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SECOND ENGROSSED SUBSTITUTE SENATE BILL 5546

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State of Washington

68th Legislature

2023 Regular Session

By Senate Labor & Commerce (originally sponsored by Senators Shewmake, Lovick, Keiser, King, Stanford, Conway, and C. Wilson)

READ FIRST TIME 02/15/23.

1 AN ACT Relating to establishing a Washington state cannabis  
2 commission; amending RCW 41.06.070; adding a new section to chapter  
3 69.50 RCW; and adding a new chapter to Title 15 RCW.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that the  
6 Washington state liquor and cannabis board exists to promote safe  
7 communities and public safety, and that there is no state entity to  
8 oversee research and education of the state's cannabis industry.

9 (2) The legislature therefore declares:

10 (a) The Washington state cannabis commission is established to  
11 benefit the people of the state of Washington and its economy;

12 (b) The general welfare of the people of the state will be served  
13 by the research and development of best practices surrounding safe  
14 cultivation and processing activities of cannabis so the industry is  
15 therefore affected with the public interest; and

16 (c) Creating a Washington state cannabis commission for the  
17 public purpose of administering the revenue of the commission serves  
18 the public interest by materially advancing the producing and  
19 processing of cannabis and improving environmental sustainability in  
20 the cannabis producing and processing sectors.

1 (3) To complement the development of a comprehensive regulatory  
2 scheme for the production and processing of cannabis and cannabis  
3 products, the legislature further declares that:

4 (a) It is in the overriding public interest that the state  
5 support responsible agricultural production of cannabis in order to:

6 (i) Protect the public by providing research and education in  
7 reference to the quality, care, and methods used in the production of  
8 cannabis and cannabis products; and

9 (ii) Support and engage in programs or activities that benefit  
10 the safe production, handling, processing, and uses of cannabis and  
11 cannabis products; and

12 (b) Cannabis production and processing is a highly regulated  
13 industry and that this chapter and the rules adopted under it are  
14 only one aspect of the regulated industry. Other applicable laws  
15 include:

16 (i) Chapter 15.130 RCW, the food safety and security act;

17 (ii) Chapter 15.125 RCW, cannabis and cannabis products;

18 (iii) Title 69 RCW, food, drugs, cosmetics, and poisons; and

19 (iv) Chapter 82.08 RCW, retail sales tax.

20 (4) This chapter and any rules adopted under this chapter are for  
21 the purpose of fostering responsible and orderly agricultural  
22 production of cannabis. Nothing in this chapter should be interpreted  
23 to conflict with or supersede the overriding regulatory authority the  
24 legislature has already granted to other state agencies.

25 NEW SECTION. **Sec. 2.** The definitions in this section apply  
26 throughout this chapter unless the context clearly requires  
27 otherwise.

28 (1) "Active cannabis producer" means a cannabis producer who  
29 reported gross income that is subject to tax under chapter 82.04 RCW  
30 in the calendar year before the date of a referendum under section 3  
31 of this act.

32 (2) "Active cannabis producer/processor" means a cannabis  
33 producer/processor who reported gross income that is subject to tax  
34 under chapter 82.04 RCW in the calendar year before the date of a  
35 referendum under section 3 of this act.

36 (3) "Board" means the Washington state liquor and cannabis board.

37 (4) "Cannabis" has the meaning provided in RCW 69.50.101.

38 (5) "Cannabis producer" has the meaning provided in RCW  
39 69.50.101.

- 1 (6) "Cannabis products" has the meaning provided in RCW  
2 69.50.101.
- 3 (7) "Cannabis processor" has the meaning provided in RCW  
4 69.50.101.
- 5 (8) "Cannabis producer/processor" means any person or legal  
6 entity holding both a cannabis producer license and a cannabis  
7 processor license as defined in RCW 69.50.101.
- 8 (9) "Cannabis researcher" has the same meaning provided in RCW  
9 69.50.101.
- 10 (10) "Cannabis retailer" has the same meaning provided in RCW  
11 69.50.101.
- 12 (11) "Commission" means the Washington state cannabis commission  
13 established in this chapter.
- 14 (12) "Cooperative" means a cannabis cooperative formed by  
15 qualifying patients, designated providers, or both, which meets the  
16 requirements of RCW 69.51A.250 and rules adopted under that section.
- 17 (13) "District" means each of the geographical areas of the state  
18 of Washington defined in subsections (14) through (17) of this  
19 section.
- 20 (14) "District 1" means the geographical area including the  
21 counties of Clallum, Island, Jefferson, King, San Juan, Skagit,  
22 Snohomish, and Whatcom.
- 23 (15) "District 2" means the geographical area including the  
24 counties of Chelan, Douglas, Ferry, Grant, Kittitas, Okanogan, Pend  
25 Oreille, and Stevens.
- 26 (16) "District 3" means the geographical area including the  
27 counties of Adams, Asotin, Benton, Columbia, Franklin, Garfield,  
28 Lincoln, Spokane, Walla Walla, Whitman, and Yakima.
- 29 (17) "District 4" means the geographical area including the  
30 counties of Clark, Cowlitz, Grays Harbor, Kitsap, Klickitat, Lewis,  
31 Mason, Pacific, Pierce, Skamania, Thurston, and Wahkiakum.
- 32 (18) "Fiscal year" means the 12-month period beginning July 1st  
33 of any year and ending June 30th.
- 34 (19) "Interested parties" means governmental departments,  
35 agencies, and bodies at the federal, state, or local levels.  
36 "Interested parties" includes tribal governments, universities,  
37 national and international associations, and other public or private  
38 sector organizations with an interest in cannabis-related matters.
- 39 (20) "Tier" means any of the production licensing categories  
40 established by rule of the board.

1        NEW SECTION.    **Sec. 3.**    (1) Upon receipt of a petition containing  
2 the signatures of five active cannabis producers or active cannabis  
3 producer/processors, to implement this chapter and to determine  
4 participation in the commission and assessment under this chapter,  
5 the director must conduct a referendum of active cannabis producers  
6 and active cannabis producer/processors.

7        (a) The referendum must be conducted within 60 days of receipt of  
8 the petition.

9        (b) The department must establish a list of active cannabis  
10 producers and active cannabis producer/processors eligible to vote in  
11 the referendum in collaboration with the board and the department of  
12 revenue. Inadvertent failure to notify an active cannabis producer or  
13 active cannabis producer/processor does not invalidate a proceeding  
14 conducted under this chapter.

15        (2) The requirements of assent or approval of a referendum under  
16 subsection (1) of this section are met if:

17        (a) At least 51 percent by numbers of the participants in the  
18 referendum vote affirmatively; and

19        (b) At least 40 percent of the active cannabis producers and 40  
20 percent of the active cannabis producer/processors have been  
21 represented in the referendum to determine assent or approval of  
22 participation and assessment.

23        (3) If the director determines that the requisite assent has not  
24 been given in the referendum conducted under subsection (1) of this  
25 section, the director must take no further action to implement or  
26 enforce this chapter.

27        (4) Upon completion of the referendum conducted under subsection  
28 (1) of this section, the department must tally the results of the  
29 vote and provide the results to participants. If an active cannabis  
30 producer or an active cannabis producer/processor disputes the  
31 results of a vote within 60 days from the announced results, that  
32 cannabis producer or cannabis producer/processor must provide in  
33 writing a statement of why the vote is disputed and request a  
34 recount.

35        (5) The director is not required to hold a referendum under  
36 subsection (1) of this section more than once in any 12-month period.

37        (6) The director may conduct voting on a referendum under this  
38 chapter by electronic means, paper ballots, or both.

39        (7) Before conducting the referendum provided for in this  
40 section, the director may require the petitioners to deposit an

1 amount of money as the director deems necessary to defray the  
2 expenses of conducting the referendum. The director shall provide the  
3 petitioners an estimate of expenses that may be incurred to conduct a  
4 referendum before any service takes place. Petitioners shall deposit  
5 funds with the director to pay for expenses incurred by the  
6 department. The commission shall reimburse petitioners the amount  
7 paid to the department when funds become available. However, if for  
8 any reason the referendum process is discontinued, the petitioners  
9 shall reimburse the department for expenses incurred by the  
10 department up until the time the process is discontinued.

11 NEW SECTION. **Sec. 4.** Within 60 days of the director determining  
12 that requisite assent has been given in a referendum conducted under  
13 section 3 of this act, the director must establish the Washington  
14 state cannabis commission to:

15 (1) Plan and conduct programs for cannabis-related matters;

16 (2) Provide funding for conducting research in accordance with  
17 commission rules;

18 (3) Coordinate with and advise interested parties regarding  
19 cannabis-related matters within the scope of the powers and purposes  
20 of the commission in accordance with commission rules;

21 (4) Coordinate with interested parties to standardize methods by  
22 which to identify and determine the genetics, strains, cultivars,  
23 phenotypes, standards, and grades of cannabis, and advise on cannabis  
24 packaging and labeling requirements;

25 (5) Conduct reviews, surveys, and inquiries regarding market  
26 metrics and analytics, including trends, revenues, profitability,  
27 projections, production, business practices, and other economic  
28 drivers of the cannabis industry;

29 (6) Inform and advise cannabis producers and cannabis producer/  
30 processors on cannabis-related matters, including, without  
31 limitation, educational information on cannabis cultivation, usage,  
32 risks, and related technical and scientific developments;

33 (7) Provide cannabis-related education and training to cannabis  
34 producers, cannabis producer/processors, cannabis researchers, and  
35 their employees, which may include education and training on cannabis  
36 health and safety information;

37 (8) Provide information and services for meeting resource  
38 conservation objectives of cannabis producers and cannabis producer/  
39 processors;

1 (9) Assist and cooperate with federal, state, and local  
2 government agencies in the investigation and control of pests,  
3 diseases, and other factors that could adversely affect the  
4 cultivation, quality, and safety of cannabis produced in this state;

5 (10) Advance the knowledge and practices of cannabis production  
6 in this state through research and testing methods to improve pest  
7 management, worker protection, safety training, energy efficiency,  
8 and environmental protection;

9 (11) Foster conditions favorable to investment in cannabis  
10 produced in this state in accordance with state and federal laws;

11 (12) Limit youth access and youth exposure to cannabis;

12 (13) Enable cannabis producers and cannabis producer/processors,  
13 in cooperation with the commission, to:

14 (a) Develop and engage in research, including, without  
15 limitation, discovering better and more efficient production,  
16 irrigation, odor mitigation, processing, transportation, handling,  
17 packaging, and use of cannabis and cannabis products; and

18 (b) Discover and develop new and improved cultivars to ensure  
19 reliable and economical cannabis production in this state;

20 (14) Establish uniform grading and proper preparation of cannabis  
21 products for market;

22 (15) Protect the interest of consumers and the state by advising  
23 on the overall production of cannabis to ensure a balanced and  
24 sufficient supply of cannabis and cannabis products of good quality  
25 during all seasons and at all times; and

26 (16) Advance the knowledge and practices of processing cannabis  
27 in this state.

28 NEW SECTION. **Sec. 5.** (1) The commission must:

29 (a) Elect a chair and other officers by a majority vote of the  
30 commission or in accordance with bylaws adopted by the commission;

31 (b) Adopt, rescind, and amend bylaws and other internal rules  
32 necessary for the administration and operation of the commission and  
33 for carrying out its duties in this chapter;

34 (c) Administer and enforce the provisions of this chapter;

35 (d) Designate a public records officer, rules coordinator, and  
36 other representatives required under laws governing state agencies  
37 and commissions;

38 (e) Comply with all other laws applicable to state agencies and  
39 commissions;

1 (f) Institute and maintain in its own name any legal actions,  
2 including actions by injunction, mandatory injunction, civil  
3 recovery, or proceedings before administrative tribunals or other  
4 governmental authorities necessary to carry out this chapter, and to  
5 sue and be sued as a commission, without individual liability for  
6 acts of the commission within the scope of the powers conferred by  
7 this chapter; and

8 (g) Keep accurate records of all receipts and disbursements,  
9 which must be open to inspection and audit by the state auditor or  
10 its designee at least every five years and at any time by a duly  
11 appointed internal auditor by majority vote of the commission.

12 (2) The commission may:

13 (a) Employ and discharge, in its discretion, managers,  
14 secretaries, agents, attorneys, and employees, and engage the  
15 services of independent contractors as the commission deems necessary  
16 to fulfill duties, and to fix compensation. However, until assessment  
17 collections in section 15 of this act equal at least \$1,000,000, the  
18 commission must contract for staff support;

19 (b) Acquire and transfer personal and real property, establish  
20 offices, incur expenses, enter into contracts and cooperative  
21 agreements, and create such debt and other liabilities as may be  
22 reasonable to fulfill its duties under this chapter;

23 (c) Make necessary disbursements for routine operating expenses;

24 (d) Expend funds for all activities permitted under this chapter;

25 (e) Cooperate with interested parties to fulfill its duties under  
26 this chapter;

27 (f) Serve as a liaison on behalf of the general cannabis  
28 producing and processing industries to the board and other interested  
29 parties, and not on behalf of any individual cannabis producer or  
30 cannabis producer/processor;

31 (g) Solicit, accept, retain, and expend any gifts, bequests,  
32 contributions, or grants from private persons or public agencies to  
33 carry out this chapter;

34 (h) Retain the services of private legal counsel, which is  
35 subject to the appointment and approval by the office of the state  
36 attorney general;

37 (i) Engage in appropriate activities and events to support  
38 commission activities authorized by this chapter;

39 (j) Participate in meetings, hearings, and other proceedings  
40 regarding cannabis, including, without limitation, the production,

1 irrigation, manufacture, regulation, transportation, distribution,  
2 sale, or use of cannabis, including activities authorized under RCW  
3 42.17A.635 and the reporting of such activities to the public  
4 disclosure commission;

5 (k) Obtain from the board, a list of the names and addresses of  
6 cannabis producers, cannabis processors, cannabis producer/  
7 processors, and cannabis retailers, and other available data from the  
8 state as requested by the commission relative to its duties under  
9 this chapter;

10 (l) Acquire, create, develop, and own intellectual property  
11 rights, licenses, and patents, and to collect royalties resulting  
12 from the sale or licensing of commission-funded research. However,  
13 results and recommendations from research conducted or funded by the  
14 commission must be available to all cannabis producers and cannabis  
15 producer/processors without charge, except for reasonable costs as  
16 the commission may determine;

17 (m) Speak on behalf of the Washington state government regarding  
18 agricultural production of cannabis in this state, subject to  
19 oversight of both the director and the director of the board;

20 (n) Possess cannabis products for the limited purposes of this  
21 chapter;

22 (o) Adopt rules to implement this chapter; and

23 (p) Exercise other powers and duties reasonably necessary to  
24 carry out this chapter.

25 NEW SECTION. **Sec. 6.** The department must serve as the  
26 commission's rules coordinator. Rules adopted by the commission must  
27 be approved by the director.

28 NEW SECTION. **Sec. 7.** (1) The commission is composed of the  
29 following 13 voting members:

30 (a) Eight cannabis producer or cannabis producer/processor  
31 members, two each from district 1, district 2, district 3, and  
32 district 4;

33 (b) One statewide at-large cannabis producer or cannabis  
34 producer/processor member from any district;

35 (c) One statewide tier one cannabis producer or cannabis  
36 producer/processor member from any district;

37 (d) One statewide tier two cannabis producer or cannabis  
38 producer/processor member from any district;

1 (e) One statewide tier three cannabis producer or cannabis  
2 producer/processor member from any district; and

3 (f) The director.

4 (2) Each member of the commission other than the director must:

5 (a) Be 21 years of age or older;

6 (b) Be a citizen and resident of this state;

7 (c) Directly hold or be named an owner in whole or majority part  
8 of an entity holding the relevant business license issued by the  
9 board. This license must not be suspended at the time of nomination,  
10 election, or appointment and must not be suspended at any time during  
11 the member's term;

12 (d) Be an officer or employee of a corporation, firm,  
13 partnership, association, or cooperative engaged in the active  
14 production of cannabis within this state for a period of three years  
15 and have, during that period, derived a substantial portion of his or  
16 her income from cannabis production; and

17 (e) Continue to meet all membership qualifications throughout the  
18 member's term.

19 (3) Seven voting members constitute a quorum of the commission.

20 (4) Commission members must be reimbursed for expenses incurred  
21 in the performance of their duties under this chapter in accordance  
22 with RCW 43.03.050 and 43.03.060.

23 NEW SECTION. **Sec. 8.** (1) The director must select initial  
24 members to appoint to the commission from a pool of self-nominated  
25 cannabis producers or cannabis producer/processors from district 1,  
26 district 2, district 3, and district 4.

27 (2) The director has discretion in determining which members are  
28 appointed to the term limits in (a) through (c) of this subsection  
29 but, within 90 days after the effective date of this section, must  
30 appoint the initial commission members in accordance with the  
31 following:

32 (a) Four members must be appointed for a one-year term;

33 (b) Four members must be appointed for a two-year term; and

34 (c) Four members must be appointed for a three-year term.

35 (3) The commission must establish by rule the process by which  
36 commission members are elected and any vacancy appointments are made.

37 (4) When making initial and replacement appointments, the  
38 director must give priority to persons representing the diverse

1 communities of the state to maintain a balanced representation of  
2 members where practicable.

3 NEW SECTION. **Sec. 9.** (1) On a fiscal year basis and before each  
4 fiscal year beginning, the commission must develop and submit, to the  
5 director, each of the following:

6 (a) A budget; and

7 (b) Any plans concerning, without limitation:

8 (i) The establishment, issuance, effectuation, or administration  
9 of commission governance issues; and

10 (ii) The initiation or establishment of any rule making.

11 (2) The director must timely review and approve or deny each  
12 submission in this section.

13 (3) The director must review the commission's education program  
14 to ensure its consistency with applicable state and federal laws.

15 NEW SECTION. **Sec. 10.** The commission must deposit moneys  
16 collected under this chapter and section 15 of this act in a separate  
17 account in the name of the commission in any bank that is a state  
18 depository. All expenditures and disbursements made from this account  
19 under this chapter may be made without the necessity of a specific  
20 legislative appropriation. None of the provisions of RCW 43.01.050  
21 and 69.50.540 apply to this account or to the moneys received,  
22 collected, or expended under this chapter.

23 NEW SECTION. **Sec. 11.** The assessment imposed under section 15  
24 of this act constitutes a personal debt of every person charged or  
25 who otherwise owes the assessment, and the assessment is due and  
26 payable to the commission.

27 NEW SECTION. **Sec. 12.** (1) Financial and commercial information  
28 and records submitted to the board or the commission to administer  
29 this chapter may be shared between the board and the commission. The  
30 information or records may also be used, if required, in any action  
31 or administrative hearing relative to this chapter.

32 (2) This section does not prohibit:

33 (a) The issuance of general statements based upon the reports of  
34 a cannabis producer or cannabis producer/processor under this chapter  
35 if the statements do not identify a specific licensee; or

1 (b) The publication by the director or the commission of the name  
2 of a cannabis producer or cannabis producer/processor violating this  
3 chapter and a statement of the violation.

4 NEW SECTION. **Sec. 13.** Obligations incurred by the commission  
5 and any other liabilities or claims against the commission must be  
6 enforced only against the assets of the commission and, except to the  
7 extent of such assets, no liability for the debts or actions of the  
8 commission exists against either the state of Washington or any  
9 subdivision or instrumentality thereof or against any member,  
10 employee, or agent of the commission or the state of Washington in  
11 his or her individual capacity. Except as otherwise provided in this  
12 chapter, neither the commission members, nor its employees, may be  
13 held individually responsible for errors in judgment, mistakes, or  
14 other acts, either of commission or omission, as principal, agent,  
15 person, or employee, except for their own individual acts of  
16 dishonesty or crime. No person or employee may be held individually  
17 responsible for any act or omission of any other commission members.  
18 The liability of the commission members shall be several and not  
19 joint, and no member is liable for the default of any other member.  
20 This provision confirms that commission members have been and  
21 continue to be, state officers or volunteers for purposes of RCW  
22 4.92.075 and are entitled to the defenses, indemnifications,  
23 limitations of liability, and other protections and benefits of  
24 chapter 4.92 RCW.

25 NEW SECTION. **Sec. 14.** All costs incurred by the board and the  
26 department, including staff support and the adoption of rules or  
27 other actions necessary to carry out this chapter must be reimbursed  
28 by the commission. Costs incurred under this section must include  
29 initial estimates of work and line-item accounting of the costs  
30 incurred.

31 NEW SECTION. **Sec. 15.** A new section is added to chapter 69.50  
32 RCW to read as follows:

33 (1) Pursuant to referendum under section 3 of this act, to  
34 provide for permanent funding of the Washington state cannabis  
35 commission, the commission must impose and collect an assessment from  
36 all active cannabis producers and cannabis producer/processors.

1 (2) The initial rate of assessment is 0.29 percent of all sales  
2 revenue conducted by a cannabis producer or cannabis producer/  
3 processor.

4 (3) The commission must adopt rules prescribing the time, place,  
5 and method for payment and collection of this assessment.

6 (4) After the initial assessment is approved, the commission may  
7 modify the assessment if submitted for approval by referendum. The  
8 requirements of assent or approval of a referendum under this  
9 subsection are met if:

10 (a) At least 60 percent by numbers of the participants in the  
11 referendum vote affirmatively to approve the modification; and

12 (b) At least 40 percent of the active cannabis producers and 40  
13 percent of the active cannabis producer/processors have been  
14 represented in the referendum to determine assent or approval of the  
15 modification.

16 (5) Assessments collected under this section must be disbursed at  
17 least quarterly to the Washington state cannabis commission  
18 established in section 4 of this act for use in carrying out the  
19 purposes of chapter 15.--- RCW (the new chapter created in section 17  
20 of this act).

21 (6) Until October 31, 2029, the assessments in this section do  
22 not apply to a cannabis producer or cannabis producer/processor  
23 licensed under the social equity program in this chapter.

24 **Sec. 16.** RCW 41.06.070 and 2023 c 148 s 3 are each amended to  
25 read as follows:

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

27 (a) The members of the legislature or to any employee of, or  
28 position in, the legislative branch of the state government including  
29 members, officers, and employees of the legislative council, joint  
30 legislative audit and review committee, statute law committee, and  
31 any interim committee of the legislature;

32 (b) The justices of the supreme court, judges of the court of  
33 appeals, judges of the superior courts or of the inferior courts, or  
34 to any employee of, or position in the judicial branch of state  
35 government;

36 (c) Officers, academic personnel, and employees of technical  
37 colleges;

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

39 (e) Elective officers of the state;

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

2 (g) In the departments of employment security and social and  
3 health services, the director and the director's confidential  
4 secretary; in all other departments, the executive head of which is  
5 an individual appointed by the governor, the director, his or her  
6 confidential secretary, and his or her statutory assistant directors;

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

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

11 (ii) If the members of the board, commission, or committee serve  
12 on a part-time basis and there is a statutory executive officer: The  
13 secretary of the board, commission, or committee; the chief executive  
14 officer of the board, commission, or committee; and the confidential  
15 secretary of the chief executive officer of the board, commission, or  
16 committee;

17 (iii) If the members of the board, commission, or committee serve  
18 on a full-time basis: The chief executive officer or administrative  
19 officer as designated by the board, commission, or committee; and a  
20 confidential secretary to the chair of the board, commission, or  
21 committee;

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

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

27 (j) Assistant attorneys general;

28 (k) Commissioned and enlisted personnel in the military service  
29 of the state;

30 (l) Inmate, student, and temporary employees, and part-time  
31 professional consultants, as defined by the director;

32 (m) Officers and employees of the Washington state fruit  
33 commission;

34 (n) Officers and employees of the Washington apple commission;

35 (o) Officers and employees of the Washington state dairy products  
36 commission;

37 (p) Officers and employees of the Washington tree fruit research  
38 commission;

39 (q) Officers and employees of the Washington state beef  
40 commission;

- 1 (r) Officers and employees of the Washington grain commission;
- 2 (s) Officers and employees of any commission formed under chapter  
3 15.66 RCW;
- 4 (t) Officers and employees of agricultural commissions formed  
5 under chapter 15.65 RCW;
- 6 (u) Executive assistants for personnel administration and labor  
7 relations in all state agencies employing such executive assistants  
8 including but not limited to all departments, offices, commissions,  
9 committees, boards, or other bodies subject to the provisions of this  
10 chapter and this subsection shall prevail over any provision of law  
11 inconsistent herewith unless specific exception is made in such law;
- 12 (v) In each agency with fifty or more employees: Deputy agency  
13 heads, assistant directors or division directors, and not more than  
14 three principal policy assistants who report directly to the agency  
15 head or deputy agency heads;
- 16 (w) Staff employed by the department of commerce to administer  
17 energy policy functions;
- 18 (x) The manager of the energy facility site evaluation council;
- 19 (y) A maximum of ten staff employed by the department of commerce  
20 to administer innovation and policy functions, including the three  
21 principal policy assistants exempted under (v) of this subsection;
- 22 (z) Staff employed by Washington State University to administer  
23 energy education, applied research, and technology transfer programs  
24 under RCW 43.21F.045 as provided in RCW 28B.30.900(5);
- 25 (aa) Officers and employees of the consolidated technology  
26 services agency created in RCW 43.105.006 that perform the following  
27 functions or duties: Systems integration; data center engineering and  
28 management; network systems engineering and management; information  
29 technology contracting; information technology customer relations  
30 management; and network and systems security;
- 31 (bb) The executive director of the Washington statewide reentry  
32 council; and
- 33 (cc) Officers and employees of the Washington state cannabis  
34 commission under chapter 15.--- RCW (the new chapter created in  
35 section 17 of this act).

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

39 (a) Members of the governing board of each institution of higher  
40 education and related boards, all presidents, vice presidents, and

1 their confidential secretaries, administrative, and personal  
2 assistants; deans, directors, and chairs; academic personnel; and  
3 executive heads of major administrative or academic divisions  
4 employed by institutions of higher education; principal assistants to  
5 executive heads of major administrative or academic divisions; other  
6 managerial or professional employees in an institution or related  
7 board having substantial responsibility for directing or controlling  
8 program operations and accountable for allocation of resources and  
9 program results, or for the formulation of institutional policy, or  
10 for carrying out personnel administration or labor relations  
11 functions, legislative relations, public information, development,  
12 senior computer systems and network programming, or internal audits  
13 and investigations; and any employee of a community college district  
14 whose place of work is one which is physically located outside the  
15 state of Washington and who is employed pursuant to RCW 28B.50.092  
16 and assigned to an educational program operating outside of the state  
17 of Washington;

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

26 (c) Printing craft employees in the department of printing at the  
27 University of Washington.

28 (3) In addition to the exemptions specifically provided by this  
29 chapter, the director may provide for further exemptions pursuant to  
30 the following procedures. The governor or other appropriate elected  
31 official may submit requests for exemption to the office of financial  
32 management stating the reasons for requesting such exemptions. The  
33 director shall hold a public hearing, after proper notice, on  
34 requests submitted pursuant to this subsection. If the director  
35 determines that the position for which exemption is requested is one  
36 involving substantial responsibility for the formulation of basic  
37 agency or executive policy or one involving directing and controlling  
38 program operations of an agency or a major administrative division  
39 thereof, or is a senior expert in enterprise information technology  
40 infrastructure, engineering, or systems, the director shall grant the

1 request. The total number of additional exemptions permitted under  
2 this subsection shall not exceed one percent of the number of  
3 employees in the classified service not including employees of  
4 institutions of higher education and related boards for those  
5 agencies not directly under the authority of any elected public  
6 official other than the governor, and shall not exceed a total of  
7 twenty-five for all agencies under the authority of elected public  
8 officials other than the governor.

9 (4) The salary and fringe benefits of all positions presently or  
10 hereafter exempted except for the chief executive officer of each  
11 agency, full-time members of boards and commissions, administrative  
12 assistants and confidential secretaries in the immediate office of an  
13 elected state official, and the personnel listed in subsections  
14 (1)(j) through (t), (cc), and (2) of this section, shall be  
15 determined by the director. Changes to the classification plan  
16 affecting exempt salaries must meet the same provisions for  
17 classified salary increases resulting from adjustments to the  
18 classification plan as outlined in RCW 41.06.152.

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

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

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

34 (6)(a) Notwithstanding the provisions of subsection (5) of this  
35 section, a person cannot exercise the right of reversion to a  
36 classified position if the employee has been given written notice  
37 that they are the subject of an active workplace investigation in  
38 which the allegations being investigated, if founded, could result in  
39 a finding of gross misconduct or malfeasance. The right of reversion  
40 is suspended during the pendency of the investigation. For the

1 purposes of this subsection, written notice includes notice sent by  
2 email to the employee's work email address.

3 (b) The office of financial management must adopt rules  
4 implementing this section.

5 NEW SECTION. **Sec. 17.** Sections 1 through 14 of this act  
6 constitute a new chapter in Title 15 RCW.

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