that invests in such notes must adhere to the investment policies and procedures adopted by the state investment board; and

(9) A cooperative as defined in section 2 of this act and bonds issued by such cooperative.

**Sec.**  RCW 42.56.270 and 2020 c 238 s 11 are each amended to read as follows:

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

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

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750; (b) highway construction or improvement as required by RCW 47.28.070; or (c) alternative public works contracting procedures as required by RCW 39.10.200 through 39.10.905;

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

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.325, 43.163, 43.160, 43.330, 43.--- (the new chapter created in section 15 of this act), and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

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

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

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

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

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

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

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

(c) Valuable formulae or financial or proprietary commercial information records received during a consultative visit or while providing consultative services to a licensed marijuana business in accordance with RCW 69.50.561;

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

(12)(a) When supplied to and in the records of the department of commerce:

(i) Financial and proprietary information collected from any person and provided to the department of commerce pursuant to RCW 43.330.050(8); and

(ii) Financial or proprietary information collected from any person and provided to the department of commerce or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of commerce based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

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

(d) If there is no written contact for a period of sixty days to the department of commerce from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter ((~~70.95N~~)) 70A.500 RCW to implement chapter ((~~70.95N~~)) 70A.500 RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under RCW 43.330.502, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

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

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

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

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

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

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

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

(21) Market share data submitted by a manufacturer under RCW ((~~70.95N.190~~)) 70A.500.190(4);

(22) Financial information supplied to the department of financial institutions, when filed by or on behalf of an issuer of securities for the purpose of obtaining the exemption from state securities registration for small securities offerings provided under RCW 21.20.880 or when filed by or on behalf of an investor for the purpose of purchasing such securities;

(23) Unaggregated or individual notices of a transfer of crude oil that is financial, proprietary, or commercial information, submitted to the department of ecology pursuant to RCW 90.56.565(1)(a), and that is in the possession of the department of ecology or any entity with which the department of ecology has shared the notice pursuant to RCW 90.56.565;

(24) Financial institution and retirement account information, and building security plan information, supplied to the liquor and cannabis board pursuant to RCW 69.50.325, 69.50.331, 69.50.342, and 69.50.345, when filed by or on behalf of a licensee or prospective licensee for the purpose of obtaining, maintaining, or renewing a license to produce, process, transport, or sell marijuana as allowed under chapter 69.50 RCW;

(25) Marijuana transport information, vehicle and driver identification data, and account numbers or unique access identifiers issued to private entities for traceability system access, submitted by an individual or business to the liquor and cannabis board under the requirements of RCW 69.50.325, 69.50.331, 69.50.342, and 69.50.345 for the purpose of marijuana product traceability. Disclosure to local, state, and federal officials is not considered public disclosure for purposes of this section;

(26) Financial and commercial information submitted to or obtained by the retirement board of any city that is responsible for the management of an employees' retirement system pursuant to the authority of chapter 35.39 RCW, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the retirement fund or to result in private loss to the providers of this information except that (a) the names and commitment amounts of the private funds in which retirement funds are invested and (b) the aggregate quarterly performance results for a retirement fund's portfolio of investments in such funds are subject to disclosure;

(27) Proprietary financial, commercial, operations, and technical and research information and data submitted to or obtained by the liquor and cannabis board in applications for marijuana research licenses under RCW 69.50.372, or in reports submitted by marijuana research licensees in accordance with rules adopted by the liquor and cannabis board under RCW 69.50.372;

(28) Trade secrets, technology, proprietary information, and financial considerations contained in any agreements or contracts, entered into by a licensed marijuana business under RCW 69.50.395, which may be submitted to or obtained by the state liquor and cannabis board;

(29) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the Andy Hill cancer research endowment program in applications for, or delivery of, grants under chapter 43.348 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information;

(30) Proprietary information filed with the department of health under chapter 69.48 RCW;

(31) Records filed with the department of ecology under chapter ((~~70.375~~)) 70A.515 RCW that a court has determined are confidential valuable commercial information under RCW ((~~70.375.130~~)) 70A.515.130; and

(32) Unaggregated financial, proprietary, or commercial information submitted to or obtained by the liquor and cannabis board in applications for licenses under RCW 66.24.140 or 66.24.145, or in any reports or remittances submitted by a person licensed under RCW 66.24.140 or 66.24.145 under rules adopted by the liquor and cannabis board under chapter 66.08 RCW.

**Sec.**  RCW 42.56.400 and 2020 c 243 s 4 are each amended to read as follows:

The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

(1) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110;

(2) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW;

(3) The names and individual identification data of either all owners or all insureds, or both, received by the insurance commissioner under chapter 48.102 RCW;

(4) Information provided under RCW 48.30A.045 through 48.30A.060;

(5) Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625;

(6) Examination reports and information obtained by the department of financial institutions from banks under RCW 30A.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from chapter 43.--- RCW (the new chapter created in section 15 of this act), from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, all of which is confidential and privileged information;

(7) Information provided to the insurance commissioner under RCW 48.110.040(3);

(8) Documents, materials, or information obtained by the insurance commissioner under RCW 48.02.065, all of which are confidential and privileged;

(9) Documents, materials, or information obtained or provided by the insurance commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025, 48.31B.030, 48.31B.035, and 48.31B.036, all of which are confidential and privileged;

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

(17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;

(18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151;

(19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010;

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

(21) Data, information, and documents that are submitted to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275;

(22) Data, information, and documents obtained by the insurance commissioner under RCW 48.29.017;

(23) Information not subject to public inspection or public disclosure under RCW 48.43.730(5);

(24) Documents, materials, or information obtained by the insurance commissioner under chapter 48.05A RCW;

(25) Documents, materials, or information obtained by the insurance commissioner under RCW 48.74.025, 48.74.028, 48.74.100(6), 48.74.110(2) (b) and (c), and 48.74.120 to the extent such documents, materials, or information independently qualify for exemption from disclosure as documents, materials, or information in possession of the commissioner pursuant to a financial conduct examination and exempt from disclosure under RCW 48.02.065;

(26) Nonpublic personal health information obtained by, disclosed to, or in the custody of the insurance commissioner, as provided in RCW 48.02.068;

(27) Data, information, and documents obtained by the insurance commissioner under RCW 48.02.230;

(28) Documents, materials, or other information, including the corporate annual disclosure obtained by the insurance commissioner under RCW 48.195.020;

(29) Findings and orders disapproving acquisition of a trust institution under RCW 30B.53.100(3); and

(30) All claims data, including health care and financial related data received under RCW 41.05.890, received and held by the health care authority.

**Sec.**  RCW 42.56.400 and 2020 c 243 s 4 and 2020 c 240 s 9 are each reenacted and amended to read as follows:

The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

(1) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110;

(2) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW;

(3) The names and individual identification data of either all owners or all insureds, or both, received by the insurance commissioner under chapter 48.102 RCW;

(4) Information provided under RCW 48.30A.045 through 48.30A.060;

(5) Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625;

(6) Examination reports and information obtained by the department of financial institutions from banks under RCW 30A.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from chapter 43.--- RCW (the new chapter created in section 15 of this act), from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, all of which is confidential and privileged information;

(7) Information provided to the insurance commissioner under RCW 48.110.040(3);

(8) Documents, materials, or information obtained by the insurance commissioner under RCW 48.02.065, all of which are confidential and privileged;

(9) Documents, materials, or information obtained or provided by the insurance commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025, 48.31B.030, 48.31B.035, and 48.31B.036, all of which are confidential and privileged;

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

(17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;

(18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151;

(19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010;

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

(21) Data, information, and documents that are submitted to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275;

(22) Data, information, and documents obtained by the insurance commissioner under RCW 48.29.017;

(23) Information not subject to public inspection or public disclosure under RCW 48.43.730(5);

(24) Documents, materials, or information obtained by the insurance commissioner under chapter 48.05A RCW;

(25) Documents, materials, or information obtained by the insurance commissioner under RCW 48.74.025, 48.74.028, 48.74.100(6), 48.74.110(2) (b) and (c), and 48.74.120 to the extent such documents, materials, or information independently qualify for exemption from disclosure as documents, materials, or information in possession of the commissioner pursuant to a financial conduct examination and exempt from disclosure under RCW 48.02.065;

(26) Nonpublic personal health information obtained by, disclosed to, or in the custody of the insurance commissioner, as provided in RCW 48.02.068;

(27) Data, information, and documents obtained by the insurance commissioner under RCW 48.02.230;

(28) Documents, materials, or other information, including the corporate annual disclosure obtained by the insurance commissioner under RCW 48.195.020;

(29) Findings and orders disapproving acquisition of a trust institution under RCW 30B.53.100(3);

(30) All claims data, including health care and financial related data received under RCW 41.05.890, received and held by the health care authority; and

(31) Contracts not subject to public disclosure under RCW 48.200.040 and 48.43.731.

**Sec.**  RCW 43.10.067 and 1997 c 41 s 9 are each amended to read as follows:

No officer, director, administrative agency, board, or commission of the state, other than the attorney general, shall employ, appoint or retain in employment any attorney for any administrative body, department, commission, agency, or tribunal or any other person to act as attorney in any legal or quasi legal capacity in the exercise of any of the powers or performance of any of the duties specified by law to be performed by the attorney general, except where it is provided by law to be the duty of the judge of any court or the prosecuting attorney of any county to employ or appoint such persons: PROVIDED, That RCW 43.10.040, and 43.10.065 through 43.10.080 shall not apply to the administration of the commission on judicial conduct, the state law library, the law school of the state university, the administration of the state bar act by the Washington State Bar Association, ((~~or~~)) the representation of an estate administered by the director of the department of revenue or the director's designee pursuant to chapter 11.28 RCW, or the state public financial cooperative to the extent provided in section 4(22) of this act.

The authority granted by chapter 1.08 RCW, RCW 44.28.065, and 47.01.061 shall not be affected hereby.

**Sec.**  RCW 43.84.080 and 2016 c 152 s 18 are each amended to read as follows:

Wherever there is in any fund or in cash balances in the state treasury more than sufficient to meet the current expenditures properly payable therefrom, the state treasurer may invest or reinvest such portion of such funds or balances as the state treasurer deems expedient in the following:

(1) Certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States or United States dollar denominated bonds, notes, or other obligations that are issued or guaranteed by supranational institutions, provided that, at the time of investment, the institution has the United States government as its largest shareholder;

(2) In state, county, municipal, or school district bonds, notes, or in warrants of taxing districts of the state. Such bonds and warrants shall be only those found to be within the limit of indebtedness prescribed by law for the taxing district issuing them and to be general obligations. The state treasurer may purchase such bonds or warrants directly from the taxing district or in the open market at such prices and upon such terms as it may determine, and may sell them at such times as it deems advisable;

(3) In federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system;

(4) Bankers' acceptances purchased on the secondary market;

(5) Commercial paper purchased on the secondary market, provided that the state treasurer adheres to the investment policies and procedures adopted by the state investment board;

(6) General obligation bonds of any state and general obligation bonds of local governments of other states, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognized rating agency; ((~~and~~))

(7) Corporate notes purchased on the secondary market, provided that the state treasurer adheres to the investment policies and procedures adopted by the state investment board; and

(8) Contributions to a cooperative as defined in section 2 of this act.

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

NEW SECTION. **Sec.**  This act, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof.

NEW SECTION. **Sec.**  Sections 1 through 5 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. **Sec.**  Section 9 of this act expires January 1, 2022.

NEW SECTION. **Sec.**  Section 10 of this act takes effect January 1, 2022.

**--- END ---**