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SENATE BILL 6222

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State of Washington

53rd Legislature

1994 Regular Session

By Senators Fraser, Amondson, L. Smith, Anderson, M. Rasmussen, Morton and Roach

Read first time 01/17/94. Referred to Committee on Ecology & Parks.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (4) "Foundation" means the Mount St. Helens equestrian center  
33 foundation, a private nonprofit corporation authorized to be  
34 established pursuant to this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (1) Maintain an office or offices;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22        NEW SECTION.    **Sec. 7.**    REVENUE BONDS--INSURANCE.    (1) The authority  
23 may issue nonrecourse revenue bonds in order to obtain the funds to  
24 carry out the purposes authorized in this chapter. The bonds shall be  
25 special obligations of the authority, payable solely out of the special  
26 fund or funds established by the authority for their repayment.

27        (2) Any bonds issued under this chapter may be secured by a  
28 financing document between the authority and the purchasers or owners  
29 of such bonds or between the authority and a corporate trustee, which  
30 may be any trust company or bank having the powers of a trust company  
31 within or without the state.

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

36        (b) The financing document may contain such provisions for  
37 protecting and enforcing the rights, security, and remedies of bond  
38 owners as may be reasonable and proper, including, without limiting the

1 generality of the foregoing, provisions defining defaults and providing  
2 for remedies in the event of default which may include the acceleration  
3 of maturities, restrictions on the individual rights of action by bond  
4 owners, and covenants setting forth duties of and limitations on the  
5 authority in the conduct of its programs and the management of its  
6 property.

7 (c) In addition to other security provided in this chapter or  
8 otherwise by law, bonds issued by the authority may be secured, in  
9 whole or in part, by financial guaranties, by insurance or by letters  
10 of credit issued to the authority or a trustee or any other person, by  
11 any bank, trust company, insurance or surety company, or other  
12 financial institution, within or without the state. The authority may  
13 pledge or assign, in whole or in part, the revenues and funds held or  
14 to be received by the authority, any present or future contract or  
15 other rights to receive the same, and the proceeds thereof, as security  
16 for such guaranties or insurance or for the reimbursement by the  
17 authority to any issuer of such letter of credit of any payments made  
18 under such letter of credit.

19 (3) Without limiting the powers of the authority contained in this  
20 chapter, in connection with each issue of its bonds, the authority  
21 shall create and establish one or more special funds, including, but  
22 not limited to, debt service and sinking funds, reserve funds, project  
23 funds, and such other special funds as the authority deems necessary,  
24 useful, or convenient.

25 (4) Any security interest created against the unexpected bond  
26 proceeds and against the special funds created by the authority shall  
27 be immediately valid and binding against the money and any securities  
28 in which the money may be invested without authority or trustee  
29 possession. The security interest shall be prior to any securities,  
30 without filing or recording under article 9 of the uniform commercial  
31 code, Title 62A RCW, and regardless of whether the party has notice of  
32 the security interest.

33 (5) The bonds may be issued as serial bonds, term bonds, or any  
34 other type of bond instrument consistent with the provisions of this  
35 chapter. The bonds shall bear such date or dates; mature at such time  
36 or times; bear interest at such rate or rates, either fixed or  
37 variable; be payable at such time or times; be in such denominations;  
38 be in such form; bear such privileges of transferability,  
39 exchangeability, and interchangeability; be subject to such terms of



1 redemption; and be sold at public or private sale, in such manner, at  
2 such time or times, and at such price or prices as the authority shall  
3 determine. The bonds shall be executed by the manual or facsimile  
4 signatures of the authority's chairperson and either its secretary or  
5 executive director, if any, and may be authenticated by the trustee (if  
6 the authority determines to use a trustee) or any registrar which may  
7 be designated for the bonds by the authority.

8 (6) Bonds may be issued by the authority to refund other  
9 outstanding authority bonds, at or prior to maturity of, and to pay any  
10 redemption premium on, the outstanding bonds. Bonds issued for  
11 refunding purposes may be combined with bonds issued for the financing  
12 or refinancing of new projects. Pending the application of the  
13 proceeds of the refunding bonds to the redemption of the bonds to be  
14 redeemed, the authority may enter into an agreement or agreements with  
15 a corporate trustee regarding the interim investment of the proceeds  
16 and the application of the proceeds and the earnings on the proceeds to  
17 the payment of the principal and interest on, and the redemption of,  
18 the bonds to be redeemed.

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

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

25 (9) The authority may purchase its bonds with any of its funds  
26 available for the purchase. The authority may hold, pledge, cancel, or  
27 resell the bonds subject to and in accordance with agreements with bond  
28 owners.

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

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

34 NEW SECTION. **Sec. 8.** REVENUE BONDS--CONTRACTS--RESTRICTIONS. (1)  
35 Bonds issued by the authority under this chapter shall not be deemed to  
36 constitute obligations, either general, special, or moral, of the state  
37 or of any political subdivision of the state, or pledge of the faith  
38 and credit of the state or of any political subdivision, or general

1 obligations of the authority. The bonds shall be special obligations  
2 of the authority and shall be payable solely from the special fund or  
3 funds created by the authority for their repayment. The issuance of  
4 bonds under this chapter shall not obligate, directly, indirectly, or  
5 contingently, the state or any political subdivision of the state to  
6 levy any taxes or appropriate or expend any funds for the payment of  
7 the principal or interest on the bonds. The substance of the  
8 limitations included in this subsection shall be plainly printed,  
9 written, engraved, or reproduced on each bond and in any disclosure  
10 document prepared in conjunction with the offer of or sale of bonds.

11 (2) Neither the proceeds or bonds issued under this chapter nor any  
12 money used or to be used to pay the principal of, premium, if any, or  
13 interest on the bonds shall constitute public money or property. All  
14 of such money shall be kept segregated and set apart from funds of the  
15 state and any political subdivision of the state and shall not be  
16 subject to appropriation or allotment by the state or subject to the  
17 provisions of chapter 43.88 RCW.

18 (3) Contracts entered into by the authority shall be entered into  
19 in the name of the authority and not in the name of the state. The  
20 obligations of the authority under such contracts shall be obligations  
21 only of the authority and shall not, in any way, constitute obligations  
22 of the state.

23 NEW SECTION. **Sec. 9.** REVENUE BONDS--MONEY RECEIVED--TRUST FUND.  
24 All money received by or on behalf of the authority with respect to  
25 this issuance of its bonds shall be trust funds to be held and applied  
26 solely as provided in this chapter. The authority, in lieu of  
27 receiving and applying the moneys itself, may enter into trust  
28 agreement or indenture with one or more banks or trust companies having  
29 the power and authority to conduct trust business in the state to:

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

32 (a) Bonds issued by it;

33 (b) The receipt, investment, and application of the proceeds of the  
34 bonds and money available from other sources for the payment of the  
35 bonds; and

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

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

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

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

15 NEW SECTION. **Sec. 11.** REVENUE BONDS--BONDS AS LEGAL INVESTMENT.  
16 The bonds of the authority are securities in which all public officers  
17 and bodies of this state and all counties, cities, municipal  
18 corporations, and political subdivisions, all banks, eligible banking  
19 organizations, bankers, trust companies, savings banks and  
20 institutions, building and loan associations, savings and loan  
21 associations, investment companies, insurance companies and  
22 associations, all executors, administrators, guardians, trustees, and  
23 other fiduciaries may legally invest any sinking funds, moneys, or  
24 other funds belonging to them or within their control.

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

32 NEW SECTION. **Sec. 13.** REVENUE BONDS--CONSTRUCTION. The  
33 provisions of this chapter should be construed liberally to effectuate  
34 its purpose. Insofar as the provisions of this chapter are

1 inconsistent with the provisions of any general or special law, or  
2 parts thereof, the provisions of this chapter are controlling.

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

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

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

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

20 (3) Providing opportunity for the center to further the  
21 responsibility of the horse racing commission under RCW 67.16.101 to  
22 encourage the training and development of the equine industry in the  
23 state of Washington whether the result of this training and development  
24 results in legalized horse racing or in the recreational use of horses.  
25 The center shall be a qualifying facility for financial assistance  
26 under RCW 67.16.101(4).

27 NEW SECTION. **Sec. 16.** AGENCY COLLABORATION. The following  
28 agencies are directed to explore with the authority, foundation, and  
29 appropriate local governments, opportunities for collaboration and  
30 cooperation:

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

33 (2) The department of community, trade, and economic development  
34 with respect to community development block grant assistance, community  
35 economic revitalization board projects, local development matching

1 funds, public works trust fund, business development, and tourism  
2 development;

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

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

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

13 (6) The department of ecology, especially the water quality  
14 financial assistance and water quality programs, with respect to  
15 opportunities for making the center's human and animal waste treatment  
16 facilities demonstration models for waste handling to protect water  
17 quality;

18 (7) South Puget Sound Community College with respect to  
19 opportunities for collaboration with its horseshoeing technology  
20 program; and

21 (8) Centralia Community College with respect to opportunities for  
22 education and training related to business, tourism, and equine support  
23 services.

24 NEW SECTION. **Sec. 17.** FINANCIAL REPORTS/AUDIT. The authority  
25 shall keep accurate records of all its receipts and disbursements and  
26 shall prepare annual financial statements presenting the financial  
27 position and results of operations of the authority fund, and any other  
28 funds utilized to account for the operations of the center, as of June  
29 30 for each fiscal year. Copies of these statements shall be filed  
30 with the office of the secretary of state and with the state auditor,  
31 who may conduct audits of the authority as provided in chapter 43.09  
32 RCW.

33 NEW SECTION. **Sec. 18.** PERSONNEL EXEMPTIONS. In order to allow  
34 the authority flexibility in its personnel policies, the authority is  
35 exempt from chapters 41.06, 41.05, 41.04, and 41.40 RCW and RCW  
36 43.01.040 through 43.01.044.

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

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

4       (a) The members of the legislature or to any employee of, or  
5 position in, the legislative branch of the state government including  
6 members, officers, and employees of the legislative council,  
7 legislative budget committee, statute law committee, and any interim  
8 committee of the legislature;

9       (b) The justices of the supreme court, judges of the court of  
10 appeals, judges of the superior courts or of the inferior courts, or to  
11 any employee of, or position in the judicial branch of state  
12 government;

13       (c) Officers, academic personnel, and employees of technical  
14 colleges;

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

16       (e) Elective officers of the state;

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

18       (g) In the departments of employment security, social and health  
19 services, the director and the director's confidential secretary; in  
20 all other departments, the executive head of which is an individual  
21 appointed by the governor, the director, his or her confidential  
22 secretary, and his or her statutory assistant directors;

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

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

27       (ii) If the members of the board, commission, or committee serve on  
28 a part-time basis and there is a statutory executive officer: The  
29 secretary of the board, commission, or committee; the chief executive  
30 officer of the board, commission, or committee; and the confidential  
31 secretary of the chief executive officer of the board, commission, or  
32 committee;

33       (iii) If the members of the board, commission, or committee serve  
34 on a full-time basis: The chief executive officer or administrative  
35 officer as designated by the board, commission, or committee; and a  
36 confidential secretary to the chair of the board, commission, or  
37 committee;

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

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

6 (j) Assistant attorneys general;

7 (k) Commissioned and enlisted personnel in the military service of  
8 the state;

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

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

14 (n) Officers and employees of the Washington state fruit  
15 commission;

16 (o) Officers and employees of the Washington state apple  
17 advertising commission;

18 (p) Officers and employees of the Washington state dairy products  
19 commission;

20 (q) Officers and employees of the Washington tree fruit research  
21 commission;

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

23 (s) Officers and employees of any commission formed under chapter  
24 15.66 RCW;

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

27 (u) Officers and employees of agricultural commissions formed under  
28 chapter 15.65 RCW;

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

32 (w) Liquor vendors appointed by the Washington state liquor control  
33 board pursuant to RCW 66.08.050: PROVIDED, HOWEVER, That rules adopted  
34 by the Washington personnel resources board pursuant to RCW 41.06.150  
35 regarding the basis for, and procedures to be followed for, the  
36 dismissal, suspension, or demotion of an employee, and appeals  
37 therefrom shall be fully applicable to liquor vendors except those part  
38 time agency vendors employed by the liquor control board when, in

1 addition to the sale of liquor for the state, they sell goods, wares,  
2 merchandise, or services as a self-sustaining private retail business;

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

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

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

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

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

21 (a) Members of the governing board of each institution of higher  
22 education and related boards, all presidents, vice-presidents and their  
23 confidential secretaries, administrative and personal assistants;  
24 deans, directors, and chairs; academic personnel; and executive heads  
25 of major administrative or academic divisions employed by institutions  
26 of higher education; principal assistants to executive heads of major  
27 administrative or academic divisions; other managerial or professional  
28 employees in an institution or related board having substantial  
29 responsibility for directing or controlling program operations and  
30 accountable for allocation of resources and program results, or for the  
31 formulation of institutional policy, or for carrying out personnel  
32 administration or labor relations functions, legislative relations,  
33 public information, development, senior computer systems and network  
34 programming, or internal audits and investigations; and any employee of  
35 a community college district whose place of work is one which is  
36 physically located outside the state of Washington and who is employed  
37 pursuant to RCW 28B.50.092 and assigned to an educational program  
38 operating outside of the state of Washington;



1 (b) Student, part-time, or temporary employees, and part-time  
2 professional consultants, as defined by the Washington personnel  
3 resources board, employed by institutions of higher education and  
4 related boards;

5 (c) The governing board of each institution, and related boards,  
6 may also exempt from this chapter classifications involving research  
7 activities, counseling of students, extension or continuing education  
8 activities, graphic arts or publications activities requiring  
9 prescribed academic preparation or special training as determined by  
10 the board: PROVIDED, That no nonacademic employee engaged in office,  
11 clerical, maintenance, or food and trade services may be exempted by  
12 the board under this provision;

13 (d) Printing craft employees in the department of printing at the  
14 University of Washington.

15 (3) In addition to the exemptions specifically provided by this  
16 chapter, the Washington personnel resources board may provide for  
17 further exemptions pursuant to the following procedures. The governor  
18 or other appropriate elected official may submit requests for exemption  
19 to the Washington personnel resources board stating the reasons for  
20 requesting such exemptions. The Washington personnel resources board  
21 shall hold a public hearing, after proper notice, on requests submitted  
22 pursuant to this subsection. If the board determines that the position  
23 for which exemption is requested is one involving substantial  
24 responsibility for the formulation of basic agency or executive policy  
25 or one involving directing and controlling program operations of an  
26 agency or a major administrative division thereof, the Washington  
27 personnel resources board shall grant the request and such  
28 determination shall be final as to any decision made before July 1,  
29 1993. The total number of additional exemptions permitted under this  
30 subsection shall not exceed one percent of the number of employees in  
31 the classified service not including employees of institutions of  
32 higher education and related boards for those agencies not directly  
33 under the authority of any elected public official other than the  
34 governor, and shall not exceed a total of twenty-five for all agencies  
35 under the authority of elected public officials other than the  
36 governor. The Washington personnel resources board shall report to  
37 each regular session of the legislature during an odd-numbered year all  
38 exemptions granted under subsections (1) (x) and (y) and (2) of this  
39 section, together with the reasons for such exemptions.

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

8 Any person holding a classified position subject to the provisions  
9 of this chapter shall, when and if such position is subsequently  
10 exempted from the application of this chapter, be afforded the  
11 following rights: If such person previously held permanent status in  
12 another classified position, such person shall have a right of  
13 reversion to the highest class of position previously held, or to a  
14 position of similar nature and salary.

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

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

22 NEW SECTION. Sec. 20. A new section is added to chapter 41.05 RCW  
23 to read as follows:

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

27 NEW SECTION. Sec. 21. A new section is added to chapter 41.04 RCW  
28 to read as follows:

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

32 NEW SECTION. Sec. 22. A new section is added to chapter 41.40 RCW  
33 to read as follows:

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

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

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

6        **Sec. 24.**    RCW 43.19.190 and 1993 sp.s. c 10 s 2 and 1993 c 379 s  
7 102 are each reenacted and amended to read as follows:

8        The director of general administration, through the state  
9 purchasing and material control director, shall:

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

13        (2) Purchase all material, supplies, services, and equipment needed  
14 for the support, maintenance, and use of all state institutions,  
15 colleges, community colleges, technical colleges, college districts,  
16 and universities, the offices of the elective state officers, the  
17 supreme court, the court of appeals, the administrative and other  
18 departments of state government, and the offices of all appointive  
19 officers of the state: PROVIDED, That the provisions of RCW 43.19.190  
20 through 43.19.1937 do not apply in any manner to the operation of the  
21 state legislature except as requested by the legislature: PROVIDED,  
22 That any agency may purchase material, supplies, services, and  
23 equipment for which the agency has notified the purchasing and material  
24 control director that it is more cost-effective for the agency to make  
25 the purchase directly from the vendor: PROVIDED, That primary  
26 authority for the purchase of specialized equipment, instructional, and  
27 research material for their own use shall rest with the colleges,  
28 community colleges, and universities: PROVIDED FURTHER, That  
29 universities operating hospitals and the state purchasing and material  
30 control director, as the agent for state hospitals as defined in RCW  
31 72.23.010, and for health care programs provided in state correctional  
32 institutions as defined in RCW 72.65.010(3) and veterans' institutions  
33 as defined in RCW 72.36.010 and 72.36.070, may make purchases for  
34 hospital operation by participating in contracts for materials,  
35 supplies, and equipment entered into by nonprofit cooperative hospital  
36 group purchasing organizations: PROVIDED FURTHER, That primary  
37 authority for the purchase of materials, supplies, and equipment for  
38 resale to other than public agencies shall rest with the state agency

1 concerned: PROVIDED FURTHER, That authority to purchase services as  
2 included herein does not apply to personal services as defined in  
3 chapter 39.29 RCW, unless such organization specifically requests  
4 assistance from the division of purchasing in obtaining personal  
5 services and resources are available within the division to provide  
6 such assistance: PROVIDED FURTHER, That the authority for the purchase  
7 of insurance and bonds shall rest with the risk manager under RCW  
8 43.19.1935: PROVIDED FURTHER, That, except for the authority of the  
9 risk manager to purchase insurance and bonds, the director is not  
10 required to provide purchasing services for institutions of higher  
11 education that choose to exercise independent purchasing authority  
12 under RCW 28B.10.029: PROVIDED FURTHER, That primary authority for the  
13 purchase of materials, supplies, equipment, and services by the public  
14 nonprofit corporation created pursuant to the authority in chapter 67.-  
15 - RCW (sections 1 through 18 of this act) shall rest with said public  
16 nonprofit corporation;

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

19 (4) Have authority to delegate to state agencies authorization to  
20 purchase or sell, which authorization shall specify restrictions as to  
21 dollar amount or to specific types of material, equipment, services,  
22 and supplies: PROVIDED, That acceptance of the purchasing  
23 authorization by a state agency does not relieve such agency from  
24 conformance with other sections of RCW 43.19.190 through 43.19.1939, or  
25 from policies established by the director after consultation with the  
26 state supply management advisory board: PROVIDED FURTHER, That  
27 delegation of such authorization to a state agency, including an  
28 educational institution to which this section applies, to purchase or  
29 sell material, equipment, services, and supplies shall not be granted,  
30 or otherwise continued under a previous authorization, if such agency  
31 is not in substantial compliance with overall state purchasing and  
32 material control policies as established herein;

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

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

1 (7) Prescribe the manner in which supplies, materials, and  
2 equipment purchased through the division shall be delivered, stored,  
3 and distributed;

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

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

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

11 (11) Prepare rules and regulations governing the relationship and  
12 procedures between the division of purchasing and state agencies and  
13 vendors;

14 (12) Publish procedures and guidelines for compliance by all state  
15 agencies, including those educational institutions to which this  
16 section applies, which implement overall state purchasing and material  
17 control policies;

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

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

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

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