
ENGROSSED SUBSTITUTE SENATE BILL 5546

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 sustainability in the cannabis
20 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. The department must
30 create rules for an active cannabis producer or an active cannabis
31 producer/processor to dispute the results of a vote within 60 days
32 from the announced results.

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

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

37 NEW SECTION. **Sec. 4.** Within 60 days of the director determining
38 that requisite assent has been given in a referendum conducted under

1 section 3 of this act, the director must establish the Washington
2 state cannabis commission to:

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

4 (2) Provide funding for conducting research in accordance with
5 commission rules;

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

9 (4) Coordinate with interested parties to standardize methods by
10 which to identify and determine the genetics, strains, cultivars,
11 phenotypes, standards, and grades of cannabis, and advise on cannabis
12 packaging and labeling requirements;

13 (5) Conduct reviews, surveys, and inquiries regarding market
14 metrics and analytics, including trends, revenues, profitability,
15 projections, production, business practices, and other economic
16 drivers of the cannabis industry;

17 (6) Inform and advise cannabis producers and cannabis producer/
18 processors on cannabis-related matters, including, without
19 limitation, educational information on cannabis cultivation, usage,
20 risks, and related technical and scientific developments;

21 (7) Provide cannabis-related education and training to cannabis
22 producers, cannabis producer/processors, cannabis researchers, and
23 their employees, which may include education and training on cannabis
24 health and safety information;

25 (8) Provide information and services for meeting resource
26 conservation objectives of cannabis producers and cannabis producer/
27 processors;

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

32 (10) Advance the knowledge and practices of cannabis production
33 in this state through research and testing methods to improve pest
34 management, worker protection, safety training, energy efficiency,
35 and environmental protection;

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

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

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

1 (a) Develop and engage in research, including, without
2 limitation, discovering better and more efficient production,
3 irrigation, odor mitigation, processing, transportation, handling,
4 packaging, and use of cannabis and cannabis products; and

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

7 (14) Establish uniform grading and proper preparation of cannabis
8 products for market;

9 (15) Protect the interest of consumers and the state by advising
10 on the overall production of cannabis to ensure a balanced and
11 sufficient supply of cannabis and cannabis products of good quality
12 during all seasons and at all times; and

13 (16) Advance the knowledge and practices of processing cannabis
14 in this state.

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

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

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

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

22 (d) Designate a public records officer, rules coordinator, and
23 other representatives required under laws governing state agencies
24 and commissions;

25 (e) Comply with all other laws applicable to state agencies and
26 commissions;

27 (f) Institute and maintain in its own name any legal actions,
28 including actions by injunction, mandatory injunction, civil
29 recovery, or proceedings before administrative tribunals or other
30 governmental authorities necessary to carry out this chapter, and to
31 sue and be sued as a commission, without individual liability for
32 acts of the commission within the scope of the powers conferred by
33 this chapter; and

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

38 (2) The commission may:

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

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

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

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

13 (e) Cooperate with interested parties to fulfill its duties under
14 this chapter;

15 (f) Serve as a liaison on behalf of the general cannabis
16 producing and processing industries to the board and other interested
17 parties, and not on behalf of any individual cannabis producer or
18 cannabis producer/processor;

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

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

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

27 (j) Participate in meetings, hearings, and other proceedings
28 regarding cannabis, including, without limitation, the production,
29 irrigation, manufacture, regulation, transportation, distribution,
30 sale, or use of cannabis, including activities authorized under RCW
31 42.17A.635 and the reporting of such activities to the public
32 disclosure commission;

33 (k) Obtain from the board, a list of the names and addresses of
34 cannabis producers, cannabis processors, cannabis producer/
35 processors, and cannabis retailers, and other available data from the
36 state as requested by the commission relative to its duties under
37 this chapter;

38 (l) Acquire, create, develop, and own intellectual property
39 rights, licenses, and patents, and to collect royalties resulting
40 from the sale or licensing of commission-funded research. However,

1 results and recommendations from research conducted or funded by the
2 commission must be available to all cannabis producers and cannabis
3 producer/processors without charge, except for reasonable costs as
4 the commission may determine;

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

8 (n) Possess cannabis products for the limited purposes of this
9 chapter;

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

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

13 NEW SECTION. **Sec. 6.** The department must serve as the
14 commission's rules coordinator. Rules adopted by the commission must
15 be approved by the director.

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

18 (a) Eight cannabis producer or cannabis producer/processor
19 members, two each from district 1, district 2, district 3, and
20 district 4;

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

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

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

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

29 (f) The director.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (4) When making initial and replacement appointments, the
27 director must give priority to persons representing the diverse
28 communities of the state to maintain a balanced representation of
29 members where practicable.

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

33 (a) A budget; and

34 (b) Any plans concerning, without limitation:

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

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

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

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

5 NEW SECTION. **Sec. 10.** The commission must deposit moneys
6 collected under this chapter and section 15 of this act in a separate
7 account in the name of the commission in any bank that is a state
8 depository. All expenditures and disbursements made from this account
9 under this chapter may be made without the necessity of a specific
10 legislative appropriation. None of the provisions of RCW 43.01.050
11 and 69.50.540 apply to this account or to the moneys received,
12 collected, or expended under this chapter.

13 NEW SECTION. **Sec. 11.** The fee levied under section 15 of this
14 act constitutes a personal debt of every person charged or who
15 otherwise owes the fee, and the fee is due and payable to the
16 commission.

17 NEW SECTION. **Sec. 12.** (1) Financial and commercial information
18 and records submitted to the board or the commission to administer
19 this chapter may be shared between the board and the commission. The
20 information or records may also be used, if required, in any action
21 or administrative hearing relative to this chapter.

22 (2) This section does not prohibit:

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

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

29 NEW SECTION. **Sec. 13.** Obligations incurred by the commission
30 and any other liabilities or claims against the commission must be
31 enforced only against the assets of the commission and, except to the
32 extent of such assets, no liability for the debts or actions of the
33 commission exists against either the state of Washington or any
34 subdivision or instrumentality thereof or against any member,
35 employee, or agent of the commission or the state of Washington in
36 his or her individual capacity. Except as otherwise provided in this

1 chapter, neither the commission members, nor its employees, may be
2 held individually responsible for errors in judgment, mistakes, or
3 other acts, either of commission or omission, as principal, agent,
4 person, or employee, except for their own individual acts of
5 dishonesty or crime. No person or employee may be held individually
6 responsible for any act or omission of any other commission members.
7 The liability of the commission members shall be several and not
8 joint, and no member is liable for the default of any other member.
9 This provision confirms that commission members have been and
10 continue to be, state officers or volunteers for purposes of RCW
11 4.92.075 and are entitled to the defenses, indemnifications,
12 limitations of liability, and other protections and benefits of
13 chapter 4.92 RCW.

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

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

22 (1) Pursuant to referendum under section 3 of this act, to
23 provide for permanent funding of the Washington state cannabis
24 commission, the board must impose and collect an assessment from all
25 cannabis producers and cannabis producer/processors.

26 (2) The initial rate of assessment is:

27 (a) 0.29 percent of all sales revenue conducted by a cannabis
28 producer who is not a cannabis producer/processor subject to an
29 assessment under (b) of this subsection; and

30 (b) 0.145 percent of all sales revenue conducted by a cannabis
31 producer/processor.

32 (3) After the initial assessment is approved, the commission may
33 modify the assessment if submitted for approval by referendum. The
34 requirements of assent or approval of a referendum under this
35 subsection are met if:

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

1 (b) At least 40 percent of the active cannabis producers and 40
2 percent of the active cannabis producer/processors have been
3 represented in the referendum to determine assent or approval of the
4 modification.

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

10 (5) Until October 31, 2028, the assessments in this section do
11 not apply to a cannabis producer or cannabis producer/processor
12 licensed under the social equity program in this chapter.

13 **Sec. 16.** RCW 41.06.070 and 2019 c 146 s 3 are each amended to
14 read as follows:

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

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

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

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

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

28 (e) Elective officers of the state;

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

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

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

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

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

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

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

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

17 (j) Assistant attorneys general;

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

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

22 (m) Officers and employees of the Washington state fruit
23 commission;

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

25 (o) Officers and employees of the Washington state dairy products
26 commission;

27 (p) Officers and employees of the Washington tree fruit research
28 commission;

29 (q) Officers and employees of the Washington state beef
30 commission;

31 (r) Officers and employees of the Washington grain commission;

32 (s) Officers and employees of any commission formed under chapter
33 15.66 RCW;

34 (t) Officers and employees of agricultural commissions formed
35 under chapter 15.65 RCW;

36 (u) Executive assistants for personnel administration and labor
37 relations in all state agencies employing such executive assistants
38 including but not limited to all departments, offices, commissions,
39 committees, boards, or other bodies subject to the provisions of this

1 chapter and this subsection shall prevail over any provision of law
2 inconsistent herewith unless specific exception is made in such law;

3 (v) In each agency with fifty or more employees: Deputy agency
4 heads, assistant directors or division directors, and not more than
5 three principal policy assistants who report directly to the agency
6 head or deputy agency heads;

7 (w) Staff employed by the department of commerce to administer
8 energy policy functions;

9 (x) The manager of the energy facility site evaluation council;

10 (y) A maximum of ten staff employed by the department of commerce
11 to administer innovation and policy functions, including the three
12 principal policy assistants exempted under (v) of this subsection;

13 (z) Staff employed by Washington State University to administer
14 energy education, applied research, and technology transfer programs
15 under RCW 43.21F.045 as provided in RCW 28B.30.900(5);

16 (aa) Officers and employees of the consolidated technology
17 services agency created in RCW 43.105.006 that perform the following
18 functions or duties: Systems integration; data center engineering and
19 management; network systems engineering and management; information
20 technology contracting; information technology customer relations
21 management; and network and systems security;

22 (bb) The executive director of the Washington statewide reentry
23 council; and

24 (cc) Officers and employees of the Washington state cannabis
25 commission under chapter 15.--- RCW (the new chapter created in
26 section 17 of this act).

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

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

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

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

17 (c) Printing craft employees in the department of printing at the
18 University of Washington.

19 (3) In addition to the exemptions specifically provided by this
20 chapter, the director may provide for further exemptions pursuant to
21 the following procedures. The governor or other appropriate elected
22 official may submit requests for exemption to the office of financial
23 management stating the reasons for requesting such exemptions. The
24 director shall hold a public hearing, after proper notice, on
25 requests submitted pursuant to this subsection. If the director
26 determines that the position for which exemption is requested is one
27 involving substantial responsibility for the formulation of basic
28 agency or executive policy or one involving directing and controlling
29 program operations of an agency or a major administrative division
30 thereof, or is a senior expert in enterprise information technology
31 infrastructure, engineering, or systems, the director shall grant the
32 request. The total number of additional exemptions permitted under
33 this subsection shall not exceed one percent of the number of
34 employees in the classified service not including employees of
35 institutions of higher education and related boards for those
36 agencies not directly under the authority of any elected public
37 official other than the governor, and shall not exceed a total of
38 twenty-five for all agencies under the authority of elected public
39 officials other than the governor.

1 (4) 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
6 (1)(j) through (t), (cc), and (2) of this section, shall be
7 determined by the director. Changes to the classification plan
8 affecting exempt salaries must meet the same provisions for
9 classified salary increases resulting from adjustments to the
10 classification plan as outlined in RCW 41.06.152.

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

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

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

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

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