

PROPOSED SUBSTITUTE BILL MEMORANDUM

To: Members, House Commerce & Gaming Committee

From: Peter Clodfelter, Counsel, House Office of Program Research

Date: January 20, 2022

Re: **Proposed Substitute HB 1710 (H-2242.1)** – Establishing a Washington state cannabis commission.

Proposed Substitute Sponsored by Representative Kloba

The original bill has the following effect:

- Establishes the Washington State Cannabis Commission (Commission) consisting of cannabis producers, producers/processors, and the Director of the Department of Agriculture (WSDA).
- Specifies purposes of the Commission including related to planning and conducting programs, research, advising government agencies, reviewing market metrics, educating and advising cannabis producers, limiting youth access, and other specified purposes.
- Grants the Commission powers and duties related to internal governance, employment and contracting, cooperating with other entities and persons, acquiring and owning intellectual property rights, representing the state, adopting rules, and other specified powers.
- Requires the Commission to submit a research plan, an education and training plan, and the Commission's budget each fiscal year to the Director of the WSDA for approval.

The proposed substitute bill makes the following changes compared to the original bill:

- Retains the provisions of the original bill except as described below.
- Changes and adds intent language.
- Limits the proposed authority of the Washington State Cannabis Commission (Commission) to speak on behalf of the Washington State government, so the authority to do so is only with regard to agricultural production of cannabis in the state, subject to oversight of the Director of the Department of Agriculture (WSDA).
- Specifies that the WSDA serves as the Commission's rules coordinator and the Commission's rules are subject to approval by the Director of the WSDA.
- Changes requirements about the documents that must be submitted by the Commission to the Director of the WSDA for approval, including: (1) eliminating the requirement to submit a research plan and an education and training plan each fiscal year; (2) requiring submission of plans concerning Commission governance issues; and (3) requiring submission of plans on the initiation or establishment of any rulemaking.
- Specifies that staff support is within the types of costs incurred by the WSDA for which the Commission must fully reimburse the WSDA. Adds a requirements for the Commission to reimburse the Liquor and Cannabis Board (LCB) for all costs incurred by the LCB for activities related to the Commission.

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.** The legislature finds that the Washington
6 state liquor and cannabis board exists to promote safe communities
7 and public safety. However, there is no agency to oversee research
8 and education of the cannabis industry within the state. The
9 legislature therefore declares:

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

12 (2) The general welfare of the people of the state will be served
13 by the development of the safe growing and processing activities of
14 cannabis. The industry is therefore affected with the public
15 interest; and

16 (3) Creation of a Washington state cannabis commission for the
17 public purpose of administering the revenue of the commission for the
18 enhancement of the safe production of cannabis will materially
19 advance the industries of growing and processing cannabis, improve
20 sustainability in the growing and processing sectors, and thereby the
21 interests of the citizens of the state.

1 NEW SECTION. **Sec. 2.** To complement the development of a
2 comprehensive regulatory scheme to regulate the production and
3 processing of cannabis and cannabis products, the legislature
4 declares that:

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

7 (a) Protect the public by educating the public in reference to
8 the quality, care, and methods used in the production of cannabis and
9 cannabis products; and

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

13 (2) The production of cannabis is a highly regulated industry.
14 Other laws applicable to the cannabis industry include:

15 (a) Chapter 15.130 RCW, the food safety and security act;

16 (b) Chapter 15.125 RCW, marijuana and marijuana products;

17 (c) Title 69 RCW, food, drugs, cosmetics, and poisons; and

18 (d) Chapter 82.08 RCW, retail sales tax.

19 NEW SECTION. **Sec. 3.** This chapter and the rules adopted under
20 this chapter are for the purpose of fostering responsible and orderly
21 agricultural production of cannabis. The legislature has granted
22 authority to other state agencies to regulate the cannabis industry
23 and nothing in this chapter should be interpreted to conflict with or
24 supersede that other overriding regulatory authority.

25 NEW SECTION. **Sec. 4.** The definitions in this section apply
26 throughout this chapter unless the context clearly requires
27 otherwise.

28 (1) "Board" means the Washington state liquor and cannabis board.

29 (2) "Cannabis" has the meaning provided for "marijuana" in RCW
30 69.50.101.

31 (3) "Commission" means the Washington state cannabis commission
32 established by this chapter.

33 (4) "Cooperative" means a group of more than one, but no more
34 than four qualified medical marijuana patients or designated
35 providers, who share responsibility for growing and processing
36 marijuana only for the medical use of the members of the cooperative
37 as provided in RCW 69.51A.250.

1 (5) "Department" means the Washington state department of
2 agriculture.

3 (6) "Director" means the director of the Washington state
4 department of agriculture or the director's designee.

5 (7) "District" means each of the geographical divisions of the
6 state of Washington established under section 8 of this act.

7 (8) "Fiscal year" means the 12-month period beginning July 1st of
8 any year and ending June 30th.

9 (9) "Interested parties" means governmental departments,
10 agencies, and bodies at the federal, state, or local levels including
11 tribal governments, as well as universities, national and
12 international associations, and other public and private sector
13 organizations with an interest in cannabis-related matters.

14 (10) "Processor" means any person or legal entity holding in its
15 name a marijuana processor license issued by the board.

16 (11) "Producer" means any person or legal entity holding in its
17 name a marijuana producer license issued by the board. This license
18 type does not also own a processor license.

19 (12) "Producer/processor" means any person or legal entity
20 holding in its name both a marijuana producer and marijuana processor
21 license.

22 (13) "Retailer" means any person or legal entity holding a
23 marijuana retail license issued by the board.

24 (14) "Testing laboratory" means any laboratory accredited to
25 conduct cannabis-related analysis.

26 (15) "Tier" means any of the production licensing categories
27 established by rule of the board.

28 NEW SECTION. **Sec. 5.** The Washington state cannabis commission
29 is established to:

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

31 (2) Provide for conducting research as provided in commission
32 rules;

33 (3) Cooperate with and act in an advisory capacity to local,
34 state, and federal agencies or other interested parties with respect
35 to cannabis-related matters within the scope of the powers and
36 purposes of the commission and as described in commission rules;

37 (4) Cooperate with other interested parties toward standardizing
38 methods by which to identify and determine the genetics, strains,

1 cultivars, phenotypes, standards, and grades of cannabis and advise
2 on packaging and labeling requirements with respect to the same;

3 (5) Conduct reviews, surveys, and inquiries regarding market
4 metrics and analytics, including trends, revenues, profitability,
5 projections, production, business practices, and other economic
6 drivers of the industry;

7 (6) Inform and advise producers and producer/processors in all
8 matters regarding cannabis including, but not limited to, educational
9 information on its cultivation, usage, risks, and related technical
10 and scientific developments;

11 (7) Provide cannabis-related education and training to producers,
12 producer/processors, researchers, and their employees, including
13 health and safety information;

14 (8) Provide information and services for meeting resource
15 conservation objectives of producers and producer/processors;

16 (9) Assist and cooperate with local, state, or federal government
17 agencies in the investigation and control of pests, diseases, and
18 other factors that could adversely affect the cultivation, quality,
19 or safety of Washington-produced cannabis;

20 (10) Advance knowledge and practice of the production of cannabis
21 in this state through the research and testing of methods to improve
22 pest management, worker protection and safety training, energy
23 efficiency, and environmental protection;

24 (11) Foster conditions favorable to investment in the production
25 of Washington cannabis consistent with state and federal laws;

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

27 (13) Enable cannabis producers and producer/processors of this
28 state, with the aid of the state to:

29 (a) Develop and engage in research including, but not limited to,
30 discovering better and more efficient production, irrigation, odor
31 mitigation, processing, transportation, handling, packaging, and use
32 of cannabis commodities;

33 (b) Provide for uniform grading and proper preparation of
34 cannabis commodities for market;

35 (c) Protect the interest of consumers and the state by advising
36 on the overall production of cannabis to assure a balanced,
37 sufficient, and wholesome supply of cannabis commodities of good
38 quality at all seasons and times;

39 (d) Discover and develop new and improved cultivars for the
40 reliable and economical production of cannabis in the state; and

1 (e) Advance knowledge and the practices of processing cannabis in
2 the state.

3 NEW SECTION. **Sec. 6.** The commission may:

4 (1) Elect a chair and other officers by a majority vote of the
5 commission or as contained in bylaws adopted by the commission;

6 (2) Adopt, rescind, and amend bylaws and other internal rules of
7 governance necessary for the administration and operation of the
8 commission and for carrying out its duties under this chapter;

9 (3) Administer, enforce, direct, and control the provisions of
10 this chapter;

11 (4) Employ and discharge at its discretion such administrators,
12 staff, professional consultants and service providers, and other
13 persons and firms that it may deem appropriate;

14 (5) Designate a public records officer, rules coordinator, and
15 other representatives required by the laws governing state agencies
16 and commissions;

17 (6) Comply with all other laws applicable to state agencies and
18 commissions;

19 (7) Acquire personal property and purchase or lease office space
20 and other necessary real property and transfer and convey the same;

21 (8) Institute and maintain in its own name any and all legal
22 actions, including actions by injunction, mandatory injunction, or
23 civil recovery, or proceedings before administrative tribunals or
24 other governmental authorities necessary to carry out this chapter;

25 (9) Keep accurate records of all its receipts and disbursements,
26 which records must be open to inspection and audit by the state
27 auditor or private auditor designated by the state auditor at least
28 every five years and at any time by a duly appointed internal auditor
29 upon a majority vote of the commission;

30 (10) Make necessary disbursements for routine operating expenses;

31 (11) Expend funds for all activities, projects, and undertakings
32 of the commission permitted under this chapter, including but not
33 limited to cannabis-related education and training programs for
34 producers, producer/processors, researchers, or their employees;

35 (12) Cooperate with other interested parties for the purposes of
36 this chapter;

37 (13) Serve as liaison with the board and all other interested
38 parties on behalf of the commission and not for any individual
39 producer or producer/processor;

- 1 (14) Enter into contracts or cooperative agreements for research
2 as provided in this chapter;
- 3 (15) Enter into contracts or interagency agreements with any
4 other interested parties to carry out this chapter in accordance with
5 applicable provisions of Title 39 RCW;
- 6 (16) Solicit, accept, and expend or retain any gifts, bequests,
7 contributions, or grants from private persons or public agencies to
8 carry out this chapter;
- 9 (17) Retain in emergent situations the services of private legal
10 counsel to conduct legal actions on behalf of the commission,
11 provided that the retention of a private attorney is subject to the
12 appointment or approval by the office of the state attorney general;
- 13 (18) Engage in appropriate activities and events for the purpose
14 of supporting activities of the commission authorized by this
15 chapter;
- 16 (19) Participate in international, federal, state, and local
17 hearings, meetings, and other proceedings in all matters relating to
18 cannabis, including without limitation the production, irrigation,
19 manufacture, regulation, transportation, distribution, sale, or use
20 of cannabis including activities authorized under RCW 42.17A.635, and
21 the reporting of those activities to the public disclosure
22 commission;
- 23 (20) Obtain from the board a list of the names and addresses of
24 producers, processors, and retailers, and such other available data
25 from the state as requested by the commission to be used to
26 disseminate information among and solicit the opinions of producers
27 and producer/processors with respect to the discharge of the duties
28 of the commission, directly, or by arrangement with trade
29 associations or other instrumentalities;
- 30 (21) Acquire, create, develop, and own intellectual property
31 rights, licenses, and patents and to collect royalties resulting from
32 the sale or licensing of commission-funded research, provided all
33 results and recommendations from research conducted or funded by the
34 commission must be available to all producers and producer/processors
35 without charge, except for reasonable out-of-pocket costs as the
36 commission may determine;
- 37 (22) Speak on behalf of the Washington state government with
38 regard to agricultural production of cannabis in the state, subject
39 to oversight of the director;

1 (23) Possess cannabis products for the limited purposes of
2 section 5 of this act;
3 (24) Subject to section 7 of this act, adopt rules to implement
4 this chapter; and
5 (25) Exercise other powers and duties necessary to carry out this
6 chapter.

7 NEW SECTION. **Sec. 7.** The department shall serve as the
8 commission's rules coordinator. The commission's rules are subject to
9 the director's approval.

10 NEW SECTION. **Sec. 8.** (1) The commission shall consist of 13
11 voting members: Eight producer or producer/processor members from the
12 districts; one statewide at large producer or producer/processor
13 member; one statewide tier one or equally small producer or producer/
14 processor member; one statewide tier two or equally medium producer
15 or producer/processor member; one statewide tier three or equally
16 large producer or producer/processor member; and the director.

17 (2) A nonvoting advisory council is created to assist the
18 commission. The director must appoint the following to the advisory
19 council: One stand alone processor member and one testing laboratory
20 member.

21 The advisory members must be considered from a pool of self-
22 nominated active business representatives from each business type
23 under this section.

24 (3) Each member of the commission and the advisory council other
25 than the director must:

- 26 (a) Be 21 years of age or older;
- 27 (b) Be a citizen and resident of this state;
- 28 (c) Directly hold or be a named owner in whole or in majority
29 part of an entity holding the relevant business license issued by the
30 board. This license must not be suspended at the time of nomination,
31 election, or appointment and must not be suspended at any time during
32 the member's term;

33 (d) Be engaged in the production of cannabis within the state of
34 Washington for a period of three years and have, during that period,
35 derived a substantial portion of their income therefrom. Any assignee
36 by a licensee must be and have been, either individually or as an
37 officer or employee of a corporation, firm, partnership, association,
38 or cooperative, actually engaged in producing cannabis within the

1 state of Washington for a period of three years and have, during that
2 period, derived a substantial portion of their income therefrom; and

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

5 (4) Producer members in voting positions must be producers with
6 production facilities in the district in which they are nominated and
7 elected. Producer members elected to at large positions may be from
8 any district.

9 (a) District one, positions one and two, comprises the counties
10 of Clallam, Island, Jefferson, King, San Juan, Skagit, Snohomish, and
11 Whatcom.

12 (b) District two, positions three and four, comprises the
13 counties of Chelan, Douglas, Ferry, Grant, Kittitas, Okanogan, Pend
14 Oreille, and Stevens.

15 (c) District three, positions five and six, comprises the
16 counties of Adams, Asotin, Benton, Columbia, Franklin, Garfield,
17 Lincoln, Spokane, Walla Walla, Whitman, and Yakima.

18 (d) District four, positions seven and eight, comprises the
19 counties of Clark, Cowlitz, Grays Harbor, Kitsap, Klickitat, Lewis,
20 Mason, Pacific, Pierce, Skamania, Thurston, and Wahkiakum.

21 (5) The initial commission members shall be appointed by the
22 director.

23 (a) Four must be appointed for a one-year term.

24 (b) Four must be appointed for a two-year term.

25 (c) Four must be appointed by the director for a three-year term.

26 (d) The initial members must be considered from a pool of self-
27 nominated qualified producers from each district under this section.

28 (e) Thereafter, commission members other than the director must
29 be elected by a vote of qualified producers or producer/processors in
30 each district for three-year terms.

31 (6) If a member vacancy occurs, at the board's first meeting
32 after the position becomes vacant, the remaining board members shall
33 recommend to the director a qualified person for appointment to the
34 vacant position. The director must appoint a replacement from those
35 nominations within 14 days.

36 (7) When making initial appointments and replacement
37 appointments, the director must consider appointments based upon
38 maintaining a balanced and diverse distribution of members based on
39 disproportionately impacted communities, ethnicity, geographic

1 location, gender identity, sexual orientation, and age, where
2 practicable.

3 (8) Seven voting members of the commission constitute a quorum
4 for the transaction of any commission business.

5 (9) Each member of the commission shall be reimbursed for
6 expenses incurred in the performance of their duties in accordance
7 with RCW 43.03.050 and 43.03.060.

8 (10) Within 90 days after the effective date of this section, the
9 director must appoint the initial members of the commission.

10 (11) The commission shall meet regularly as determined by the
11 members.

12 NEW SECTION. **Sec. 9.** (1) The commission, before the beginning
13 of its fiscal year, must prepare and submit its budget for that
14 fiscal year to the director for approval.

15 (2) The director must review and approve or disapprove all
16 submissions described in this section in a timely manner.

17 (3) The commission must develop and submit to the director for
18 approval any plans concerning, but not limited to, the following:

19 (a) The establishment, issuance, effectuation, and administration
20 of commission governance issues; and

21 (b) The initiation or establishment of any rule making.

22 (4) The director must review the commission's education program
23 to ensure that they are in keeping with state and federal laws.

24 NEW SECTION. **Sec. 10.** The commission shall deposit moneys
25 collected under this chapter and section 15 of this act in a separate
26 account in the name of the commission in any bank that is a state
27 depository. All expenditures and disbursements made from this account
28 under this chapter may be made without the necessity of a specific
29 legislative appropriation. Chapter 69.50 RCW does not apply to this
30 account or to the moneys received, collected, or expended as provided
31 in this chapter or section 15 of this act.

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

1 NEW SECTION. **Sec. 12.** (1) Financial and commercial information
2 and records submitted to either the board or the commission to
3 administer this chapter may be shared between the board and the
4 commission. They may also be used, if required, in any suit or
5 administrative hearing involving this chapter.

6 (2) This section does not prohibit:

7 (a) The issuance of general statements based upon the reports of
8 producers or producer/processors subject to this chapter if the
9 statements do not identify a specific producer or licensee; or

10 (b) The publication by the director or the commission of the name
11 of a producer or producer/processor violating this chapter and a
12 statement of the manner of the violation by that producer.

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

33 NEW SECTION. **Sec. 14.** All costs incurred by the department,
34 including staff support and the adoption of rules and other actions
35 necessary to carry out this chapter, must be fully reimbursed by the
36 commission. All costs incurred by the liquor and cannabis board for
37 activities under this chapter must also be fully reimbursed by the
38 commission.

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

3 (1) To provide for permanent funding of the cannabis commission,
4 agricultural commodity assessments must be levied by the board on
5 cannabis producers and cannabis producer/processors as follows:

6 (a) Beginning on October 31, 2022, the assessment on each
7 producer licensee is 0.29 percent of all sales revenues conducted by
8 the producer license.

9 (b) Beginning on October 31, 2022, the assessment on each
10 producer/processor licensee is 0.145 percent of all sales revenues
11 conducted by the processor license.

12 (2) Assessments collected under this section must be disbursed
13 quarterly to the Washington state cannabis commission for use in
14 carrying out the purposes of chapter 15.--- RCW (the new chapter
15 created in section 17 of this act).

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

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

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

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

28 (c) Officers, academic personnel, and employees of technical
29 colleges;

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

31 (e) Elective officers of the state;

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

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

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

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

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

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

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

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

21 (j) Assistant attorneys general;

22 (k) Commissioned and enlisted personnel in the military service
23 of the state;

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

26 (m) Officers and employees of the Washington state fruit
27 commission;

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

29 (o) Officers and employees of the Washington state dairy products
30 commission;

31 (p) Officers and employees of the Washington tree fruit research
32 commission;

33 (q) Officers and employees of the Washington state beef
34 commission;

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

36 (s) Officers and employees of any commission formed under chapter
37 15.66 RCW;

38 (t) Officers and employees of agricultural commissions formed
39 under chapter 15.65 RCW;

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

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

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

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

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

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

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

26 (bb) The executive director of the Washington statewide reentry
27 council; and

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

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

34 (a) Members of the governing board of each institution of higher
35 education and related boards, all presidents, vice presidents, and
36 their confidential secretaries, administrative, and personal
37 assistants; deans, directors, and chairs; academic personnel; and
38 executive heads of major administrative or academic divisions
39 employed by institutions of higher education; principal assistants to
40 executive heads of major administrative or academic divisions; other

1 managerial or professional employees in an institution or related
2 board having substantial responsibility for directing or controlling
3 program operations and accountable for allocation of resources and
4 program results, or for the formulation of institutional policy, or
5 for carrying out personnel administration or labor relations
6 functions, legislative relations, public information, development,
7 senior computer systems and network programming, or internal audits
8 and investigations; and any employee of a community college district
9 whose place of work is one which is physically located outside the
10 state of Washington and who is employed pursuant to RCW 28B.50.092
11 and assigned to an educational program operating outside of the state
12 of Washington;

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

21 (c) Printing craft employees in the department of printing at the
22 University of Washington.

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

1 official other than the governor, and shall not exceed a total of
2 twenty-five for all agencies under the authority of elected public
3 officials other than the governor.

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

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

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

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

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

--- END ---