

Title 42

PUBLIC OFFICERS AND AGENCIES

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Chapter 42.04 RCW GENERAL PROVISIONS

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42.04.020 Eligibility to hold office. That no person shall be competent to qualify for or hold any elective public office within the state of Washington, or any county, district, precinct, school district, municipal corporation or other district or political subdivision, unless he or she be a citizen of the United States and state of Washington and an elector of such county, district, precinct, school district, municipality or other district or political subdivision. [2012 c 117 § 94; 1919 c 139 § 1; RRS § 9929. FORMER PART OF SECTION: Code 1881 § 3050 codified as RCW 42.04.021.]

Apple commission, qualifications of members: RCW 15.24.020.

Attorney general, qualifications: RCW 43.10.010.

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Cities, council-manager plan, qualifications of city manager: RCW 35.18.040.

Cities and towns, residence qualifications of officials and employees: RCW 35.21.200.

County hospital board of trustees, eligibility: RCW 36.62.140.

Court administrator: RCW 2.56.010.

Court commissioners, qualifications: RCW 2.24.010.

Dairy products commission, members, qualifications: RCW 15.44.030.

Electors, qualifications: State Constitution Art. 6 § 1 (Amendment 5).

Engineers and land surveyors' board of registration, qualifications: RCW 18.43.030.

Fire protection district commissioners, qualifications: RCW 52.14.010.

Fish and wildlife commission members, qualifications: RCW 77.04.040.

Flood control districts, qualifications of governing board: RCW 85.38.070.

Fruit commission, qualifications of members: RCW 15.28.030.

Hardwoods commission, qualifications: RCW 15.74.010.

Honey bee commission, qualifications: RCW 15.62.060.

Horse racing commission, qualifications: RCW 67.16.012.

Judges of superior court, eligibility: State Constitution Art. 4 § 17.

Judges of supreme court, eligibility: State Constitution Art. 4 § 17.

Legislators, eligibility: State Constitution Art. 2 § 7; Art. 2 § 14.

Mosquito control district board members, qualifications: RCW 17.28.120.

Municipal court judges, qualifications: RCW 35.20.170.

Prosecuting attorney, eligibility: RCW 36.27.010.

Public utility district commissioners, qualifications: RCW 54.12.010.

Religious qualification to hold public office or employment prohibited: State Constitution Art. 1 § 11 (Amendment 4).

Residence for eligibility to public office: State Constitution Art. 6 § 4.

School directors, qualifications: RCW 28A.343.340.

School teachers, qualifications: RCW 28A.410.025, 28A.405.040.

State hospitals for individuals with mental illness, superintendents' powers: RCW 72.23.030.

State officers, eligibility: State Constitution Art. 3 § 25 (Amendment 31).

State schools for blind and deaf, qualifications of superintendents: RCW 72.40.020.

Subversive activities as disqualification from holding public office: Chapter 9.81 RCW.

Superior court reporters, qualifications: RCW 2.32.180.

Towns, eligibility of officers: RCW 35.27.080.

Utilities and transportation commission, qualifications: RCW 80.01.020.

Veterinary board members, qualifications: RCW 18.92.021.

Weed district director and electors, qualifications: RCW 17.04.070.

Wine commission, qualifications: RCW 15.88.030.

42.04.040 Proceedings to impeach, etc., preserved.

The omission to specify or affirm in *this act any ground of forfeiture of a public office or other trust or special authority conferred by law, or any power conferred by law to impeach, remove, depose or suspend any public officer or other person holding any trust, appointment or other special authority conferred by law, shall not affect such forfeiture or power, or any proceeding authorized by law to carry into effect such

impeachment, removal, deposition or suspension. [1909 c 249 § 45; RRS § 2297.]

***Reviser's note:** The term "this act" relates to the criminal code of 1909. For disposition of sections, see note following RCW 9.01.120.

Forfeiture of office for conviction of felony or malfeasance: RCW 9.92.120.

Impeachment and removal: State Constitution Art. 5.

Recall of elective officers: State Constitution Art. 1 § 33 (Amendment 8); chapter 29A.56 RCW.

42.04.060 Business hours—Posting on web site.

Except as provided in section 3, chapter 32, Laws of 2010 1st sp. sess., all state elective and appointive officers shall keep their offices open for the transaction of business for a minimum of forty hours per week, except weeks that include state legal holidays. Customary business hours must be posted on the agency or office's web site and made known by other means designed to provide the public with notice. [2010 1st sp.s. c 32 § 5; 2009 c 428 § 1; 1973 2nd ex.s. c 1 § 2; 1955 ex.s. c 9 § 3. Prior: 1951 c 100 §§ 3, 4; 1941 c 113 § 1; Rem. Supp. 1941 § 9963-1.]

Intent—2010 1st sp.s. c 32: "The legislature declares that unprecedented revenue shortfalls necessitate immediate action to reduce expenditures during the 2009-2011 fiscal biennium. From April 27, 2010, it is the intent of the legislature that state agencies of the legislative branch, judicial branch, and executive branch including institutions of higher education, shall achieve a reduction in government operating expenses as provided in this act. It is the legislature's intent that, to the extent that the reductions in expenditures reduce compensation costs, agencies and institutions shall strive to preserve family-wage jobs by reducing the impact of temporary layoffs on lower-wage jobs." [2010 1st sp.s. c 32 § 1.]

Conflict with federal requirements—2010 1st sp.s. c 32: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state." [2010 1st sp.s. c 32 § 11.]

Effective date—2010 1st sp.s. c 32: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 27, 2010]." [2010 1st sp.s. c 32 § 13.]

Office hours of city, county, precinct: RCW 35.21.175, 36.16.100.

42.04.070 Compensation for unofficial services. That the directors, trustees and commissioners of state institutions in this state, serving as such without any compensation, shall not be precluded by reason of holding such offices from receiving compensation for services not official rendered without being procured or brought about by use of such official position, or by reason thereof, but such officers shall be allowed to receive such reasonable compensation for services not official or connected with their respective offices as they would otherwise be allowed were they not such officers. [1891 c 109 § 1; RRS § 10966.]

Chapter 42.08 RCW OFFICIAL BONDS

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OFFICIAL BONDS—CODE OF 1881

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OFFICIAL BONDS—1890 ACT

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Adjutant general, official bond: RCW 38.12.010.

Apple commission treasurer, bond required: RCW 15.24.150.

Attorney general, official bonds: RCW 43.10.010, 43.10.020.

Cities, code city retaining second class form, bond of officers: RCW 35.23.835.

Cities, commission form, bonds required: RCW 35.17.100.

Cities, council-manager plan, bond of manager: RCW 35.18.050.

Cities, second class, bond required: RCW 35.23.081.

Commissioner of public lands, official bonds: RCW 43.12.041.

County clerk, new bond may be required: RCW 36.23.020.

County commissioners, official bond: RCW 36.32.060.

County officers, official bonds: RCW 36.16.050.

County sheriff, additional bond: RCW 36.28.030.

Dairy products commission treasurer, bond required: RCW 15.44.050.

Flood control districts, official bonds: RCW 86.09.301, 86.09.304, 86.09.307.

Fruit commission treasurer, bond required: RCW 15.28.190.

Horse racing commission, official bonds: RCW 67.16.012.

Insurance commissioner, official bond: RCW 48.02.030.

Irrigation districts, official bonds: RCW 87.03.082.

Liquor and cannabis board, official bond: RCW 66.08.014.

Municipal court judge, bond required: RCW 35.20.180.

Reclamation district directors, official bonds: RCW 89.30.259.

Reclamation districts, bond of secretary: RCW 89.30.262.

Secretary of state, official bond: RCW 43.07.010.

State administrative officers, official bonds: RCW 43.17.100.

State auditor, official bond: RCW 43.09.010.

State treasurer, official bond: RCW 43.08.020.

Superior court reporters, bond required: RCW 2.32.180.

Suretyship: Chapters 19.72, 48.28 RCW.

Towns, bond of officers: RCW 35.27.120.

University of Washington, board of regents, secretary to give bond: RCW 28B.30.135.

Utilities and transportation commission, official bonds: RCW 80.01.020.

Washington State University, board of regents, bonds required: RCW 28B.30.100, 28B.30.130.

Weed district officers, bond required: RCW 17.04.070.

42.08.005 Official bonds—Payment of premiums.

See RCW 48.28.040.

OFFICIAL BONDS—CODE OF 1881

42.08.010 Scope of coverage. The official bond of a public officer, to the state, or to any county, city, town or

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other municipal or public corporation of like character therein, shall be deemed a security to the state, or to such county, city, town or other municipal or public corporation, as the case may be, and also to all persons severally, for the official delinquencies against which it is intended to provide. [Code 1881 § 652; 1877 p 135 § 655; 1869 p 152 § 592; RRS § 958.]

Bonds payable to state: RCW 42.08.060.

42.08.020 Who may maintain action. When a public officer by official misconduct or neglect of duty, shall forfeit his or her official bond or render his or her sureties therein liable upon such bond, any person injured by such misconduct or neglect, or who is by law entitled to the benefit of the security, may maintain an action at law thereon in his or her own name against the officer and his or her sureties to recover the amount to which he or she may by reason thereof be entitled. [2012 c 117 § 95; Code 1881 § 653; 1877 p 135 § 656; 1869 p 152 § 593; RRS § 959.]

Action on official bond: RCW 42.08.080.

42.08.030 Leave of court required. Before an action can be commenced by a plaintiff, other than the state, or the municipal or public corporation named in the bond, leave shall be obtained of the court or judge thereof where the action is triable. Such leave shall be granted upon the production of a certified copy of the bond and an affidavit of the plaintiff, or some person in his or her behalf, showing the delinquency. But if the matter set forth in his or her affidavit be such that, if true, the party applying would clearly not be entitled to recover in the action, the leave shall not be granted. If it does not appear from the complaint that the leave herein provided for has been granted, the defendant, on motion, shall be entitled to judgment of nonsuit; if it does, the defendant may controvert the allegation, and if the issue be found in his or her favor, judgment shall be given accordingly. [2012 c 117 § 96; Code 1881 § 654; 1877 p 136 § 657; 1869 p 152 § 594; RRS § 960.]

42.08.040 Judgment no bar to further action. A judgment in favor of a party for one delinquency shall not preclude the same or another party from maintaining another action on the same bond for another delinquency. [Code 1881 § 655; 1877 p 136 § 658; 1869 p 153 § 595; RRS § 961.]

42.08.050 Recoveries limited to amount of bond. In an action upon an official bond, if judgments have been recovered against the surety therein other than by confession, equal in the aggregate to the penalty or any part thereof of such bond, and if such recovery be established on the trial, judgment shall not be given against such surety for an amount exceeding such penalty, or such portion thereof as is not already recovered against him or her. [2012 c 117 § 97; Code 1881 § 656; 1877 p 136 § 659; 1869 p 153 § 596; RRS § 962.]

Liability of sureties: RCW 42.08.170.

OFFICIAL BONDS—1890 ACT

42.08.060 Form of official bonds. All official bonds required by law of officers shall be in form, joint and several, and made payable to the state of Washington, in such penal

sum and with such conditions as may be required by law. [1890 p 34 § 1; RRS § 9930.]

Bonds deemed security to state, county, city, town, etc.: RCW 42.08.010.

County commissioner bond is payable to county: RCW 36.32.060.

42.08.070 Effect of bonds. Every official bond executed by any officer pursuant to law shall be deemed and taken to be in force, and shall be obligatory upon the principal and sureties therein for any and all breach of the condition or conditions thereof committed during the time such officer shall continue to discharge any of the duties of, or hold such office, and every such bond shall be deemed to be in force and obligatory upon the principal and sureties therein for the faithful discharge of all duties which may be required of such officer by any law enacted subsequent to the execution of such bond, and such condition shall be expressed therein. [1890 p 34 § 2; RRS § 9931.]

42.08.080 Who may bring action on bond. Every official bond executed by any officer pursuant to law, shall be in force and obligatory upon the principal and sureties therein, to and for the state of Washington, and to and for the use and benefit of all persons who may be injured or aggrieved by the wrongful act or default of such officer, in his official capacity, and any person so injured or aggrieved may bring suit on such bond in his or her own name without an assignment thereof. [1890 p 34 § 3; RRS § 9932.]

Action on official bond: RCW 42.08.020.

42.08.090 Defective bonds validated. Whenever any such official bond shall not contain the substantial matter or condition or conditions required by law, or there shall be any defect in the approval or filing thereof, such bond shall not be void so as to discharge such officer and his or her sureties, but they shall be bound to the state, or party interested, and the state or such party may, by action instituted in any court of competent jurisdiction, suggest the defect of such bond or such approval or filing, and recover his or her proper and equitable demand or damages from such officer, and the person or persons, who intended to become, and were included in such bond as sureties. [2012 c 117 § 98; 1890 p 35 § 4; RRS § 9933.]

42.08.100 Approval and filing. The official bonds of officers shall be approved and filed as follows, to wit: The official bond of the secretary of state shall be approved by the governor and filed in the office of the state auditor. The official bonds of all other state officers required by law to give bonds, except as otherwise expressly provided by law, shall be approved by the governor and filed in the office of the secretary of state.

The official bonds of all county and township officers, except the county superintendent of schools, shall be approved by the board of county commissioners, if in session, and if not in session, by the chair of such board, and filed and recorded in the office of the county clerk of their respective counties: PROVIDED, That the bond of the county clerk shall be recorded in the office of the county auditor and filed in the office of the county treasurer. [2012 c 117 § 99; 1955 c 157 § 11. Prior: 1890 p 35 § 5; RRS § 9934.]

Contractor's bonds: Chapter 39.08 RCW.

Official bonds—Payment of premiums: RCW 48.28.040.

Surety insurance: Chapter 48.28 RCW.

42.08.110 Procedure when bond of county or township officer is insufficient. Whenever the sureties, or any one of them, in the official bond of any county or township officer shall die, remove from the state, become insolvent or insufficient, or the penalty of such bond shall become insufficient, on account of recoveries had thereon, or otherwise, it shall be the duty of the board of county commissioners of the proper county, of their own motion, or on the showing of any person, supported by affidavit, to summon any such officer to appear before them at a stated time, not less than five days after service of such summons, and show cause why he or she should not execute an additional official bond with good and sufficient sureties. [2012 c 117 § 100; 1890 p 35 § 6; RRS § 9935.]

42.08.120 Additional bond. Should such officer, after due notice, fail to appear at the time appointed, the matter may be heard and determined in his or her absence; if after examination the board of county commissioners shall be of opinion that the bond of such officer has become insufficient from any cause whatever, they shall require an additional bond with such security as may be deemed necessary, which said additional bond shall be executed and filed within such time as the board of county commissioners may order; and if any such officer shall fail to execute and file such additional bond within the time prescribed by such order, his or her office shall become vacant. [2012 c 117 § 101; 1890 p 36 § 7; RRS § 9936.]

Failure to give or renew official bond a cause for vacation of office: RCW 42.12.010.

42.08.130 Remedy when bond of state officer becomes insufficient. Whenever the official bond of any state officer shall become insufficient from any cause whatever, the like proceedings may be had before the superior court of the county in which said state officer holds his or her office with reference thereto: PROVIDED, That such proceedings may be commenced by a written motion supported by affidavit. [2012 c 117 § 102; 1890 p 36 § 8; RRS § 9937.]

42.08.140 Force of additional bond. Every such additional bond shall be of like force and obligation upon the principal and sureties therein, and shall subject the officer and his or her sureties to the same liabilities as are prescribed respecting the original bonds of officers. [2012 c 117 § 103; 1890 p 36 § 9; RRS § 9938.]

42.08.150 Number of sureties. Unless otherwise expressly provided, there shall be at least two sureties upon the official bond of every officer. [1890 p 36 § 10; RRS § 9939.]

Corporate sureties: Chapter 48.28 RCW.

42.08.160 Justification of sureties. In all cases where official bonds are required or may be hereafter required, from state, county, township, or precinct officers, the officer or officers whose duty it is or may be to approve such bonds,

shall not accept or approve any such bonds except such bond be that of a surety company, unless the sureties thereon shall severally justify before an officer authorized to administer oaths as follows: (1) On a bond given by a state or county officer that he or she is a resident and freeholder within this state, and on a bond given by a township or precinct officer that he or she is a resident and freeholder within the county in which such township or precinct is situated. (2) That he or she is worth double the amount for which he or she becomes surety over and above all his or her debts and liabilities, in property situated within this state which is not exempt from seizure and sale under execution. [2012 c 117 § 104; 1901 c 14 § 1; 1890 p 36 § 11; RRS § 9940.]

Qualification of individual sureties: RCW 19.72.030.

42.08.170 Liability of sureties. When the penal sum of any bond amounts to more than two thousand dollars, the sureties may become severally liable for portions, not less than five hundred dollars, of such penal sum, making in the aggregate at least two sureties for the whole penal sum. [1890 p 37 § 12; RRS § 9941.]

Recoveries limited to amount of bond: RCW 42.08.050.

42.08.180 Release of sureties. Release of sureties (1937 act), see chapter 19.72 RCW.

Chapter 42.12 RCW VACANCIES

Sections

- 42.12.010 Causes of vacancy.
- 42.12.020 Resignations, to whom made.
- 42.12.030 Term of person elected to fill vacancy.
- 42.12.040 Vacancy in partisan elective office—Successor elected—When.
- 42.12.070 Filling nonpartisan vacancies.

Apple commission, vacancies, how filled: RCW 15.24.050.

Attorney general, removal from office: State Constitution Art. 4 § 9.

Bond, failure to file additional bond causes vacancy: RCW 42.08.120.

*City offices, vacancies, how filled
commission plan: RCW 35.17.020.*

council-manager plan

council: RCW 35.18.020.

optional municipal code: RCW 35A.13.020.

mayor-council plan, optional municipal code: RCW 35A.12.050.

second class: RCW 35.23.101.

Congress, vacancies, how filled: RCW 29A.28.050.

*County, township, precinct, or road district offices, vacancies, how filled:
State Constitution Art. 11 § 6.*

County annexation review board, vacancies: RCW 35A.14.170.

*County clerk, failure to file new bond vacates office: RCW 36.23.020,
42.08.120.*

County commissioners, vacancies, how filled: RCW 36.32.070.

County hospital board of trustees, vacancies, how filled: RCW 36.62.160.

County officers

conviction for taking illegal fees vacates office: RCW 36.18.180.

vacancies: RCW 36.16.110, 36.16.115, 42.12.040.

County treasurer, suspension for misconduct: RCW 36.29.090.

Educational service district superintendent: Chapter 28A.310 RCW.

*Engineers and land surveyors' board of registration, vacancies on: RCW
18.43.030.*

Fire protection district commissioners, vacancies: RCW 52.14.050.

Flood control districts, vacancies in governing board: RCW 85.38.070.

Fruit commission, vacancies, how filled: RCW 15.28.080.

Governor
appointive state office, vacancies in, filled by: RCW 43.06.090.
vacancy in office of: State Constitution Art. 3 § 10 (Amendment 6).

Horse racing commission, vacancies: RCW 67.16.012.

Impeachment: State Constitution Art. 5.

Irrigation district directors, vacancies, how filled: RCW 87.03.081, 87.04.020.

Joint legislative audit and review committee, vacancies, how filled: RCW 44.28.020.

Judges
removal from office: State Constitution Art. 4 § 9.
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court of appeals: RCW 2.06.080.
district court: RCW 3.34.100.
superior court: State Constitution Art. 4 § 5; RCW 2.08.069, 2.08.120.
supreme court: State Constitution Art. 4 § 3; RCW 2.04.100.

Judicial officer's absence from state as forfeiting office: State Constitution Art. 4 § 8.

Legislators, expulsion of member: State Constitution Art. 2 § 9.

Legislators, vacancies, how filled: State Constitution Art. 2 § 15 (Amendment 52), RCW 42.12.040.

Liquor and cannabis board, vacancies, how filled: RCW 66.08.014.

Militia, vacancies, how filled: RCW 38.12.095 through 38.12.115.

Mosquito control districts, vacancies in board of trustees: RCW 17.28.130.

Prosecuting attorney, removal from office: State Constitution Art. 4 § 9.

Public utility district commissioners, vacancies: RCW 54.12.010.

Recall proceedings, grounds: RCW 29A.56.110.

Reclamation district directors, vacancies: RCW 89.30.256.

Regional universities—Trustees, appointment, terms, quorum, vacancies: RCW 28B.35.100.

School directors in second and third-class districts, vacancies, how filled: RCW 28A.343.370.

State appointive office, vacancy in, how filled: State Constitution Art. 3 § 13; RCW 43.06.090.

State elective officers
recall: State Constitution Art. 1 § 33 (Amendment 8).
vacancy, successor elected: RCW 42.12.040.

State officers, removal from office: State Constitution Art. 5.

Statute law committee, vacancies, how filled: RCW 1.08.003.

The Evergreen State College—Trustees, appointment, terms, quorum, vacancies: RCW 28B.40.100.

United States senators, vacancies, how filled: RCW 29A.28.030.

University of Washington board of regents, vacancies, how filled: RCW 28B.20.100.

Utilities and transportation commission, vacancies, how filled: RCW 80.01.010.

Washington State University board of regents, vacancies: RCW 28B.30.100.

Water-sewer district commissioners, vacancies: RCW 57.12.020.

Weed district directors, vacancies, how filled: RCW 17.04.070.

42.12.010 Causes of vacancy. Every elective office shall become vacant on the happening of any of the following events:

- (1) The death of the incumbent;
- (2) His or her resignation. A vacancy caused by resignation shall be deemed to occur upon the effective date of the resignation;
- (3) His or her removal;
- (4) Except as provided in RCW *3.46.067 and 3.50.057, his or her ceasing to be a legally registered voter of the district, county, city, town, or other municipal or quasi municipal corporation from which he or she shall have been elected

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or appointed, including where applicable the council district, commissioner district, or ward from which he or she shall have been elected or appointed;

(5) His or her conviction of a felony, or of any offense involving a violation of his or her official oath;

(6) His or her refusal or neglect to take his or her oath of office, or to give or renew his or her official bond, or to deposit such oath or bond within the time prescribed by law;

(7) The decision of a competent tribunal declaring void his or her election or appointment; or

(8) Whenever a judgment shall be obtained against that incumbent for breach of the condition of his or her official bond. [1994 c 223 § 2; 1993 c 317 § 9; 1981 c 180 § 4; Code 1881 § 3063; 1866 p 28 § 2; RRS § 9950.]

*Reviser's note: RCW 3.46.067 was repealed by 2008 c 227 § 12, effective July 1, 2008.

*Reviser's note: The governor vetoed 1994 c 233 § 20.

Additional notes found at www.leg.wa.gov

42.12.020 Resignations, to whom made. Resignations shall be made as follows: By the state officers and members of the legislature, to the governor; by all county officers, to the county commissioners of their respective counties; by all other officers, holding their offices by appointment, to the body, board or officer that appointed them. [Code 1881 § 3062; 1865 p 28 § 1; RRS § 9949.]

Appointments to fill vacancies: State Constitution Art. 2 § 15 (Amendment 32).

42.12.030 Term of person elected to fill vacancy. Whenever any officer resigns his or her office before the expiration of his or her term, or the office becomes vacant from any other cause, and at a subsequent special election such vacancy is filled, the person so elected to fill such vacancy shall hold office for the remainder of the unexpired term. [2012 c 117 § 105; 1981 c 180 § 5; Code 1881 § 3066; 1866 p 30 § 6; RRS § 9951.]

Additional notes found at www.leg.wa.gov

42.12.040 Vacancy in partisan elective office—Successor elected—When. (1) If a vacancy occurs in any partisan elective office in the executive or legislative branches of state government or in any partisan county elective office before the first day of the regular filing period, the position must be open for filing during the regular filing period as provided in RCW 29A.24.171 and a successor shall be elected at the general election. Except during the last year of the term of office, if such a vacancy occurs on or after the first day of the regular filing period, the election of the successor shall occur at the next succeeding general election as provided in RCW 29A.24.171. The elected successor shall hold office for the remainder of the unexpired term. This section shall not apply to any vacancy occurring in a charter county which has charter provisions inconsistent with this section.

(2) If a vacancy occurs in any legislative office or in any partisan county office after the general election in a year that the position appears on the ballot and before the start of the next term, the term of the successor who is of the same party as the incumbent may commence once he or she has qualified as defined in RCW 29A.04.133 and shall continue through the term for which he or she was elected. [2013 c 11 § 88;

2011 c 349 § 27. Prior: 2006 c 344 § 29; 2005 c 2 § 15 (Initiative Measure No. 872, approved November 2, 2004); 2003 c 238 § 4; 2002 c 108 § 2; 1981 c 180 § 1.]

Effective date—2011 c 349 §§ 10-12, 27, 28, and 30: See note following RCW 29A.24.171.

Short title—Intent—Contingent effective date—2005 c 2 (Initiative Measure No. 872): See notes following RCW 29A.52.112.

County office, appointment of acting official: RCW 36.16.115.

Additional notes found at www.leg.wa.gov

42.12.070 Filling nonpartisan vacancies. A vacancy on an elected nonpartisan governing body of a special purpose district where property ownership is not a qualification to vote, a town, or a city other than a first-class city or a charter code city, shall be filled as follows unless the provisions of law relating to the special district, town, or city provide otherwise:

(1) Where one position is vacant, the remaining members of the governing body shall appoint a qualified person to fill the vacant position.

(2) Where two or more positions are vacant and two or more members of the governing body remain in office, the remaining members of the governing body shall appoint a qualified person to fill one of the vacant positions, the remaining members of the governing body and the newly appointed person shall appoint another qualified person to fill another vacant position, and so on until each of the vacant positions is filled with each of the new appointees participating in each appointment that is made after his or her appointment.

(3) If less than two members of a governing body remain in office, the county legislative authority of the county in which all or the largest geographic portion of the city, town, or special district is located shall appoint a qualified person or persons to the governing body until the governing body has two members.

(4) If a governing body fails to appoint a qualified person to fill a vacancy within ninety days of the occurrence of the vacancy, the authority of the governing body to fill the vacancy shall cease and the county legislative authority of the county in which all or the largest geographic portion of the city, town, or special district is located shall appoint a qualified person to fill the vacancy.

(5) If the county legislative authority of the county fails to appoint a qualified person within one hundred eighty days of the occurrence of the vacancy, the county legislative authority or the remaining members of the governing body of the city, town, or special district may petition the governor to appoint a qualified person to fill the vacancy. The governor may appoint a qualified person to fill the vacancy after being petitioned if at the time the governor fills the vacancy the county legislative authority has not appointed a qualified person to fill the vacancy.

(6) As provided in chapter 29A.24 RCW, each person who is appointed shall serve until a qualified person is elected at the next election at which a member of the governing body normally would be elected. The person elected shall take office immediately and serve the remainder of the unexpired term. [2013 c 11 § 89; 2011 c 349 § 28; 1994 c 223 § 1.]

Effective date—2011 c 349 §§ 10-12, 27, 28, and 30: See note following RCW 29A.24.171.

Chapter 42.14 RCW CONTINUITY OF GOVERNMENT ACT

Sections

42.14.010	Definitions.
42.14.020	Office of governor.
42.14.030	Legislature.
42.14.035	Convening legislature at locations other than usual seat of government.
42.14.040	County commissioners.
42.14.050	City or town officers.
42.14.060	Appointed officers of the state.
42.14.070	Officers of political subdivisions.
42.14.075	Meetings of governing bodies of political subdivisions at other than usual places.
42.14.900	Short title.

Continuity of government: State Constitution Art. 2 § 42 (Amendment 39).

Microfilming of records to provide continuity of civil government: Chapter 40.10 RCW.

42.14.010 Definitions. Unless otherwise clearly required by the context, the following definitions apply:

(1) "Attack" means any acts of aggression taken against the United States causing substantial damage or injury to persons or property in the United States and in the state of Washington.

(2)(a) "Catastrophic incident" means any natural or human-caused incident, including terrorism and enemy attack, that results in extraordinary levels of mass casualties, damage, or disruption severely affecting the population, infrastructure, environment, economy, or government functions.

(b) "Catastrophic incident" does not include an event resulting from individuals exercising their rights, under the first amendment, of freedom of speech, and of the people to peaceably assemble.

(3) "Emergency or disaster" means an event or set of circumstances which: (a) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences; or (b) reaches such a dimension or degree of destructiveness as to warrant the governor proclaiming a state of emergency pursuant to RCW 43.06.010.

(4) "Unavailable" means either that a vacancy in the office exists or that the lawful incumbent of the office is absent or unable to exercise the powers and discharge the duties of the office following a catastrophic incident and a proclamation of existing emergency by the governor or his or her successor. [2019 c 471 § 4; 2012 c 117 § 106; 1963 c 203 § 2.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Contingent effective date—2019 c 471 §§ 4-10: "Sections 4 through 10 of this act take effect if the proposed amendment to Article II, section 42 of the state Constitution providing governmental continuity during emergency periods resulting from a catastrophic incident (House Joint Resolution No. 4200 or Senate Joint Resolution No. 8200) is validly submitted to and is approved and ratified by the voters at the next general election. If the proposed amendment is not approved and ratified, sections 4 through 10 of this act are void in their entirety." [2019 c 471 § 11.] Senate Joint Resolution No. 8200 was approved and ratified by the voters at the November 5, 2019, general election.

Finding—Intent—2019 c 471: See note following RCW 38.52.010.

42.14.020 Office of governor. (1) In the event that all successors to the office of governor as provided by Article 3,

section 10, as amended by amendment 6 of the Constitution of the state of Washington are unavailable following a catastrophic incident, the powers and duties of the office of governor shall be exercised and discharged by the speaker of the house of representatives.

(2) In the event the speaker of the house is unavailable, the powers and duties of the office of governor shall be exercised and discharged by the president pro tem of the senate.

(3) In the event that neither the speaker nor the president pro tem is available, the house of representatives and the senate in joint assembly shall elect an emergency interim governor. [2019 c 471 § 5; 1963 c 203 § 3.]

Contingent effective date—2019 c 471 §§ 4-10: See note following RCW 42.14.010.

Finding—Intent—2019 c 471: See note following RCW 38.52.010.

42.14.030 Legislature. In the event that a catastrophic incident reduces the number of legislators available for duty, then those legislators available for duty shall constitute the legislature and shall have full power to act in separate or joint assembly by majority vote of those present. In the event of a catastrophic incident, (1) quorum requirements for the legislature shall be suspended, and (2) where the affirmative vote of a specified proportion of members for approval of a bill, resolution, or other action would otherwise be required, the same proportion of those voting thereon shall be sufficient. In the event of a catastrophic incident, the governor shall call the legislature into session as soon as practicable, and in any case within thirty days following the inception of the catastrophic incident. If the governor fails to issue such call, the legislature shall, on the thirtieth day from the date of inception of the catastrophic incident, automatically convene at the place where the governor then has his or her office. Each legislator shall proceed to the place of session as expeditiously as practicable. At such session or at any session in operation at the inception of the catastrophic incident, and at any subsequent sessions, limitations on the length of session and on the subjects which may be acted upon shall be suspended. [2019 c 471 § 6; 2012 c 117 § 107; 1963 c 203 § 4.]

Contingent effective date—2019 c 471 §§ 4-10: See note following RCW 42.14.010.

Finding—Intent—2019 c 471: See note following RCW 38.52.010.

42.14.035 Convening legislature at locations other than usual seat of government. Whenever, in the judgment of the governor, it becomes impracticable, due to an emergency resulting from a catastrophic incident, to convene the legislature in the usual seat of government at Olympia, the governor may call the legislature into emergency session in any location within this or an adjoining state. The first order of business of any legislature so convened shall be the establishment of temporary emergency seats of government for the state. After any emergency relocation, the affairs of state government shall be lawfully conducted at such emergency temporary location or locations for the duration of the emergency. [2019 c 471 § 7; 1969 ex.s. c 106 § 1.]

Contingent effective date—2019 c 471 §§ 4-10: See note following RCW 42.14.010.

Finding—Intent—2019 c 471: See note following RCW 38.52.010.

(2020 Ed.)

42.14.040 County commissioners. In the event that a catastrophic incident reduces the number of county commissioners of any county, then those commissioners available for duty shall have full authority to act in all matters as a board of county commissioners. In the event no county commissioner is available for duty, then those elected county officials, except for the members of the county board of education, as are available for duty shall jointly act as the board of county commissioners and shall possess by majority vote the full authority of the board of county commissioners. [2019 c 471 § 8; 1963 c 203 § 5.]

Contingent effective date—2019 c 471 §§ 4-10: See note following RCW 42.14.010.

Finding—Intent—2019 c 471: See note following RCW 38.52.010.

42.14.050 City or town officers. In the event that the executive head of any city or town is unavailable by reason of a catastrophic incident to exercise the powers and discharge the duties of the office, then those members of the city or town council or commission available for duty shall by majority vote select one of their number to act as the executive head of such city or town. In the event that a catastrophic incident reduces the number of city or town councilmembers or commission members, then those members available for duty shall have full power to act by majority vote of those present. [2019 c 471 § 9; 1981 c 213 § 8; 1963 c 203 § 6.]

Contingent effective date—2019 c 471 §§ 4-10: See note following RCW 42.14.010.

Finding—Intent—2019 c 471: See note following RCW 38.52.010.

42.14.060 Appointed officers of the state. The governor shall, subject to such rules and regulations as he or she may adopt, permit each appointed officer of the state to designate temporary interim successors to the office of such officer. [2012 c 117 § 108; 1963 c 203 § 7.]

42.14.070 Officers of political subdivisions. The legislative authority of each political subdivision, subject to the provisions of this chapter, shall adopt rules and regulations providing for appointment of temporary interim successors to the elected and appointed offices of the political subdivisions. [1963 c 203 § 8.]

42.14.075 Meetings of governing bodies of political subdivisions at other than usual places. Whenever, due to a catastrophic incident, or when such an event is imminent, it becomes imprudent, inexpedient, or impossible to conduct the affairs of a political subdivision at the regular or usual place or places, the governing body of the political subdivision may meet at any place within or without the territorial limits of the political subdivision on the call of the presiding official or any two members of the governing body. After any emergency relocation, the affairs of political subdivisions shall be lawfully conducted at such emergency temporary location or locations for the duration of the emergency. [2019 c 471 § 10; 1969 ex.s. c 106 § 2.]

Contingent effective date—2019 c 471 §§ 4-10: See note following RCW 42.14.010.

Finding—Intent—2019 c 471: See note following RCW 38.52.010.

[Title 42 RCW—page 7]

42.14.900 Short title. This act shall be known as the "continuity of government act." [1963 c 203 § 1.]

Chapter 42.16 RCW SALARIES AND FEES

Sections

- 42.16.010 Salaries paid twice each month—Policies and procedures to assure full payment—Exceptions.
- 42.16.011 State payroll revolving account—Use.
- 42.16.012 State payroll revolving account—Disbursements—Sources.
- 42.16.013 Transfers to state payroll revolving account—Certification by agencies or director of financial management.
- 42.16.014 Disbursements by warrants—Certifications.
- 42.16.015 Cancellation of warrants—Transfer of increased balance amounts in state payroll revolving account.
- 42.16.017 Payroll preparation and accounting—Establishment of policies, procedures, and paydates.
- 42.16.020 Salaried officers not to receive witness fees—Exceptions.
- 42.16.030 Disposition of fees.
- 42.16.040 Official fees payable in advance.

Boards and commissions, state, part-time, compensation: RCW 43.03.220 through 43.03.250.

Cities

- commission form, salaries: RCW 35.17.108.*
- council-manager plan, salaries: RCW 35.18.220.*
- optional municipal code*
- council-manager plan, compensation: RCW 35A.13.040.*
- mayor-council plan, compensation: RCW 35A.12.070.*

Commissioner of public lands

- fees: RCW 79.02.240.*
- salary: State Constitution Art. 3 § 23; RCW 43.03.010.*

Compensation not to be increased or diminished during term of office: State Constitution Art. 2 § 13; Art. 2 § 25; Art. 3 § 25 (Amendment 31); Art. 4 § 13; Art. 11 § 8; Art. 28 § 1 (Amendment 20).

County officers, compensation: State Constitution Art. 11 § 8.

County officers, fees: Chapter 36.18 RCW.

County officers, salaries: Chapter 36.17 RCW.

County sheriff, fees payable in advance: RCW 36.28.040.

Court commissioners, salary: RCW 2.24.030.

Courts of limited jurisdiction, salaries and fees: State Constitution Art. 4 § 10 (Amendment 28).

Department of personnel: RCW 43.03.028.

Elected officials, executive branch, salaries: RCW 43.03.011.

Judges, salaries: RCW 43.03.012.

Judicial officers, salaries, how paid, etc.: State Constitution Art. 4 § 13.

Justices of supreme court, salaries: State Constitution Art. 4 § 14.

Legislators, salaries: RCW 43.03.013.

Municipal court judges, salaries: RCW 35.20.160.

Pay of officers and enlisted personnel—Wildland fire response pay: RCW 38.24.050.

Reformatory chief executive officer, salary: RCW 72.01.060.

Secretary of state, fees: RCW 43.07.120.

Secretary of transportation, salary: RCW 47.01.041.

State appointive officers, governor may fix salaries, maximum: RCW 43.03.040.

State boards and commissions, part-time, compensation: RCW 43.03.220 through 43.03.250.

State elective officers, salaries: RCW 43.03.011.

Superior court reporters, salaries: RCW 2.32.210.

*Supreme court reporter, salary: State Constitution Art. 4 § 18; **Rules of court: SAR 17(1).***

University of Washington, disposition of fees: RCW 28B.15.210, 28B.15.220.

Utilities and transportation commission, salaries: RCW 80.01.010.

Washington State University, disposition of fees: RCW 28B.15.310.

[Title 42 RCW—page 8]

42.16.010 Salaries paid twice each month—Policies and procedures to assure full payment—Exceptions. (1) Except as provided otherwise in subsections (2) and (3) of this section, all state officers and employees shall be paid for services rendered from the first day of the month through the fifteenth day of the month and for services rendered from the sixteenth day of the month through the last calendar day of the month. Paydates for these two pay periods shall be established by the director of financial management through the administrative hearing process and the official paydates shall be established six months prior to the beginning of each subsequent calendar year. Under no circumstance shall the paydate be established more than ten days after the pay period in which the wages are earned except when the designated paydate falls on Sunday, in which case the paydate shall not be later than the following Monday. Payment shall be deemed to have been made by the established paydates if: (a) The salary warrant is available at the geographic work location at which the warrant is normally available to the employee; or (b) the salary has been electronically transferred into the employee's account at the employee's designated financial institution; or (c) the salary warrants are mailed at least two days before the established paydate for those employees engaged in work in remote or varying locations from the geographic location at which the payroll is prepared, provided that the employee has requested payment by mail.

The office of financial management shall develop the necessary policies and operating procedures to assure that all remuneration for services rendered including basic salary, shift differential, standby pay, overtime, penalty pay, salary due based on contractual agreements, and special pay provisions, as provided for by law, agency policy or rule, or contract, shall be available to the employee on the designated paydate. Overtime, penalty pay, and special pay provisions may be paid by the next following paydate if the postponement of payment is attributable to: The employee's not making a timely or accurate report of the facts which are the basis for the payment, or the employer's lack of reasonable opportunity to verify the claim.

Compensable benefits payable because of separation from state service shall be paid with the earnings for the final period worked unless the employee separating has not provided the agency with the proper notification of intent to terminate.

One-half of the employee's basic monthly salary shall be paid in each pay period. Employees paid on an hourly basis or employees who work less than a full pay period shall be paid for actual salary earned.

(2) Subsection (1) of this section shall not apply in instances where it would conflict with contractual rights or, with the approval of the office of financial management, to short-term, intermittent, noncareer state employees, to student employees of institutions of higher education, to national or state guard members participating in state active duty, and to liquor control agency managers who are paid a percentage of monthly liquor sales.

(3) When a national or state guard member is called to participate in state active duty, the paydate shall be no more than seven days following completion of duty or the end of the pay period, whichever is first. When the seventh day falls on Sunday, the paydate shall not be later than the following

Monday. This subsection shall apply only to the pay a national or state guard member receives from the military department for state active duty.

(4) Notwithstanding subsections (1) and (2) of this section, a bargained contract at an institution of higher education may include a provision for paying part-time academic employees on a pay schedule that coincides with all the paydays used for full-time academic employees.

(5)(a) Notwithstanding subsections (1), (2), and (4) of this section, an institution of higher education as defined in RCW 28B.10.016 may pay its employees for services rendered biweekly, in pay periods consisting of two consecutive seven calendar-day weeks. The payday for each pay period shall be seven calendar days after the end of the pay period. Under no circumstance may the payday be established more than seven days after the pay period in which the wages are earned except that when the designated payday falls on a holiday, the payday shall not be later than the following Monday.

(b) Employees on a biweekly payroll cycle under this subsection (5) who are paid a salary may receive a prorated amount of their annualized salary each pay period. The prorated amount must be proportional to the number of pay periods worked in the calendar year. Employees on a biweekly payroll cycle under this subsection (5) who are paid hourly, or who work less than a full pay period may be paid the actual salary amount earned during the pay period.

(c) Each institution that adopts a biweekly pay schedule under this subsection (5) must establish, publish, and notify the director of the office of financial management of the official paydates six months before the beginning of each subsequent calendar year.

(6) Notwithstanding subsections (1), (2), and (4) of this section, academic employees at institutions of higher education as defined in RCW 28B.10.016 whose employment appointments are less than twelve months may have their salaries prorated in such a way that coincides with the paydays used for full-time employees. [2014 c 162 § 2; 2011 1st sp.s. c 43 § 446; 2008 c 186 § 1; 2004 c 56 § 1; 1993 c 281 § 42; 1983 1st ex.s. c 28 § 1; 1979 c 151 § 68; 1969 c 59 § 1; 1967 ex.s. c 25 § 1; 1891 c 130 § 1; RRS § 10965.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Additional notes found at www.leg.wa.gov

42.16.011 State payroll revolving account—Use. A state payroll revolving account is created in the state treasury, for the payment of compensation to employees and officers of the state and distribution of all amounts withheld therefrom pursuant to law and amounts authorized by employees to be withheld pursuant to law; also for the payment of the state's contributions for retirement and insurance and other employee benefits: PROVIDED, That the utilization of the state payroll revolving account shall be optional except for agencies whose payrolls are prepared under a centralized system established pursuant to regulations of the director of financial management. [2012 c 198 § 20; 1985 c 57 § 25; 1981 c 9 § 1; 1979 c 151 § 69; 1969 c 59 § 2; 1967 ex.s. c 25 § 2.]

Effective date—2012 c 198: See note following RCW 70A.15.5110.

(2020 Ed.)

Transfer from state payroll revolving fund: "All moneys in the state treasury to the credit of the state payroll revolving fund shall be transferred on the effective date of this act to the state payroll revolving account." [1981 c 9 § 7.] The effective date of 1981 c 9 was February 27, 1981.

Additional notes found at www.leg.wa.gov

42.16.012 State payroll revolving account—Disbursements—Sources. The amounts to be disbursed from the state payroll revolving account from time to time on behalf of agencies utilizing such account shall be transferred thereto by the state treasurer from appropriated funds properly chargeable with the disbursement for the purposes set forth in RCW 42.16.011, on or before the day prior to scheduled disbursement. [2012 c 198 § 21; 1981 c 9 § 2; 1967 ex.s. c 25 § 3.]

Effective date—2012 c 198: See note following RCW 70A.15.5110.

42.16.013 Transfers to state payroll revolving account—Certification by agencies or director of financial management. The state treasurer shall make such transfers to the state payroll revolving account in the amounts to be disbursed as certified by the respective agencies: PROVIDED, That if the payroll is prepared on behalf of an agency from data authenticated and certified by the agency under a centralized system established pursuant to regulation of the director of financial management, the state treasurer shall make the transfer upon the certification of the head of the agency preparing the centralized payroll or his or her designee. [2012 c 117 § 109; 1981 c 9 § 3; 1979 c 151 § 70; 1969 c 59 § 3; 1967 ex.s. c 25 § 4.]

42.16.014 Disbursements by warrants—Certifications. Disbursements from the revolving account and fund created by RCW 42.16.010 through 42.16.017 shall be by warrant in accordance with the provisions of RCW 43.88.160: PROVIDED, That when the payroll is prepared under a centralized system established pursuant to regulations of the director of financial management, disbursements on behalf of the agency shall be certified by the head of the agency preparing the centralized payroll or his or her designee: PROVIDED FURTHER, That disbursements from a centralized paying agency representing amounts withheld, and/or contributions, for payment to any individual payee on behalf of several agencies, may be by single warrant representing the aggregate amounts payable by all such agencies to such payee. The procedure for disbursement and certification of these aggregate amounts shall be established by the director of financial management.

All payments to employees or other payees, from the revolving account and fund created by RCW 42.16.010 through 42.16.017, whether certified by an agency or by the director of financial management on behalf of such agency, shall be made wherever possible by a single warrant reflecting on its face the amount charged to each revolving account and fund. [2012 c 117 § 110; 1981 c 9 § 4; 1979 c 151 § 71; 1969 c 59 § 4; 1967 ex.s. c 25 § 5.]

42.16.015 Cancellation of warrants—Transfer of increased balance amounts in state payroll revolving account. All amounts increasing the balance in the state payroll revolving account, as a result of the cancellation of warrants issued therefrom shall be transferred by the state treasurer

surer to the fund from which the canceled warrant would originally have been paid except for the provisions of RCW 42.16.010 through 42.16.017. [1981 c 9 § 5; 1967 ex.s. c 25 § 6.]

42.16.017 Payroll preparation and accounting—Establishment of policies, procedures, and paydates. The director of financial management shall adopt the necessary policies and procedures to implement RCW 42.16.010 through 42.16.017, including the establishment of paydates. Such paydates shall conform to RCW 42.16.010. The director of financial management shall have approval over all agency and state payroll systems and shall determine the payroll systems to be used by state agencies to ensure the implementation of RCW 42.16.010 and 41.04.232: PROVIDED, That for purposes of the central personnel payroll system, the provisions of RCW 41.07.020 shall apply. [1998 c 245 § 45; 1983 1st ex.s. c 28 § 6; 1979 c 151 § 72; 1967 ex.s. c 25 § 8.]

Additional notes found at www.leg.wa.gov

42.16.020 Salaried officers not to receive witness fees—Exceptions. No state, county, municipal, or other public officer within the state of Washington, who receives from the state, or from any county or municipality therein, a fixed and stated salary as compensation for services rendered as such public officer shall be allowed or paid any per diem for attending or testifying on behalf of the state of Washington, or any county or municipality therein, at any trial or other judicial proceeding, in any state, county, or municipal court within this state; nor shall such officer, in any case, be allowed nor paid any per diem for attending or testifying in any state or municipal court of this state, in regard to matters and information that have come to his or her knowledge in connection with and as a result of the performance of his or her duties as a public officer as aforesaid: PROVIDED, This section shall not apply when any deduction shall be made from the regular salary of such officer by reason of his or her being in attendance upon the superior court, but in such cases regular witness fees shall be paid; and further, that if a public officer be subpoenaed and required to appear or testify in judicial proceedings in a county other than that in which he or she resides, then said public officer shall be entitled to receive per diem and mileage as provided by statute in other cases; and, PROVIDED FURTHER, That this section shall not apply to police officers when called as witnesses in the superior courts during hours when they are off duty as such officers. A law enforcement officer who has issued a notice of traffic infraction is not entitled to receive witness fees or mileage in a contested traffic infraction case. [2012 c 117 § 111; 1981 c 19 § 3; 1903 c 10 § 1; 1901 c 101 § 1; RRS § 499.]

Additional notes found at www.leg.wa.gov

42.16.030 Disposition of fees. All officers enumerated in *this section, who are paid a salary in lieu of fees, shall collect the fees herein prescribed for the use of the state or county, as the case may be, and shall pay the same into the state or county treasury, as the case may be, on the first Monday of each month. [1907 c 56 § 1, part; RRS § 4217. Prior: 1903 c 151 § 1, part; 1893 c 130 § 1, part.]

*Reviser's note: The term "this section" refers to 1907 c 56 § 1, of which RCW 42.16.030 is but a part. The other parts of 1907 c 56 § 1, as amended, are codified as RCW 2.32.070 (supreme court clerk's fees), 2.40.010 (witnesses' fees), 36.18.020 (superior court clerks' fees), 36.18.040 (sheriff's fees), 36.18.010 (county auditor's fees), 36.18.030 (county coroner's fees), 2.36.150 (jurors' fees), 3.16.100 (constables' fees), and 42.28.090 (notaries' fees).

Daily remittance of moneys to state treasury required: RCW 43.01.050.

42.16.040 Official fees payable in advance. All fees are invariably due in advance where demanded by the officer required to perform any official act, and no officer shall be required to perform any official act unless his or her fees are paid when he or she demands the same: PROVIDED, This section shall not apply when the officer performs any official act for his or her county or the state. [2012 c 117 § 112; Code 1881 § 2099; 1869 p 374 § 21; RRS § 505. Formerly codified as RCW 42.04.050.]

County officers, fees payable in advance: RCW 36.18.060.

County sheriff, demand of fees payable in advance: RCW 36.28.040.

Chapter 42.17A RCW

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CONSTRUCTION

- 42.17A.900 Effective date—1973 c 1.
- 42.17A.904 Construction—1973 c 1.
- 42.17A.905 Chapter, section headings not part of law.
- 42.17A.906 Repealer—1973 c 1.
- 42.17A.907 Construction—1975-'76 2nd ex.s. c 112.
- 42.17A.908 Captions.
- 42.17A.909 Short title—1993 c 2.
- 42.17A.910 Effective date—1995 c 397.
- 42.17A.911 Captions—1995 c 397.
- 42.17A.915 Effective dates—2005 c 445.
- 42.17A.917 Effective date—2010 c 204 §§ 505, 602, and 703.
- 42.17A.918 Effective date—2010 c 204.
- 42.17A.919 Effective date—2011 c 60.
- 42.17A.920 Local regulations not preempted—2020 c 152.

42.17A.001 Declaration of policy. It is hereby declared by the sovereign people to be the public policy of the state of Washington:

(1) That political campaign and lobbying contributions and expenditures be fully disclosed to the public and that secrecy is to be avoided.

(2) That the people have the right to expect from their elected representatives at all levels of government the utmost of integrity, honesty, and fairness in their dealings.

(3) That the people shall be assured that the private financial dealings of their public officials, and of candidates for those offices, present no conflict of interest between the public trust and private interest.

(4) That our representative form of government is founded on a belief that those entrusted with the offices of government have nothing to fear from full public disclosure of their financial and business holdings, provided those officials deal honestly and fairly with the people.

(5) That public confidence in government at all levels is essential and must be promoted by all possible means.

(6) That public confidence in government at all levels can best be sustained by assuring the people of the impartiality and honesty of the officials in all public transactions and decisions.

(7) That the concept of attempting to increase financial participation of individual contributors in political campaigns is encouraged by the passage of the Revenue Act of 1971 by the Congress of the United States, and in consequence thereof, it is desirable to have implementing legislation at the state level.

(8) That the concepts of disclosure and limitation of election campaign financing are established by the passage of the Federal Election Campaign Act of 1971 by the Congress of the United States, and in consequence thereof it is desirable to have implementing legislation at the state level.

(9) That small contributions by individual contributors are to be encouraged, and that not requiring the reporting of

small contributions may tend to encourage such contributions.

(10) That the public's right to know of the financing of political campaigns and lobbying and the financial affairs of elected officials and candidates far outweighs any right that these matters remain secret and private.

(11) That, mindful of the right of individuals to privacy and of the desirability of the efficient administration of government, full access to information concerning the conduct of government on every level must be assured as a fundamental and necessary precondition to the sound governance of a free society.

The provisions of this chapter shall be liberally construed to promote complete disclosure of all information respecting the financing of political campaigns and lobbying, and the financial affairs of elected officials and candidates, and full access to public records so as to assure continuing public confidence of fairness of elections and governmental processes, and so as to assure that the public interest will be fully protected. In promoting such complete disclosure, however, this chapter shall be enforced so as to ensure that the information disclosed will not be misused for arbitrary and capricious purposes and to ensure that all persons reporting under this chapter will be protected from harassment and unfounded allegations based on information they have freely disclosed. [2019 c 428 § 2; 1975 1st ex.s. c 294 § 1; 1973 c 1 § 1 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.010.]

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

GENERAL PROVISIONS

42.17A.005 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity.

(2) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

(3) "Authorized committee" means the political committee authorized by a candidate, or by the public official against whom recall charges have been filed, to accept contributions or make expenditures on behalf of the candidate or public official.

(4) "Ballot proposition" means any "measure" as defined by RCW 29A.04.091, or any initiative, recall, or referendum proposition proposed to be submitted to the voters of the state or any municipal corporation, political subdivision, or other voting constituency from and after the time when the proposition has been initially filed with the appropriate election officer of that constituency before its circulation for signatures.

(5) "Benefit" means a commercial, proprietary, financial, economic, or monetary advantage, or the avoidance of a com-

mercial, proprietary, financial, economic, or monetary disadvantage.

(6) "Bona fide political party" means:

(a) An organization that has been recognized as a minor political party by the secretary of state;

(b) The governing body of the state organization of a major political party, as defined in RCW 29A.04.086, that is the body authorized by the charter or bylaws of the party to exercise authority on behalf of the state party; or

(c) The county central committee or legislative district committee of a major political party. There may be only one legislative district committee for each party in each legislative district.

(7) "Books of account" means:

(a) In the case of a campaign or political committee, a ledger or similar listing of contributions, expenditures, and debts, such as a campaign or committee is required to file regularly with the commission, current as of the most recent business day; or

(b) In the case of a commercial advertiser, details of political advertising or electioneering communications provided by the advertiser, including the names and addresses of persons from whom it accepted political advertising or electioneering communications, the exact nature and extent of the services rendered and the total cost and the manner of payment for the services.

(8) "Candidate" means any individual who seeks nomination for election or election to public office. An individual seeks nomination or election when the individual first:

(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote the individual's candidacy for office;

(b) Announces publicly or files for office;

(c) Purchases commercial advertising space or broadcast time to promote the individual's candidacy; or

(d) Gives consent to another person to take on behalf of the individual any of the actions in (a) or (c) of this subsection.

(9) "Caucus political committee" means a political committee organized and maintained by the members of a major political party in the state senate or state house of representatives.

(10) "Commercial advertiser" means any person that sells the service of communicating messages or producing material for broadcast or distribution to the general public or segments of the general public whether through brochures, fliers, newspapers, magazines, television, radio, billboards, direct mail advertising, printing, paid internet or digital communications, or any other means of mass communications used for the purpose of appealing, directly or indirectly, for votes or for financial or other support in any election campaign.

(11) "Commission" means the agency established under RCW 42.17A.100.

(12) "Committee" unless the context indicates otherwise, includes a political committee such as a candidate, ballot proposition, recall, political, or continuing political committee.

(13) "Compensation" unless the context requires a narrower meaning, includes payment in any form for real or personal property or services of any kind. For the purpose of

compliance with RCW 42.17A.710, "compensation" does not include per diem allowances or other payments made by a governmental entity to reimburse a public official for expenses incurred while the official is engaged in the official business of the governmental entity.

(14) "Continuing political committee" means a political committee that is an organization of continuing existence not limited to participation in any particular election campaign or election cycle.

(15)(a) "Contribution" includes:

(i) A loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds, or anything of value, including personal and professional services for less than full consideration;

(ii) An expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a political or incidental committee, the person or persons named on the candidate's or committee's registration form who direct expenditures on behalf of the candidate or committee, or their agents;

(iii) The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, digital, or other form of political advertising or electioneering communication prepared by a candidate, a political or incidental committee, or its authorized agent;

(iv) Sums paid for tickets to fund-raising events such as dinners and parties, except for the actual cost of the consumables furnished at the event.

(b) "Contribution" does not include:

(i) Accrued interest on money deposited in a political or incidental committee's account;

(ii) Ordinary home hospitality;

(iii) A contribution received by a candidate or political or incidental committee that is returned to the contributor within ten business days of the date on which it is received by the candidate or political or incidental committee;

(iv) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is of interest to the public, that is in a news medium controlled by a person whose business is that news medium, and that is not controlled by a candidate or a political or incidental committee;

(v) An internal political communication primarily limited to the members of or contributors to a political party organization or political or incidental committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

(vi) The rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this subsection, means services or labor for which the individual is not compensated by any person;

(vii) Messages in the form of reader boards, banners, or yard or window signs displayed on a person's own property or property occupied by a person. However, a facility used for such political advertising for which a rental charge is normally made must be reported as an in-kind contribution and counts toward any applicable contribution limit of the person providing the facility;

(viii) Legal or accounting services rendered to or on behalf of:

(A) A political party or caucus political committee if the person paying for the services is the regular employer of the person rendering such services; or

(B) A candidate or an authorized committee if the person paying for the services is the regular employer of the individual rendering the services and if the services are solely for the purpose of ensuring compliance with state election or public disclosure laws; or

(ix) The performance of ministerial functions by a person on behalf of two or more candidates or political or incidental committees either as volunteer services defined in (b)(vi) of this subsection or for payment by the candidate or political or incidental committee for whom the services are performed as long as:

(A) The person performs solely ministerial functions;

(B) A person who is paid by two or more candidates or political or incidental committees is identified by the candidates and political committees on whose behalf services are performed as part of their respective statements of organization under RCW 42.17A.205; and

(C) The person does not disclose, except as required by law, any information regarding a candidate's or committee's plans, projects, activities, or needs, or regarding a candidate's or committee's contributions or expenditures that is not already publicly available from campaign reports filed with the commission, or otherwise engage in activity that constitutes a contribution under (a)(ii) of this subsection.

A person who performs ministerial functions under this subsection (15)(b)(ix) is not considered an agent of the candidate or committee as long as the person has no authority to authorize expenditures or make decisions on behalf of the candidate or committee.

(c) Contributions other than money or its equivalent are deemed to have a monetary value equivalent to the fair market value of the contribution. Services or property or rights furnished at less than their fair market value for the purpose of assisting any candidate or political committee are deemed a contribution. Such a contribution must be reported as an in-kind contribution at its fair market value and counts towards any applicable contribution limit of the provider.

(16) "Depository" means a bank, mutual savings bank, savings and loan association, or credit union doing business in this state.

(17) "Elected official" means any person elected at a general or special election to any public office, and any person appointed to fill a vacancy in any such office.

(18) "Election" includes any primary, general, or special election for public office and any election in which a ballot proposition is submitted to the voters. An election in which the qualifications for voting include other than those requirements set forth in Article VI, section 1 (Amendment 63) of the Constitution of the state of Washington shall not be considered an election for purposes of this chapter.

(19) "Election campaign" means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a ballot proposition.

(20) "Election cycle" means the period beginning on the first day of January after the date of the last previous general

election for the office that the candidate seeks and ending on December 31st after the next election for the office. In the case of a special election to fill a vacancy in an office, "election cycle" means the period beginning on the day the vacancy occurs and ending on December 31st after the special election.

(21)(a) "Electioneering communication" means any broadcast, cable, or satellite television, radio transmission, digital communication, United States postal service mailing, billboard, newspaper, or periodical that:

(i) Clearly identifies a candidate for a state, local, or judicial office either by specifically naming the candidate, or identifying the candidate without using the candidate's name;

(ii) Is broadcast, transmitted electronically or by other means, mailed, erected, distributed, or otherwise published within sixty days before any election for that office in the jurisdiction in which the candidate is seeking election; and

(iii) Either alone, or in combination with one or more communications identifying the candidate by the same sponsor during the sixty days before an election, has a fair market value or cost of one thousand dollars or more.

(b) "Electioneering communication" does not include:

(i) Usual and customary advertising of a business owned by a candidate, even if the candidate is mentioned in the advertising when the candidate has been regularly mentioned in that advertising appearing at least twelve months preceding the candidate becoming a candidate;

(ii) Advertising for candidate debates or forums when the advertising is paid for by or on behalf of the debate or forum sponsor, so long as two or more candidates for the same position have been invited to participate in the debate or forum;

(iii) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is:

(A) Of interest to the public;

(B) In a news medium controlled by a person whose business is that news medium; and

(C) Not a medium controlled by a candidate or a political or incidental committee;

(iv) Slate cards and sample ballots;

(v) Advertising for books, films, dissertations, or similar works (A) written by a candidate when the candidate entered into a contract for such publications or media at least twelve months before becoming a candidate, or (B) written about a candidate;

(vi) Public service announcements;

(vii) An internal political communication primarily limited to the members of or contributors to a political party organization or political or incidental committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

(viii) An expenditure by or contribution to the authorized committee of a candidate for state, local, or judicial office; or

(ix) Any other communication exempted by the commission through rule consistent with the intent of this chapter.

(22) "Expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. "Expenditure" also includes a promise to pay, a

payment, or a transfer of anything of value in exchange for goods, services, property, facilities, or anything of value for the purpose of assisting, benefiting, or honoring any public official or candidate, or assisting in furthering or opposing any election campaign. For the purposes of this chapter, agreements to make expenditures, contracts, and promises to pay may be reported as estimated obligations until actual payment is made. "Expenditure" shall not include the partial or complete repayment by a candidate or political or incidental committee of the principal of a loan, the receipt of which loan has been properly reported.

(23) "Final report" means the report described as a final report in RCW 42.17A.235(11)(a).

(24) "Foreign national" means:

(a) An individual who is not a citizen of the United States and is not lawfully admitted for permanent residence;

(b) A government, or subdivision, of a foreign country;

(c) A foreign political party; and

(d) Any entity, such as a partnership, association, corporation, organization, or other combination of persons, that is organized under the laws of or has its principal place of business in a foreign country.

(25) "General election" for the purposes of RCW 42.17A.405 means the election that results in the election of a person to a state or local office. It does not include a primary.

(26) "Gift" has the definition in RCW 42.52.010.

(27) "Immediate family" includes the spouse or domestic partner, dependent children, and other dependent relatives, if living in the household. For the purposes of the definition of "intermediary" in this section, "immediate family" means an individual's spouse or domestic partner, and child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual and the spouse or the domestic partner of any such person and a child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual's spouse or domestic partner and the spouse or the domestic partner of any such person.

(28) "Incidental committee" means any nonprofit organization not otherwise defined as a political committee but that may incidentally make a contribution or an expenditure in excess of the reporting thresholds in RCW 42.17A.235, directly or through a political committee. Any nonprofit organization is not an incidental committee if it is only remitting payments through the nonprofit organization in an aggregated form and the nonprofit organization is not required to report those payments in accordance with this chapter.

(29) "Incumbent" means a person who is in present possession of an elected office.

(30)(a) "Independent expenditure" means an expenditure that has each of the following elements:

(i) It is made in support of or in opposition to a candidate for office by a person who is not:

(A) A candidate for that office;

(B) An authorized committee of that candidate for that office; and

(C) A person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for political advertising support-

ing that candidate or promoting the defeat of any other candidate or candidates for that office;

(ii) It is made in support of or in opposition to a candidate for office by a person with whom the candidate has not collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

(iii) The expenditure pays in whole or in part for political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name; and

(iv) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value of one thousand dollars or more. A series of expenditures, each of which is under one thousand dollars, constitutes one independent expenditure if their cumulative value is one thousand dollars or more.

(b) "Independent expenditure" does not include: Ordinary home hospitality; communications with journalists or editorial staff designed to elicit a news item, feature, commentary, or editorial in a regularly scheduled news medium that is of primary interest to the general public, controlled by a person whose business is that news medium, and not controlled by a candidate or a political committee; participation in the creation of a publicly funded voters pamphlet statement in written or video form; an internal political communication primarily limited to contributors to a political party organization or political action committee, the officers, management staff, and stockholders of a corporation or similar enterprise, or the members of a labor organization or other membership organization; or the rendering of personal services of the sort commonly performed by volunteer campaign workers or incidental expenses personally incurred by volunteer campaign workers not in excess of two hundred fifty dollars personally paid for by the worker.

(31)(a) "Intermediary" means an individual who transmits a contribution to a candidate or committee from another person unless the contribution is from the individual's employer, immediate family, or an association to which the individual belongs.

(b) A treasurer or a candidate is not an intermediary for purposes of the committee that the treasurer or candidate serves.

(c) A professional fund-raiser is not an intermediary if the fund-raiser is compensated for fund-raising services at the usual and customary rate.

(d) A volunteer hosting a fund-raising event at the individual's home is not an intermediary for purposes of that event.

(32) "Legislation" means bills, resolutions, motions, amendments, nominations, and other matters pending or proposed in either house of the state legislature, and includes any other matter that may be the subject of action by either house or any committee of the legislature and all bills and resolutions that, having passed both houses, are pending approval by the governor.

(33) "Legislative office" means the office of a member of the state house of representatives or the office of a member of the state senate.

(34) "Lobby" and "lobbying" each mean attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state administrative procedure act, chapter 34.05 RCW. Neither "lobby" nor "lobbying" includes an association's or other organization's act of communicating with the members of that association or organization.

(35) "Lobbyist" includes any person who lobbies either on the person's own or another's behalf.

(36) "Lobbyist's employer" means the person or persons by whom a lobbyist is employed and all persons by whom the lobbyist is compensated for acting as a lobbyist.

(37) "Ministerial functions" means an act or duty carried out as part of the duties of an administrative office without exercise of personal judgment or discretion.

(38) "Participate" means that, with respect to a particular election, an entity:

(a) Makes either a monetary or in-kind contribution to a candidate;

(b) Makes an independent expenditure or electioneering communication in support of or opposition to a candidate;

(c) Endorses a candidate before contributions are made by a subsidiary corporation or local unit with respect to that candidate or that candidate's opponent;

(d) Makes a recommendation regarding whether a candidate should be supported or opposed before a contribution is made by a subsidiary corporation or local unit with respect to that candidate or that candidate's opponent; or

(e) Directly or indirectly collaborates or consults with a subsidiary corporation or local unit on matters relating to the support of or opposition to a candidate, including, but not limited to, the amount of a contribution, when a contribution should be given, and what assistance, services or independent expenditures, or electioneering communications, if any, will be made or should be made in support of or opposition to a candidate.

(39) "Person" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

(40) "Political advertising" includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, digital communication, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign.

(41) "Political committee" means any person (except a candidate or an individual dealing with the candidate's or individual's own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

(42) "Primary" for the purposes of RCW 42.17A.405 means the procedure for nominating a candidate to state or local office under chapter 29A.52 RCW or any other primary for an election that uses, in large measure, the procedures established in chapter 29A.52 RCW.

(43) "Public office" means any federal, state, judicial, county, city, town, school district, port district, special district, or other state political subdivision elective office.

(44) "Public record" has the definition in RCW 42.56.010.

(45) "Recall campaign" means the period of time beginning on the date of the filing of recall charges under RCW 29A.56.120 and ending thirty days after the recall election.

(46) "Remediable violation" means any violation of this chapter that:

(a) Involved expenditures or contributions totaling no more than the contribution limits set out under RCW 42.17A.405(2) per election, or one thousand dollars if there is no statutory limit;

(b) Occurred:

(i) More than thirty days before an election, where the commission entered into an agreement to resolve the matter; or

(ii) At any time where the violation did not constitute a material violation because it was inadvertent and minor or otherwise has been cured and, after consideration of all the circumstances, further proceedings would not serve the purposes of this chapter;

(c) Does not materially harm the public interest, beyond the harm to the policy of this chapter inherent in any violation; and

(d) Involved:

(i) A person who:

(A) Took corrective action within five business days after the commission first notified the person of noncompliance, or where the commission did not provide notice and filed a required report within twenty-one days after the report was due to be filed; and

(B) Substantially met the filing deadline for all other required reports within the immediately preceding twelve-month period; or

(ii) A candidate who:

(A) Lost the election in question; and

(B) Did not receive contributions over one hundred times the contribution limit in aggregate per election during the campaign in question.

(47)(a) "Sponsor" for purposes of an electioneering communications, independent expenditures, or political advertising means the person paying for the electioneering communication, independent expenditure, or political advertising. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the sponsor.

(b) "Sponsor," for purposes of a political or incidental committee, means any person, except an authorized committee, to whom any of the following applies:

(i) The committee receives eighty percent or more of its contributions either from the person or from the person's members, officers, employees, or shareholders;

(ii) The person collects contributions for the committee by use of payroll deductions or dues from its members, officers, or employees.

(48) "Sponsored committee" means a committee, other than an authorized committee, that has one or more sponsors.

(49) "State office" means state legislative office or the office of governor, lieutenant governor, secretary of state,

attorney general, commissioner of public lands, insurance commissioner, superintendent of public instruction, state auditor, or state treasurer.

(50) "State official" means a person who holds a state office.

(51) "Surplus funds" mean, in the case of a political committee or candidate, the balance of contributions that remain in the possession or control of that committee or candidate subsequent to the election for which the contributions were received, and that are in excess of the amount necessary to pay remaining debts or expenses incurred by the committee or candidate with respect to that election. In the case of a continuing political committee, "surplus funds" mean those contributions remaining in the possession or control of the committee that are in excess of the amount necessary to pay all remaining debts or expenses when it makes its final report under RCW 42.17A.255.

(52) "Technical correction" means the correction of a minor or ministerial error in a required report that does not materially harm the public interest and needs to be corrected for the report to be in full compliance with the requirements of this chapter.

(53) "Treasurer" and "deputy treasurer" mean the individuals appointed by a candidate or political or incidental committee, pursuant to RCW 42.17A.210, to perform the duties specified in that section.

(54) "Violation" means a violation of this chapter that is not a remediable violation, minor violation, or an error classified by the commission as appropriate to address by a technical correction. [2020 c 152 § 2; 2019 c 428 § 3. Prior: 2018 c 304 § 2; 2018 c 111 § 3; prior: 2011 c 145 § 2; 2011 c 60 § 19; prior: 2010 c 204 § 101; 2008 c 6 § 201; prior: 2007 c 358 § 1; 2007 c 180 § 1; 2005 c 445 § 6; 2002 c 75 § 1; 1995 c 397 § 1; 1992 c 139 § 1; 1991 sp.s. c 18 § 1; 1990 c 139 § 2; prior: 1989 c 280 § 1; 1989 c 175 § 89; 1984 c 34 § 5; 1979 ex.s. c 50 § 1; 1977 ex.s. c 313 § 1; 1975 1st ex.s. c 294 § 2; 1973 c 1 § 2 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.020.]

Findings—2020 c 152: See note following RCW 42.17A.417.

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

Finding—Intent—2018 c 304: See note following RCW 42.17A.235.

Effective date—Short title—Findings—Intent—Implementation with existing funds—2018 c 111: See notes following RCW 42.17A.207.

Findings—Intent—2011 c 145: "The legislature finds that timely and full disclosure of election campaign funding and expenditures is essential to a well-functioning democracy in which Washington's voters can judge for themselves what is appropriate based on ideologies, programs, and policies. Long-term voter engagement and confidence depends on the public knowing who is funding the multiple and targeted messages distributed during election campaigns.

The legislature also finds that recent events have revealed the need for refining certain elements of our state's election campaign finance laws that have proven inadequate in preventing efforts to hide information from voters. The legislature intends, therefore, to promote greater transparency for the public by enhancing penalties for violations; regulating the formation of, and contributions between, political committees; and reducing the expenditure thresholds for purposes of mandatory electronic filing and disclosure." [2011 c 145 § 1.]

Effective date—2011 c 145: "This act takes effect January 1, 2012." [2011 c 145 § 8.]

Legislative intent—1990 c 139: "The provisions of this act which repeal the reporting requirements established by chapter 423, Laws of 1987 for registered lobbyists and employers of lobbyists are not intended to alter,

expand, or restrict whatsoever the definition of "lobby" or "lobbying" contained in RCW 42.17.020 as it existed prior to the enactment of chapter 423, Laws of 1987." [1990 c 139 § 1.]

Additional notes found at www.leg.wa.gov

42.17A.010 Conservation district exception. Elections of conservation district supervisors held pursuant to chapter 89.08 RCW shall not be considered general or special elections for purposes of the campaign disclosure and personal financial affairs reporting requirements of this chapter. Elected conservation district supervisors are not considered elected officials for purposes of the annual personal financial affairs reporting requirement of this chapter. [2002 c 43 § 4. Formerly RCW 42.17.035.]

Intent—Effective date—2002 c 43: See notes following RCW 29A.04.330.

42.17A.020 Statements and reports public records. All statements and reports filed under this chapter shall be public records of the agency where they are filed, and shall be available for public inspection and copying during normal business hours at the expense of the person requesting copies, provided that the charge for such copies shall not exceed actual cost to the agency. [1973 c 1 § 44 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.440.]

ELECTRONIC ACCESS

42.17A.055 Electronic filing—Availability. (1) For each required report, as technology permits, the commission shall make an electronic reporting tool available to all those who are required to file that report under this chapter.

(2) All persons required to file reports under this chapter must file them electronically where the commission has provided an electronic option. The executive director may make exceptions on a case-by-case basis for persons who lack the technological ability to file reports electronically.

(3) If the electronic filing system provided by the commission is inoperable for any period of time, the commission must keep a record of the date and time of each instance and post outages on its web site. If a report is due on a day the electronic filing system is inoperable, it is not late if filed the first business day the system is back in operation. The commission must provide notice to all reporting entities when the system is back in operation.

(4) All persons required to file reports under this chapter shall, at the time of initial filing, provide the commission an email address, or other electronic contact information, that shall constitute the official address for purposes of all communications from the commission. The person required to file one or more reports must provide any new electronic contact information to the commission within ten days, if the address has changed from that listed on the most recent report. Committees must provide the committee treasurer's electronic contact information to the commission. Committees must also provide any new electronic contact information for the committee's treasurer to the commission within ten days of the change. The executive director may waive the electronic contact information requirement and allow use of a postal address, upon the showing of hardship. [2019 c 428 §

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4; 2018 c 304 § 3; 2013 c 166 § 2; 2010 c 204 § 202; 2000 c 237 § 3; 1999 c 401 § 11. Formerly RCW 42.17.369.]

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

Finding—Intent—2018 c 304: See note following RCW 42.17A.235.

Effective date—2013 c 166: "This act takes effect January 1, 2014." [2013 c 166 § 3.]

42.17A.060 Access to reports—Legislative intent. It is the intent of the legislature to ensure that the commission provide the general public timely access to all contribution and expenditure reports submitted by candidates, continuing political committees, bona fide political parties, lobbyists, and lobbyists' employers. The legislature finds that failure to meet goals for full and timely disclosure threatens to undermine our electoral process.

Furthermore, the legislature intends for the commission to consult with the office of the chief information officer as it seeks to implement chapter 401, Laws of 1999, and that the commission follow the standards and procedures established by the office of the chief information officer in chapter 43.105 RCW as they relate to information technology. [2011 1st sp.s. c 43 § 732; 1999 c 401 § 1. Formerly RCW 42.17.460.]

Effective date—2011 1st sp.s. c 43 § 732: "Section 732 of this act takes effect January 1, 2012." [2011 1st sp.s. c 43 § 1015.]

Purpose—2011 1st sp.s. c 43: See note following RCW 43.19.003.

42.17A.065 Access performance measures. By July 1st of each year, the commission shall calculate the following performance measures, provide a copy of the performance measures to the governor and appropriate legislative committees, and make the performance measures available to the public:

(1) The average number of days that elapse between the commission's receipt of reports filed under RCW 42.17A.205, 42.17A.225, 42.17A.235, 42.17A.255, 42.17A.265, 42.17A.600, 42.17A.615, 42.17A.625, and 42.17A.630 and the time that the report, a copy of the report, or a copy of the data or information included in the report, is first accessible to the general public (a) in the commission's office, and (b) via the commission's web site;

(2) The percentage of filers pursuant to RCW 42.17A.055 who have used: (a) Hard copy paper format; or (b) electronic format. [2019 c 428 § 5; 2010 c 204 § 204; 1999 c 401 § 3. Formerly RCW 42.17.463.]

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

ADMINISTRATION

42.17A.100 Public disclosure commission—Established—Commissioners—Prohibited activities—Compensation, travel expenses. (1) The public disclosure commission is established. The commission shall be composed of five commissioners appointed by the governor, with the consent of the senate. The commission shall have the authority and duties as set forth in this chapter. All appointees shall be persons of the highest integrity and qualifications. No more than three commissioners shall have an identification with the same political party.

(2) The term of each commissioner shall be five years, which may continue until a successor is appointed, but may not exceed an additional twelve months. No commissioner is eligible for appointment to more than one full term. Any commissioner may be removed by the governor, but only upon grounds of neglect of duty or misconduct in office.

(3)(a) During a commissioner's tenure, the commissioner is prohibited from engaging in any of the following activities, either within or outside the state of Washington:

- (i) Holding or campaigning for elective office;
- (ii) Serving as an officer of any political party or political committee;
- (iii) Permitting the commissioner's name to be used in support of or in opposition to a candidate or proposition;
- (iv) Soliciting or making contributions to a candidate or in support of or in opposition to any candidate or proposition;
- (v) Participating in any way in any election campaign; or
- (vi) Lobbying, employing, or assisting a lobbyist, except that a commissioner or the staff of the commission may lobby to the limited extent permitted by RCW 42.17A.635 on matters directly affecting this chapter.

(b) This subsection is not intended to prohibit a commissioner from participating in or supporting nonprofit or other organizations, in the commissioner's private capacity, to the extent such participation is not prohibited under (a) of this subsection.

(c) The provisions of this subsection do not relieve a commissioner of any applicable disqualification and recusal requirements.

(4) A vacancy on the commission shall be filled within thirty days of the vacancy by the governor, with the consent of the senate, and the appointee shall serve for the remaining term of the appointee's predecessor. A vacancy shall not impair the powers of the remaining commissioners to exercise all of the powers of the commission.

(5) Three commissioners shall constitute a quorum. The commission shall elect its own chair and adopt its own rules of procedure in the manner provided in chapter 34.05 RCW.

(6) Commissioners shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for travel expenses incurred while engaged in the business of the commission as provided in RCW 43.03.050 and 43.03.060. The compensation provided pursuant to this section shall not be considered salary for purposes of the provisions of any retirement system created under the laws of this state. [2019 c 428 § 6; 2010 c 204 § 301; 1998 c 30 § 1; 1984 c 287 § 74; 1982 c 147 § 15; 1975-'76 2nd ex.s. c 112 § 8; 1975-'76 2nd ex.s. c 34 § 93; 1975 1st ex.s. c 294 § 23; 1973 c 1 § 35 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.350.]

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

42.17A.105 Commission—Duties. The commission shall:

(1) Develop and provide forms for the reports and statements required to be made under this chapter;

(2) Prepare and publish a manual setting forth recommended uniform methods of bookkeeping and reporting for use by persons required to make reports and statements under this chapter;

(3) Compile and maintain a current list of all filed reports and statements;

(4) Investigate whether properly completed statements and reports have been filed within the times required by this chapter;

(5) Upon complaint or upon its own motion, investigate and report apparent violations of this chapter to the appropriate law enforcement authorities;

(6) Conduct a sufficient number of audits and field investigations to provide a statistically valid finding regarding the degree of compliance with the provisions of this chapter by all required filers. Any documents, records, reports, computer files, papers, or materials provided to the commission for use in conducting audits and investigations must be returned to the candidate, campaign, or political committee from which they were received within one week of the commission's completion of an audit or field investigation;

(7) Prepare and publish an annual report to the governor as to the effectiveness of this chapter and its enforcement by appropriate law enforcement authorities;

(8) Enforce this chapter according to the powers granted it by law;

(9) Adopt rules governing the arrangement, handling, indexing, and disclosing of those reports required by this chapter to be filed with a county auditor or county elections official. The rules shall:

- (a) Ensure ease of access by the public to the reports; and
- (b) Include, but not be limited to, requirements for indexing the reports by the names of candidates or political committees and by the ballot proposition for or against which a political committee is receiving contributions or making expenditures;

(10) Adopt rules to carry out the policies of chapter 348, Laws of 2006. The adoption of these rules is not subject to the time restrictions of RCW 42.17A.110(1);

(11) Adopt administrative rules establishing requirements for filer participation in any system designed and implemented by the commission for the electronic filing of reports; and

(12) Maintain and make available to the public and political committees of this state a toll-free telephone number. [2010 c 204 § 302; 1973 c 1 § 36 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.360.]

42.17A.110 Commission—Additional powers. In addition to the duties in RCW 42.17A.105, the commission may:

(1) Adopt, amend, and rescind suitable administrative rules to carry out the policies and purposes of this chapter, which rules shall be adopted under chapter 34.05 RCW. Any rule relating to campaign finance, political advertising, or related forms that would otherwise take effect after June 30th of a general election year shall take effect no earlier than the day following the general election in that year;

(2) Appoint an executive director and set, within the limits established by the office of financial management under RCW 43.03.028, the executive director's compensation. The

executive director shall perform such duties and have such powers as the commission may prescribe and delegate to implement and enforce this chapter efficiently and effectively. The commission shall not delegate its authority to adopt, amend, or rescind rules nor may it delegate authority to determine that a violation of this chapter has occurred or to assess penalties for such violations;

(3) Prepare and publish reports and technical studies as in its judgment will tend to promote the purposes of this chapter, including reports and statistics concerning campaign financing, lobbying, financial interests of elected officials, and enforcement of this chapter;

(4) Conduct, as it deems appropriate, audits and field investigations;

(5) Make public the time and date of any formal hearing set to determine whether a violation has occurred, the question or questions to be considered, and the results thereof;

(6) Administer oaths and affirmations, issue subpoenas, and compel attendance, take evidence, and require the production of any records relevant to any investigation authorized under this chapter, or any other proceeding under this chapter;

(7) Adopt a code of fair campaign practices;

(8) Adopt rules relieving candidates or political committees of obligations to comply with election campaign provisions of this chapter, if they have not received contributions nor made expenditures in connection with any election campaign of more than *five thousand dollars;

(9) Develop and provide to filers a system for certification of reports required under this chapter which are transmitted electronically to the commission. Implementation of the program is contingent on the availability of funds; and

(10) Make available and keep current on its web site a glossary of all defined terms in this chapter and in rules adopted by the commission. [2019 c 428 § 8; 2018 c 304 § 4; 2015 c 225 § 55. Prior: 2011 1st sp.s. c 43 § 448; 2011 c 60 § 20; prior: 2010 1st sp.s. c 7 § 4; 2010 c 204 § 303; 1995 c 397 § 17; 1994 c 40 § 3; 1986 c 155 § 11; 1985 c 367 § 11; 1984 c 34 § 7; 1977 ex.s. c 336 § 7; 1975 1st ex.s. c 294 § 25; 1973 c 1 § 37 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.370.]

***Reviser's note:** The dollar amounts in this section may have been adjusted for inflation by rule of the commission adopted under the authority of RCW 42.17A.125. For current dollar amounts, see WAC 390-05-400.

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

Finding—Intent—2018 c 304: See note following RCW 42.17A.235.

Effective date—2011 1st sp.s. c 43 § 448: "Section 448 of this act takes effect January 1, 2012." [2011 1st sp.s. c 43 § 481.]

Purpose—2011 1st sp.s. c 43: See note following RCW 43.19.003.

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Findings—1994 c 40: "The legislature finds that government information is a strategic resource and needs to be managed as such and that broad public access to nonrestricted public information and records must be guaranteed. The legislature further finds that reengineering government processes along with capitalizing on advancements made in digital technology can build greater efficiencies in government service delivery. The legislature further finds that providing citizen electronic access to presently available public documents will allow increased citizen involvement in state policies and empower citizens to participate in state policy decision making." [1994 c 40 § 1.]

Additional notes found at www.leg.wa.gov

42.17A.120 Suspension or modification of reporting requirements. (1) The commission may suspend or modify any of the reporting requirements of this chapter if it finds that literal application of this chapter works a manifestly unreasonable hardship in a particular case and the suspension or modification will not frustrate the purposes of this chapter. The commission may suspend or modify reporting requirements only to the extent necessary to substantially relieve the hardship and only after a hearing is held and the suspension or modification receives approval. A suspension or modification of the financial affairs reporting requirements in RCW 42.17A.710 may be approved for an elected official's term of office or for up to three years for an executive state officer. If a material change in the applicant's circumstances or relevant information occurs or has occurred, the applicant must request a modification at least one month prior to the next filing deadline rather than at the conclusion of the term.

(2) A manifestly unreasonable hardship exists if reporting the name of an entity required to be reported under RCW 42.17A.710(1)(g)(ii) would be likely to adversely affect the competitive position of any entity in which the person filing the report, or any member of the person's immediate family, holds any office, directorship, general partnership interest, or an ownership interest of ten percent or more.

(3) Requests for reporting modifications may be heard in a brief adjudicative proceeding as set forth in RCW 34.05.482 through 34.05.494 and in accordance with the standards established in this section. The commission, the commission chair acting as presiding officer, or another commissioner appointed by the chair to serve as presiding officer, may preside over a brief adjudicative proceeding. If a modification is requested by a filer because of a concern for personal safety, the information submitted regarding that safety concern shall not be made public prior to, or at, the hearing on the request. Any information provided or prepared for the modification hearing shall remain exempt from public disclosure under this chapter and chapter 42.56 RCW to the extent it is determined at the hearing that disclosure of such information would present a personal safety risk to a reasonable person.

(4) If the commission, or presiding officer, grants a modification request, the commission or presiding officer may apply the modification retroactively to previously filed reports. In that event, previously reported information of the kind that is no longer being reported is confidential and exempt from public disclosure under this chapter and chapter 42.56 RCW.

(5) Any citizen has standing to bring an action in Thurston county superior court to contest the propriety of any order entered under this section within one year from the date of the entry of the order.

(6) The commission shall adopt rules governing the proceedings. [2019 c 428 § 10; 2010 c 204 § 304.]

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

42.17A.125 Revising monetary contribution limits, reporting thresholds, and code values. At least once every five years, but no more often than every two years, the commission must consider whether to revise the monetary contribution limits and reporting thresholds and code values of this

chapter. If the commission chooses to make revisions, the revisions shall be only for the purpose of recognizing economic changes as reflected by an inflationary index recommended by the office of financial management, and may be rounded off to amounts as determined by the commission to be most accessible for public understanding. The revisions shall be guided by the change in the index for the period commencing with the month of December preceding the last revision and concluding with the month of December preceding the month the revision is adopted. As to each of the three general categories of this chapter, reports of campaign finance, reports of lobbyist activity, and reports of the financial affairs of elected and appointed officials, the revisions shall equally affect all thresholds within each category. The revisions authorized by this subsection shall reflect economic changes from the time of the last legislative enactment affecting the respective code or threshold.

Revisions made in accordance with this section shall be adopted as rules in accordance with chapter 34.05 RCW. [2019 c 428 § 11; 2011 c 60 § 21; 2010 c 204 § 305; 1993 c 2 § 9 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.690.]

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

42.17A.130 Duties of attorney general. The attorney general, through his or her office, shall provide assistance as required by the commission to carry out its responsibilities under this chapter. The commission may employ attorneys who are neither the attorney general nor an assistant attorney general to carry out any function of the attorney general prescribed in this chapter. [2010 c 205 § 8; 2010 c 204 § 306; 1982 c 35 § 196; 1975 1st ex.s. c 294 § 26; 1973 c 1 § 38 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.380.]

Reviser's note: This section was amended by 2010 c 204 § 306 and by 2010 c 205 § 8, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

42.17A.135 Application of reporting requirements in small political subdivisions. (1) Except as provided in subsections (2), (3), and (7) of this section, the reporting provisions of this chapter do not apply to:

(a) Candidates, elected officials, and agencies in political subdivisions with fewer than two thousand registered voters as of the date of the most recent general election in the jurisdiction;

(b) Political committees formed to support or oppose candidates or ballot propositions in such political subdivisions; or

(c) Persons making independent expenditures in support of or opposition to such ballot propositions.

(2) The reporting provisions of this chapter apply in any exempt political subdivision from which a "petition for disclosure" containing the valid signatures of fifteen percent of the number of registered voters, as of the date of the most recent general election in the political subdivision, is filed with the commission. The commission shall by rule prescribe the form of the petition. After the signatures are gathered, the

petition shall be presented to the auditor or elections officer of the county, or counties, in which the political subdivision is located. The auditor or elections officer shall verify the signatures and certify to the commission that the petition contains no less than the required number of valid signatures. The commission, upon receipt of a valid petition, shall order every known affected person in the political subdivision to file the initially required statement and reports within fourteen days of the date of the order.

(3) The reporting provisions of this chapter apply in any exempt political subdivision that by ordinance, resolution, or other official action has petitioned the commission to make the provisions applicable to elected officials and candidates of the exempt political subdivision. A copy of the action shall be sent to the commission. If the commission finds the petition to be a valid action of the appropriate governing body or authority, the commission shall order every known affected person in the political subdivision to file the initially required statement and reports within fourteen days of the date of the order.

(4) The commission shall void any order issued by it pursuant to subsection (2) or (3) of this section when, at least four years after issuing the order, the commission is presented a petition or official action so requesting from the affected political subdivision. Such petition or official action shall meet the respective requirements of subsection (2) or (3) of this section.

(5) Any petition for disclosure, ordinance, resolution, or official action of an agency petitioning the commission to void the exemption in RCW 42.17A.200(3) shall not be considered unless it has been filed with the commission:

(a) In the case of a ballot proposition, at least sixty days before the date of any election in which campaign finance reporting is to be required;

(b) In the case of a candidate, at least sixty days before the first day on which a person may file a declaration of candidacy for any election in which campaign finance reporting is to be required.

(6) Any person exempted from reporting under this chapter may at the person's option file the statement and reports.

(7) The reporting provisions of this chapter apply to a candidate in any political subdivision if the candidate receives or expects to receive five thousand dollars or more in contributions. [2019 c 428 § 12; 2010 c 204 § 307; 2006 c 240 § 2; 1986 c 12 § 3; 1985 c 367 § 13; 1982 c 60 § 1. Formerly RCW 42.17.405.]

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

42.17A.140 Date of receipt—Exceptions—Electronic filings. (1) Except as provided in subsection (2) of this section, the date of receipt of any properly addressed application, report, statement, notice, or payment required to be made under the provisions of this chapter is the date shown by the post office cancellation mark on the envelope of the submitted material. The provisions of this section do not apply to reports required to be delivered under RCW 42.17A.265 and 42.17A.625.

(2) When a report is filed electronically with the commission, it is deemed to have been received on the file trans-

fer date. The commission shall notify the filer of receipt of the electronically filed report. Such notification may be sent by mail or electronically. If the notification of receipt of the electronically filed report is not received by the filer, the filer may offer proof of sending the report, and such proof shall be treated as if it were a receipt sent by the commission. Electronic filing may be used for purposes of filing the special reports required to be delivered under RCW 42.17A.265 and 42.17A.625. [2019 c 428 § 13; 2010 c 204 § 308; 1999 c 401 § 10; 1995 c 397 § 18; 1983 c 176 § 2; 1973 c 1 § 42 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.420.]

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

42.17A.145 Certification of reports. Every report and statement required to be filed under this chapter shall identify the person preparing it, and shall be certified as complete and correct, both by the person preparing it and by the person on whose behalf it is filed. [1973 c 1 § 43 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.430.]

42.17A.150 Duty to preserve statements and reports. The commission must preserve statements or reports required to be filed under this chapter for not less than ten years. [2010 c 205 § 9; 1973 c 1 § 45 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.450.]

42.17A.160 Subpoenas. (1) The commission may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in Thurston county, the county where the subpoenaed person resides or is found, or the county where the subpoenaed documents, records, or evidence are located. The application must:

- (a) State that an order is sought under this section;
- (b) Adequately specify the documents, records, evidence, or testimony; and
- (c) Include a declaration made under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the commission's authority and that the subpoenaed documents, records, evidence, or testimony are reasonably related to an investigation within the commission's authority.

(2) When an application under this section is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the agency to subpoena the documents, records, evidence, or testimony.

(3) The commission may seek approval and a court may issue an order under this section without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation. An application for court approval is subject to the fee and process set forth in RCW 36.18.012(3). [2019 c 428 § 9.]

Finding—2019 c 428: "The legislature finds that passage of chapter 304, Laws of 2018 (Engrossed Substitute House Bill No. 2938) and chapter 111, Laws of 2018 (Substitute Senate Bill No. 5991) was an important step in achieving the goals of reforming campaign finance reporting and oversight, including simplifying the reporting and enforcement processes to promote administrative efficiencies. Much has been accomplished in the short

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time the public disclosure commission has implemented these new laws. However, some additional improvements were identified by the legislature, stakeholders, and the public disclosure commission, that are necessary to further implement these goals and the purpose of the state campaign finance law. Additional refinements to the law will help to ensure the public disclosure commission may continue to provide transparency of election campaign funding activities, meaningful guidance to participants in the political process, and enforcement that is timely, fair, and focused on improving compliance." [2019 c 428 § 1.]

Effective date—2019 c 428: "Except for sections 35 and 36 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 21, 2019]." [2019 c 428 § 44.]

CAMPAIGN FINANCE REPORTING

42.17A.200 Application of chapter—Exceptions. The provisions of this chapter relating to the financing of election campaigns shall apply in all election campaigns other than (1) for precinct committee officer; (2) for a federal elective office; and (3) for an office of a political subdivision of the state that does not encompass a whole county and that contains fewer than five thousand registered voters as of the date of the most recent general election in the subdivision, unless required by RCW 42.17A.135 (2) through (5) and (7). [2010 c 204 § 401; 2006 c 240 § 1; 1987 c 295 § 18; 1986 c 12 § 1; 1985 c 367 § 2; 1977 ex.s. c 313 § 2; 1973 c 1 § 3 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.030.]

Cemetery district commissioners exempt from chapter: RCW 68.52.140, 68.52.220.

Additional notes found at www.leg.wa.gov

42.17A.205 Statement of organization by political committees. (1) Every political committee shall file a statement of organization with the commission. The statement must be filed within two weeks after organization or within two weeks after the date the committee first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier. A political committee organized within the last three weeks before an election and having the expectation of receiving contributions or making expenditures during and for that election campaign shall file a statement of organization within three business days after its organization or when it first has the expectation of receiving contributions or making expenditures in the election campaign.

(2) The statement of organization shall include but not be limited to:

- (a) The name, address, and electronic contact information of the committee;
- (b) The names, addresses, and electronic contact information of all related or affiliated committees or other persons, and the nature of the relationship or affiliation;
- (c) The names, addresses, and titles of its officers; or if it has no officers, the names, addresses, and titles of its responsible leaders;
- (d) The name, address, and electronic contact information of its treasurer and depository;
- (e) A statement whether the committee is a continuing one;

(f) The name, office sought, and party affiliation of each candidate whom the committee is supporting or opposing, and, if the committee is supporting the entire ticket of any party, the name of the party;

(g) The ballot proposition concerned, if any, and whether the committee is in favor of or opposed to such proposition;

(h) What distribution of surplus funds will be made, in accordance with RCW 42.17A.430, in the event of dissolution;

(i) Such other information as the commission may by rule prescribe, in keeping with the policies and purposes of this chapter;

(j) The name, address, and title of any person who authorizes expenditures or makes decisions on behalf of the candidate or committee; and

(k) The name, address, and title of any person who is paid by or is a volunteer for a candidate or political committee to perform ministerial functions and who performs ministerial functions on behalf of two or more candidates or committees.

(3) No two political committees may have the same name.

(4) Any material change in information previously submitted in a statement of organization shall be reported to the commission within the ten days following the change.

(5) As used in this section, the "name" of a sponsored committee must include the name of the person who is the sponsor of the committee. If more than one person meets the definition of sponsor, the name of the committee must include the name of at least one sponsor, but may include the names of other sponsors. A person may sponsor only one political committee for the same elected office or same ballot proposition per election cycle. [2019 c 428 § 14; 2011 c 145 § 3. Prior: 2010 c 205 § 1; 2010 c 204 § 402; 2007 c 358 § 2; 1989 c 280 § 2; 1982 c 147 § 1; 1977 ex.s. c 336 § 1; 1975 1st ex.s. c 294 § 3; 1973 c 1 § 4 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.040.]

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

Findings—Intent—Effective date—2011 c 145: See notes following RCW 42.17A.005.

Additional notes found at www.leg.wa.gov

42.17A.207 Statement of organization by incidental committees. (1)(a) An incidental committee must file a statement of organization with the commission within two weeks after the date the committee first:

(i) Has the expectation of making any expenditures aggregating at least twenty-five thousand dollars in a calendar year in any election campaign, or to a political committee; and

(ii) Is required to disclose a payment received under RCW 42.17A.240(2)(d).

(b) If an incidental committee first meets the criteria requiring filing a statement of organization as specified in (a) of this subsection in the last three weeks before an election, then it must file the statement of organization within three business days.

(2) The statement of organization must include but is not limited to:

(a) The name, address, and electronic contact information of the committee;

(b) The names and addresses of all related or affiliated political or incidental committees or other persons, and the nature of the relationship or affiliation;

(c) The names, addresses, and titles of its officers; or if it has no officers, the names, addresses, and titles of its responsible leaders and the name of the person designated as the treasurer of the incidental committee;

(d) The name, office sought, and party affiliation of each candidate whom the committee is supporting or opposing if the committee contributes directly to a candidate and, if donating to a political committee, the name and address of that political committee;

(e) The ballot proposition concerned, if any, and whether the committee is in favor of or opposed to such proposition; and

(f) Such other information as the commission may by rule prescribe, in keeping with the policies and purposes of this chapter.

(3) Any material change in information previously submitted in a statement of organization must be reported to the commission within the ten days following the change. [2019 c 428 § 15; 2018 c 111 § 4.]

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

Effective date—2018 c 111: "This act takes effect January 1, 2019." [2018 c 111 § 10.]

Short title—2018 c 111: "This act may be known and cited as the democracy is strengthened by casting light on spending in elections act of 2018 or the Washington state DISCLOSE act of 2018." [2018 c 111 § 1.]

Findings—Intent—2018 c 111: "The legislature finds that the public has the right to know who is contributing to election campaigns in Washington state and that campaign finance disclosure deters corruption, increases public confidence in Washington state elections, and strengthens representative democracy.

The legislature finds that campaign finance disclosure is overwhelmingly supported by the citizens of Washington state as evidenced by the two initiatives that largely established Washington's current campaign finance system. Both passed with over seventy-two percent of the popular vote, as well as winning margins in every county in the state.

The legislature finds that nonprofit organizations are increasingly engaging in campaign activities in Washington state and across the country, including taking a more active role in contributing to candidate and ballot proposition campaigns. In some cases, these activities are occurring without adequate public disclosure due to loopholes in campaign finance regulations.

The legislature finds that many nonprofit organizations wish to use the provisions of current law to anonymously contribute to campaign activity, frustrating the purposes of public disclosure laws.

Therefore, the legislature intends to increase transparency and accountability, deter corruption, and strengthen confidence in the election process by closing campaign finance disclosure loopholes and requiring the disclosure of contributions and expenditures by nonprofit organizations that participate significantly in Washington state elections." [2018 c 111 § 2.]

Implementation with existing funds—2018 c 111: "The public disclosure commission shall implement the provisions of this act within existing funds." [2018 c 111 § 8.]

42.17A.210 Treasurer. (1) Each candidate, within two weeks after becoming a candidate, and each political committee, at the time it is required to file a statement of organization, shall designate and file with the commission the name and address of one legally competent individual, who may be the candidate, to serve as a treasurer.

(2) A candidate, a political committee, or a treasurer may appoint as many deputy treasurers as is considered necessary

and shall file the names and addresses of the deputy treasurers with the commission.

(3)(a) A candidate or political committee may at any time remove a treasurer or deputy treasurer.

(b) In the event of the death, resignation, removal, or change of a treasurer or deputy treasurer, the candidate or political committee shall designate and file with the commission the name and address of any successor.

(4) No treasurer or deputy treasurer may be deemed to be in compliance with the provisions of this chapter until the treasurer's or deputy treasurer's name, address, and electronic contact information is filed with the commission. [2019 c 428 § 16. Prior: 2010 c 205 § 2; 2010 c 204 § 403; 1989 c 280 § 3; 1985 c 367 § 3; 1982 c 147 § 2; 1973 c 1 § 5 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.050.]

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

Additional notes found at www.leg.wa.gov

42.17A.215 Depositories. Each candidate and each political committee shall designate and file with the commission the name and address of not more than one depository for each county in which the campaign is conducted in which the candidate's or political committee's accounts are maintained and the name of the account or accounts maintained in that depository on behalf of the candidate or political committee. The candidate or political committee may at any time change the designated depository and shall file with the commission the same information for the successor depository as for the original depository. The candidate or political committee may not be deemed in compliance with the provisions of this chapter until the information required for the depository is filed with the commission. [2019 c 428 § 17; 2010 c 204 § 404.]

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

42.17A.220 Deposit of contributions—Investment—Unidentified contributions. (1) All monetary contributions received by a candidate or political committee shall be deposited by candidates, political committee members, paid staff, or treasurers in a depository in an account established and designated for that purpose. Such deposits shall be made within five business days of receipt of the contribution. For online or credit card contributions, the contribution is considered received at the time the transfer is made from the merchant account to a candidate or political committee account, except that a contribution made to a candidate who is a state official or legislator outside the restriction period established in RCW 42.17A.560, but transferred to the candidate's account within the restricted period, is considered received outside of the restriction period.

(2) Political committees that support or oppose more than one candidate or ballot proposition, or exist for more than one purpose, may maintain multiple separate bank accounts within the same designated depository for such purpose only if:

(a) Each such account bears the same name;

(b) Each such account is followed by an appropriate designation that accurately identifies its separate purpose; and

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(c) Transfers of funds that must be reported under *RCW 42.17A.240(5) are not made from more than one such account.

(3) Nothing in this section prohibits a candidate or political committee from investing funds on hand in a depository in bonds, certificates, or tax-exempt securities, or in savings accounts or other similar instruments in financial institutions, or in mutual funds other than the depository but only if:

(a) The commission is notified in writing of the initiation and the termination of the investment; and

(b) The principal of such investment, when terminated together with all interest, dividends, and income derived from the investment, is deposited in the depository in the account from which the investment was made and properly reported to the commission before any further disposition or expenditure.

(4) Accumulated unidentified contributions, other than those made by persons whose names must be maintained on a separate and private list by a political committee's treasurer pursuant to RCW 42.17A.240(2), in excess of one percent of the total accumulated contributions received in the current calendar year, or three hundred dollars, whichever is more, may not be deposited, used, or expended, but shall be returned to the donor if his or her identity can be ascertained. If the donor cannot be ascertained, the contribution shall escheat to the state and shall be paid to the state treasurer for deposit in the state general fund. [2018 c 304 § 5. Prior: 2010 c 205 § 3; 2010 c 204 § 405; 1989 c 280 § 4; 1987 c 268 § 1; 1985 c 367 § 4; 1982 c 147 § 3; 1977 ex.s. c 313 § 3; 1975 1st ex.s. c 294 § 4; 1973 c 1 § 6 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.060.]

***Reviser's note:** RCW 42.17A.240 was amended by 2020 c 152 § 3, changing subsection (5) to subsection (6).

Finding—Intent—2018 c 304: See note following RCW 42.17A.235.

Additional notes found at www.leg.wa.gov

42.17A.225 Filing and reporting by continuing political committee. (1) In addition to the provisions of this section, a continuing political committee shall file and report on the same conditions and at the same times as any other committee in accordance with the provisions of RCW 42.17A.205, 42.17A.210, and 42.17A.220.

(2) A continuing political committee shall file with the commission a report on the tenth day of each month detailing expenditures made and contributions received for the preceding calendar month. This report need only be filed if either the total contributions received or total expenditures made since the last such report exceed two hundred dollars. The report shall be on a form supplied by the commission and shall include the following information:

(a) The information required by RCW 42.17A.240;

(b) Each expenditure made to retire previously accumulated debts of the committee identified by recipient, amount, and date of payments;

(c) Other information the commission shall prescribe by rule.

(3) If a continuing political committee makes a contribution in support of or in opposition to a candidate or ballot proposition within sixty days before the date that the candidate or ballot proposition will be voted upon, the committee shall report pursuant to RCW 42.17A.235.

(4)(a) A continuing political committee shall file reports as required by this chapter until the committee has ceased to function and intends to dissolve, at which time, when there is no outstanding debt or obligation and the committee is concluded in all respects, a final report shall be filed. Upon submitting a final report, the continuing political committee so intending to dissolve must file notice of intent to dissolve with the commission and the commission must post the notice on its web site.

(b) The continuing political committee may dissolve sixty days after it files its notice to dissolve, only if:

(i) The continuing political committee does not make any expenditures other than those related to the dissolution process or engage in any political activity or any other activities that generate additional reporting requirements under this chapter after filing such notice;

(ii) No complaint or court action, pursuant to this chapter, is pending against the continuing political committee; and

(iii) All penalties assessed by the commission or court order have been paid by the continuing political committee.

(c) The continuing political committee must continue to report regularly as required under this chapter until all the conditions under (b) of this subsection are resolved.

(d) Upon dissolution, the commission must issue an acknowledgment of dissolution, the duties of the treasurer shall cease, and there shall be no further obligations under this chapter. Dissolution does not absolve the candidate or board of the committee from responsibility for any future obligations resulting from the finding after dissolution of a violation committed prior to dissolution.

(5) The treasurer shall maintain books of account, current within five business days, that accurately reflect all contributions and expenditures. During the ten calendar days immediately preceding the date of any election that the committee has received any contributions or made any expenditures, the books of account shall be kept current within one business day and shall be open for public inspection in the same manner as provided for candidates and other political committees in RCW 42.17A.235(6).

(6) All reports filed pursuant to this section shall be certified as correct by the treasurer.

(7) The treasurer shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for not less than five calendar years following the year during which the transaction occurred. [2019 c 428 § 18; 2018 c 304 § 6; 2011 c 60 § 22. Prior: 2010 c 205 § 4; 2010 c 204 § 406; 2000 c 237 § 1; 1989 c 280 § 5; 1982 c 147 § 4; 1975 1st ex.s. c 294 § 5. Formerly RCW 42.17.065.]

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

Finding—Intent—2018 c 304: See note following RCW 42.17A.235.

Additional notes found at www.leg.wa.gov

42.17A.230 Fund-raising activities—Alternative reporting method. (1) Fund-raising activities meeting the standards of subsection (2) of this section may be reported in accordance with the provisions of this section in lieu of reporting in accordance with RCW 42.17A.235.

(2) Standards:

(a) The activity consists of one or more of the following:

(i) A sale of goods or services sold at a reasonable approximation of the fair market value of each item or service; or

(ii) A gambling operation that is licensed, conducted, or operated in accordance with the provisions of chapter 9.46 RCW; or

(iii) A gathering where food and beverages are purchased and the price of admission or the per person charge for the food and beverages is no more than twenty-five dollars; or

(iv) A concert, dance, theater performance, or similar entertainment event and the price of admission is no more than twenty-five dollars; or

(v) An auction or similar sale for which the total fair market value or cost of items donated by any person is no more than fifty dollars; and

(b) No person responsible for receiving money at the fund-raising activity knowingly accepts payments from a single person at or from such an activity to the candidate or committee aggregating more than fifty dollars unless the name and address of the person making the payment, together with the amount paid to the candidate or committee, are disclosed in the report filed pursuant to subsection (6) of this section; and

(c) Any other standards established by rule of the commission to prevent frustration of the purposes of this chapter.

(3) All funds received from a fund-raising activity that conforms with subsection (2) of this section must be deposited in the depository within five business days of receipt by the treasurer or deputy treasurer.

(4) At the time reports are required under RCW 42.17A.235, the treasurer or deputy treasurer making the deposit shall file with the commission a report of the fund-raising activity which must contain the following information:

(a) The date of the activity;

(b) A precise description of the fund-raising methods used in the activity; and

(c) The total amount of cash receipts from persons, each of whom paid no more than fifty dollars.

(5) The treasurer or deputy treasurer shall certify the report is correct.

(6) The treasurer shall report pursuant to RCW 42.17A.235 and 42.17A.240:

(a) The name and address and the amount contributed by each person contributing goods or services with a fair market value of more than fifty dollars to a fund-raising activity reported under subsection (4) of this section; and

(b) The name and address and the amount paid by each person whose identity can be ascertained, who made a contribution to the candidate or committee aggregating more than fifty dollars at or from such a fund-raising activity. [2019 c 428 § 19. Prior: 2010 c 205 § 5; 2010 c 204 § 407; 1989 c 280 § 6; 1982 c 147 § 5; 1975-'76 2nd ex.s. c 112 § 9. Formerly RCW 42.17.067.]

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

Additional notes found at www.leg.wa.gov

42.17A.235 Reporting of contributions and expenditures—Public inspection of accounts. (1)(a) In addition to

the information required under RCW 42.17A.205 and 42.17A.210, each candidate or political committee must file with the commission a report of all contributions received and expenditures made as a political committee on the next reporting date pursuant to the timeline established in this section.

(b) In addition to the information required under RCW 42.17A.207 and 42.17A.210, on the day an incidental committee files a statement of organization with the commission, each incidental committee must file with the commission a report of any election campaign expenditures under *RCW 42.17A.240(6), as well as the source of the ten largest cumulative payments of ten thousand dollars or greater it received in the current calendar year from a single person, including any persons tied as the tenth largest source of payments it received, if any.

(2) Each treasurer of a candidate or political committee, or an incidental committee, required to file a statement of organization under this chapter, shall file with the commission a report, for each election in which a candidate, political committee, or incidental committee is participating, containing the information required by RCW 42.17A.240 at the following intervals:

(a) On the twenty-first day and the seventh day immediately preceding the date on which the election is held; and

(b) On the tenth day of the first full month after the election.

(3)(a) Each treasurer of a candidate or political committee shall file with the commission a report on the tenth day of each month during which the candidate or political committee is not participating in an election campaign, only if the committee has received a contribution or made an expenditure in the preceding calendar month and either the total contributions received or total expenditures made since the last such report exceed two hundred dollars.

(b) Each incidental committee shall file with the commission a report on the tenth day of each month during which the incidental committee is not otherwise required to report under this section only if the committee has:

(i) Received a payment that would change the information required under RCW 42.17A.240(2)(d) as included in its last report; or

(ii) Made any election campaign expenditure reportable under *RCW 42.17A.240(6) since its last report, and the total election campaign expenditures made since the last report exceed two hundred dollars.

(4) The report filed twenty-one days before the election shall report all contributions received and expenditures made as of the end of one business day before the date of the report. The report filed seven days before the election shall report all contributions received and expenditures made as of the end of one business day before the date of the report. Reports filed on the tenth day of the month shall report all contributions received and expenditures made from the closing date of the last report filed through the last day of the month preceding the date of the current report.

(5) For the period beginning the first day of the fourth month preceding the date of the special election, or for the period beginning the first day of the fifth month before the date of the general election, and ending on the date of that special or general election, each Monday the treasurer for a

candidate or a political committee shall file with the commission a report of each bank deposit made during the previous seven calendar days. The report shall contain the name of each person contributing the funds and the amount contributed by each person. However, persons who contribute no more than twenty-five dollars in the aggregate are not required to be identified in the report. A copy of the report shall be retained by the treasurer for the treasurer's records. In the event of deposits made by candidates, political committee members, or paid staff other than the treasurer, the copy shall be immediately provided to the treasurer for the treasurer's records. Each report shall be certified as correct by the treasurer.

(6)(a) The treasurer for a candidate or a political committee shall maintain books of account accurately reflecting all contributions and expenditures on a current basis within five business days of receipt or expenditure. During the ten calendar days immediately preceding the date of the election the books of account shall be kept current within one business day. As specified in the political committee's statement of organization filed under RCW 42.17A.205, the books of account must be open for public inspection by appointment at a place agreed upon by both the treasurer and the requestor, for inspections between 9:00 a.m. and 5:00 p.m. on any day from the tenth calendar day immediately before the election through the day immediately before the election, other than Saturday, Sunday, or a legal holiday. It is a violation of this chapter for a candidate or political committee to refuse to allow and keep an appointment for an inspection to be conducted during these authorized times and days. The appointment must be allowed at an authorized time and day for such inspections that is within forty-eight hours of the time and day that is requested for the inspection. The treasurer may provide digital access or copies of the books of account in lieu of scheduling an appointment at a designated place for inspection. If the treasurer and requestor are unable to agree on a location and the treasurer has not provided digital access to the books of account, the default location for an appointment shall be a place of public accommodation selected by the treasurer within a reasonable distance from the treasurer's office.

(b) At the time of making the appointment, a person wishing to inspect the books of account must provide the treasurer the name and telephone number of the person wishing to inspect the books of account. The person inspecting the books of account must show photo identification before the inspection begins.

(c) A treasurer may refuse to show the books of account to any person who does not make an appointment or provide the required identification. The commission may issue limited rules to modify the requirements set forth in this section in consideration of other technology and best practices.

(7) Copies of all reports filed pursuant to this section shall be readily available for public inspection by appointment, pursuant to subsection (6) of this section.

(8) The treasurer or candidate shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for not less than five calendar years following the year during which the transaction occurred or for any longer period as otherwise required by law.

(9) All reports filed pursuant to subsection (1) or (2) of this section shall be certified as correct by the candidate and the treasurer.

(10) Where there is not a pending complaint concerning a report, it is not evidence of a violation of this section to submit an amended report within twenty-one days of filing an initial report if:

(a) The report is accurately amended;

(b) The amended report is filed more than thirty days before an election;

(c) The total aggregate dollar amount of the adjustment for the amended report is within three times the contribution limit per election or two hundred dollars, whichever is greater; and

(d) The committee reported all information that was available to it at the time of filing, or made a good faith effort to do so, or if a refund of a contribution or expenditure is being reported.

(11)(a) When there is no outstanding debt or obligation, the campaign fund is closed, the campaign is concluded in all respects, and the political committee has ceased to function and intends to dissolve, the treasurer shall file a final report. Upon submitting a final report, the political committee so intending to dissolve must file notice of intent to dissolve with the commission and the commission must post the notice on its web site.

(b) Any political committee may dissolve sixty days after it files its notice to dissolve, only if:

(i) The political committee does not make any expenditures other than those related to the dissolution process or engage in any political activity or any other activities that generate additional reporting requirements under this chapter after filing such notice;

(ii) No complaint or court action under this chapter is pending against the political committee; and

(iii) All penalties assessed by the commission or court order have been paid by the political committee.

(c) The political committee must continue to report regularly as required under this chapter until all the conditions under (b) of this subsection are resolved.

(d) Upon dissolution, the commission must issue an acknowledgment of dissolution, the duties of the treasurer shall cease, and there shall be no further obligations under this chapter. Dissolution does not absolve the candidate or board of the committee from responsibility for any future obligations resulting from the finding after dissolution of a violation committed prior to dissolution.

(12) The commission must adopt rules for the dissolution of incidental committees. [2019 c 428 § 20. Prior: 2018 c 304 § 7; 2018 c 111 § 5; 2015 c 54 § 1; 2011 c 60 § 23; prior: 2010 c 205 § 6; 2010 c 204 § 408; 2008 c 73 § 1; 2006 c 344 § 30; 2005 c 184 § 1; 2002 c 75 § 2; 2000 c 237 § 2; 1999 c 401 § 13; 1995 c 397 § 2; 1989 c 280 § 8; 1986 c 28 § 1; 1982 c 147 § 6; 1975 1st ex.s. c 294 § 6; 1973 c 1 § 8 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.080.]

*Reviser's note: RCW 42.17A.240 was amended by 2020 c 152 § 3, changing subsection (6) to subsection (7).

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

Finding—Intent—2018 c 304: "The legislature finds that state campaign finance laws are intended to provide maximum transparency to the public and voters so they may know who is funding political campaigns and how those campaigns spend their money. Additionally, our campaign finance laws should not be so complex and complicated that volunteers and newcomers to the political process cannot understand the rules or have difficulty following them. The legislature believes that our campaign finance laws should not be a barrier to participating in the political process, but instead encourage people to participate in the process by ensuring a level playing field and a predictable enforcement mechanism. The legislature intends to simplify the political reporting and enforcement process without sacrificing transparency and the public's right to know who funds political campaigns. The legislature also intends to expedite the public disclosure commission's enforcement procedures so that remedial campaign finance violations can be dealt with administratively."

The intent of the law is not to trap or embarrass people when they make honest remediable errors. A majority of smaller campaigns are volunteer-driven and most treasurers are not professional accountants. The public disclosure commission should be guided to review and address major violations, intentional violations, and violations that could change the outcome of an election or materially affect the public interest." [2018 c 304 § 1.]

Effective date—Short title—Findings—Intent—Implementation with existing funds—2018 c 111: See notes following RCW 42.17A.207.

Additional notes found at www.leg.wa.gov

42.17A.240 Contents of report. Each report required under RCW 42.17A.235 (1) through (4) must be certified as correct by the treasurer and the candidate and shall disclose the following, except an incidental committee only must disclose and certify as correct the information required under subsections (2)(d) and (7) of this section:

(1) The funds on hand at the beginning of the period;

(2) The name and address of each person who has made one or more contributions during the period, together with the money value and date of each contribution and the aggregate value of all contributions received from each person during the campaign, or in the case of a continuing political committee, the current calendar year, with the following exceptions:

(a) Pledges in the aggregate of less than one hundred dollars from any one person need not be reported;

(b) Income that results from a fund-raising activity conducted in accordance with RCW 42.17A.230 may be reported as one lump sum, with the exception of that portion received from persons whose names and addresses are required to be included in the report required by RCW 42.17A.230;

(c) Contributions of no more than twenty-five dollars in the aggregate from any one person during the election campaign may be reported as one lump sum if the treasurer maintains a separate and private list of the name, address, and amount of each such contributor;

(d) Payments received by an incidental committee from any one person need not be reported unless the person is one of the committee's ten largest sources of payments received, including any persons tied as the tenth largest source of payments received, during the current calendar year, and the value of the cumulative payments received from that person during the current calendar year is ten thousand dollars or greater. For payments to incidental committees from multiple persons received in aggregated form, any payment of more than ten thousand dollars from any single person must be reported, but the aggregated payment itself may not be reported. The commission may suspend or modify reporting requirements for payments received by an incidental committee in cases of manifestly unreasonable hardship under this chapter;

(e) Payments from private foundations organized under section 501(c)(3) of the internal revenue code to an incidental committee do not have to be reported if:

(i) The private foundation is contracting with the incidental committee for a specific purpose other than election campaign purposes;

(ii) Use of the funds for election campaign purposes is explicitly prohibited by contract; and

(iii) Funding from the private foundation represents less than twenty-five percent of the incidental committee's total budget;

(f) Commentary or analysis on a ballot proposition by an incidental committee is not considered a contribution if it does not advocate specifically to vote for or against the ballot proposition; and

(g) The money value of contributions of postage is the face value of the postage;

(3) Each loan, promissory note, or security instrument to be used by or for the benefit of the candidate or political committee made by any person, including the names and addresses of the lender and each person liable directly, indirectly or contingently and the date and amount of each such loan, promissory note, or security instrument;

(4) All other contributions not otherwise listed or exempted;

(5) A statement that the candidate or political committee has received a certification from any partnership, association, corporation, organization, or other combination of persons making a contribution to the candidate or political committee that:

(a) The contribution is not financed in any part by a foreign national; and

(b) Foreign nationals are not involved in making decisions regarding the contribution in any way;

(6) The name and address of each candidate or political committee to which any transfer of funds was made, including the amounts and dates of the transfers;

(7) The name and address of each person to whom an expenditure was made in the aggregate amount of more than fifty dollars during the period covered by this report, the amount, date, and purpose of each expenditure, and the total sum of all expenditures. An incidental committee only must report on expenditures, made and reportable as contributions as defined in RCW 42.17A.005, to election campaigns. For purposes of this subsection, commentary or analysis on a ballot proposition by an incidental committee is not considered an expenditure if it does not advocate specifically to vote for or against the ballot proposition;

(8) The name, address, and electronic contact information of each person to whom an expenditure was made for soliciting or procuring signatures on an initiative or referendum petition, the amount of the compensation to each person, and the total expenditures made for this purpose. Such expenditures shall be reported under this subsection in addition to what is required to be reported under subsection (7) of this section;

(9)(a) The name and address of any person and the amount owed for any debt with a value of more than seven hundred fifty dollars that has not been paid for any invoices submitted, goods received, or services performed, within five

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business days during the period within thirty days before an election, or within ten business days during any other period.

(b) For purposes of this subsection, debt does not include regularly recurring expenditures of the same amount that have already been reported at least once and that are not late or outstanding;

(10) The surplus or deficit of contributions over expenditures;

(11) The disposition made in accordance with RCW 42.17A.430 of any surplus funds; and

(12) Any other information required by the commission by rule in conformance with the policies and purposes of this chapter. [2020 c 152 § 3; 2019 c 428 § 21. Prior: 2018 c 304 § 8; 2018 c 111 § 6; 2010 c 204 § 409; 2003 c 123 § 1; 1993 c 256 § 6; 1989 c 280 § 9; prior: 1986 c 228 § 1; 1986 c 12 § 2; 1983 c 96 § 1; 1982 c 147 § 7; 1977 ex.s. c 336 § 2; 1975-'76 2nd ex.s. c 112 § 3; 1975 1st ex.s. c 294 § 7; 1973 c 1 § 9 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.090.]

Findings—2020 c 152: See note following RCW 42.17A.417.

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

Finding—Intent—2018 c 304: See note following RCW 42.17A.235.

Effective date—Short title—Findings—Intent—Implementation with existing funds—2018 c 111: See notes following RCW 42.17A.207.

Appearance of fairness doctrine—Application to candidates for public office—Campaign contributions: RCW 42.36.040, 42.36.050.

Additional notes found at www.leg.wa.gov

42.17A.250 Out-of-state political committees—Reports. (1) An out-of-state political committee organized for the purpose of supporting or opposing candidates or ballot propositions in another state that is not otherwise required to report under RCW 42.17A.205 through 42.17A.240 shall report as required in this section when it makes an expenditure supporting or opposing a Washington state candidate or political committee. The committee shall file with the commission a statement disclosing:

(a) Its name and address;

(b) The purposes of the out-of-state committee;

(c) The names, addresses, and titles of its officers or, if it has no officers, the names, addresses, and the titles of its responsible leaders;

(d) The name, office sought, and party affiliation of each candidate in the state of Washington whom the out-of-state committee is supporting or opposing and, if the committee is supporting or opposing the entire ticket of any party, the name of the party;

(e) The ballot proposition supported or opposed in the state of Washington, if any, and whether the committee is in favor of or opposed to that proposition;

(f) The name and address of each person residing in the state of Washington or corporation that has a place of business in the state of Washington who has made one or more contributions in the aggregate of more than *twenty-five dollars to the out-of-state committee during the current calendar year, together with the money value and date of the contributions;

(g) The name, address, and employer of each person or corporation residing outside the state of Washington who has made one or more contributions in the aggregate of more than

*two thousand five hundred fifty dollars to the out-of-state committee during the current calendar year, together with the money value and date of the contributions. Annually, the commission must modify the *two thousand five hundred fifty dollar limit in this subsection based on percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent twelve-month period by the bureau of economic analysis of the federal department of commerce;

(h) The name and address of each person in the state of Washington to whom an expenditure was made by the out-of-state committee with respect to a candidate or political committee in the aggregate amount of more than *fifty dollars, the amount, date, and purpose of the expenditure, and the total sum of the expenditures;

(i) A statement that the out-of-state committee has received a certification from any partnership, association, corporation, organization, or other combination of persons making a contribution reportable under this section that:

(i) The contribution is not financed in any part by a foreign national; and

(ii) Foreign nationals are not involved in making decisions regarding the contribution in any way; and

(j) Any other information as the commission may prescribe by rule in keeping with the policies and purposes of this chapter.

(2) Each statement shall be filed no later than the tenth day of the month following any month in which a contribution or other expenditure reportable under subsection (1) of this section is made. An out-of-state committee incurring an obligation to file additional statements in a calendar year may satisfy the obligation by timely filing reports that supplement previously filed information. [2020 c 152 § 4; 2010 c 204 § 411; 2006 c 348 § 6; 2003 c 123 § 2. Formerly RCW 42.17.093.]

***Reviser's note:** The dollar amounts in this section may have been adjusted for inflation by rule of the commission adopted under the authority of RCW 42.17A.125. For current dollar amounts, see WAC 390-05-400.

Findings—2020 c 152: See note following RCW 42.17A.417.

42.17A.255 Special reports—Independent expenditures. (1) For the purposes of this section the term "independent expenditure" means any expenditure that is made in support of or in opposition to any candidate or ballot proposition and is not otherwise required to be reported pursuant to RCW 42.17A.225, 42.17A.235, and 42.17A.240. "Independent expenditure" does not include: An internal political communication primarily limited to the contributors to a political party organization or political action committee, or the officers, management staff, and stockholders of a corporation or similar enterprise, or the members of a labor organization or other membership organization; or the rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this section, means services or labor for which the individual is not compensated by any person.

(2) Within five days after the date of making an independent expenditure that by itself or when added to all other such independent expenditures made during the same election

campaign by the same person equals one hundred dollars or more, or within five days after the date of making an independent expenditure for which no reasonable estimate of monetary value is practicable, whichever occurs first, the person who made the independent expenditure shall file with the commission an initial report of all independent expenditures made during the campaign prior to and including such date.

(3) At the following intervals each person who is required to file an initial report pursuant to subsection (2) of this section shall file with the commission a further report of the independent expenditures made since the date of the last report:

(a) On the twenty-first day and the seventh day preceding the date on which the election is held; and

(b) On the tenth day of the first month after the election; and

(c) On the tenth day of each month in which no other reports are required to be filed pursuant to this section. However, the further reports required by this subsection (3) shall only be filed if the reporting person has made an independent expenditure since the date of the last previous report filed.

The report filed pursuant to (a) of this subsection (3) shall be the final report, and upon submitting such final report the duties of the reporting person shall cease, and there shall be no obligation to make any further reports.

(4) All reports filed pursuant to this section shall be certified as correct by the reporting person.

(5) Each report required by subsections (2) and (3) of this section shall disclose for the period beginning at the end of the period for the last previous report filed or, in the case of an initial report, beginning at the time of the first independent expenditure, and ending not more than one business day before the date the report is due:

(a) The name, address, and electronic contact information of the person filing the report;

(b) The name and address of each person to whom an independent expenditure was made in the aggregate amount of more than fifty dollars, and the amount, date, and purpose of each such expenditure. If no reasonable estimate of the monetary value of a particular independent expenditure is practicable, it is sufficient to report instead a precise description of services, property, or rights furnished through the expenditure and where appropriate to attach a copy of the item produced or distributed by the expenditure;

(c) The total sum of all independent expenditures made during the campaign to date;

(d) A statement from the person making an independent expenditure that:

(i) The expenditure is not financed in any part by a foreign national; and

(ii) Foreign nationals are not involved in making decisions regarding the expenditure in any way; and

(e) Such other information as shall be required by the commission by rule in conformance with the policies and purposes of this chapter. [2020 c 152 § 5; 2019 c 428 § 22; 2011 c 60 § 24; 2010 c 205 § 7; 1995 c 397 § 28; 1989 c 280 § 10; 1985 c 367 § 6; 1982 c 147 § 9; 1975-'76 2nd ex.s. c 112 § 4; 1973 c 1 § 10 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.100.]

Findings—2020 c 152: See note following RCW 42.17A.417.

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

Additional notes found at www.leg.wa.gov

42.17A.260 Special reports—Political advertising.

(1) The sponsor of political advertising shall file a special report to the commission within twenty-four hours of, or on the first working day after, the date the political advertising is first published, mailed, or otherwise presented to the public, if the political advertising:

(a) Is published, mailed, or otherwise presented to the public within twenty-one days of an election; and

(b) Either:

(i) Qualifies as an independent expenditure with a fair market value or actual cost of one thousand dollars or more, for political advertising supporting or opposing a candidate; or

(ii) Has a fair market value or actual cost of one thousand dollars or more, for political advertising supporting or opposing a ballot proposition.

(2) If a sponsor is required to file a special report under this section, the sponsor shall also deliver to the commission within the delivery period established in subsection (1) of this section a special report for each subsequent independent expenditure of any size supporting or opposing the same candidate who was the subject of the previous independent expenditure, supporting or opposing that candidate's opponent, or, in the case of a subsequent expenditure of any size made in support of or in opposition to a ballot proposition not otherwise required to be reported pursuant to RCW 42.17A.225, 42.17A.235, or 42.17A.240, supporting or opposing the same ballot proposition that was the subject of the previous expenditure.

(3) The special report must include:

(a) The name and address of the person making the expenditure;

(b) The name and address of the person to whom the expenditure was made;

(c) A detailed description of the expenditure;

(d) The date the expenditure was made and the date the political advertising was first published or otherwise presented to the public;

(e) The amount of the expenditure;

(f) The name of the candidate supported or opposed by the expenditure, the office being sought by the candidate, and whether the expenditure supports or opposes the candidate; or the name of the ballot proposition supported or opposed by the expenditure and whether the expenditure supports or opposes the ballot proposition;

(g) A statement from the sponsor that:

(i) The political advertising is not financed in any part by a foreign national; and

(ii) Foreign nationals are not involved in making decisions regarding the political advertising in any way; and

(h) Any other information the commission may require by rule.

(4) All persons required to report under RCW 42.17A.225, 42.17A.235, 42.17A.240, 42.17A.255, and 42.17A.305 are subject to the requirements of this section. The commission may determine that reports filed pursuant to

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this section also satisfy the requirements of RCW 42.17A.255.

(5) The sponsor of independent expenditures supporting a candidate or opposing that candidate's opponent required to report under this section shall file with each required report an affidavit or declaration of the person responsible for making the independent expenditure that the expenditure was not made in cooperation, consultation, or concert with, or at the request or suggestion of, the candidate, the candidate's authorized committee, or the candidate's agent, or with the encouragement or approval of the candidate, the candidate's authorized committee, or the candidate's agent. [2020 c 152 § 6; 2019 c 428 § 23; 2010 c 204 § 413; 2005 c 445 § 7; 2001 c 54 § 1. Formerly RCW 42.17.103.]

Findings—2020 c 152: See note following RCW 42.17A.417.

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

Additional notes found at www.leg.wa.gov

42.17A.265 Special reports—Late contributions or large totals—Certain late contributions prohibited.

(1) Treasurers shall prepare and deliver to the commission a special report when a contribution or aggregate of contributions totals one thousand dollars or more, is from a single person or entity, and is received during a special reporting period.

(2) A political committee shall prepare and deliver to the commission a special report when it makes a contribution or an aggregate of contributions to a single entity that totals one thousand dollars or more during a special reporting period.

(3) An aggregate of contributions includes only those contributions made to or received from a single entity during any one special reporting period. Any subsequent contribution of any size made to or received from the same person or entity during the special reporting period must also be reported.

(4) Special reporting periods, for purposes of this section, include:

(a) The period beginning on the day after the last report required by RCW 42.17A.235 and 42.17A.240 to be filed before a primary and concluding on the end of the day before that primary;

(b) The period twenty-one days preceding a general election; and

(c) An aggregate of contributions includes only those contributions received from a single entity during any one special reporting period or made by the contributing political committee to a single entity during any one special reporting period.

(5) If a campaign treasurer files a special report under this section for one or more contributions received from a single entity during a special reporting period, the treasurer shall also file a special report under this section for each subsequent contribution of any size which is received from that entity during the special reporting period. If a political committee files a special report under this section for a contribution or contributions made to a single entity during a special reporting period, the political committee shall also file a special report for each subsequent contribution of any size which is made to that entity during the special reporting period.

(6) Special reports required by this section shall be delivered electronically, or in written form if an electronic alternative is not available.

(a) The special report required of a contribution recipient under subsection (1) of this section shall be delivered to the commission within forty-eight hours of the time, or on the first working day after: The contribution of one thousand dollars or more is received by the candidate or treasurer; the aggregate received by the candidate or treasurer first equals one thousand dollars or more; or any subsequent contribution from the same source is received by the candidate or treasurer.

(b) The special report required of a contributor under subsection (2) of this section or RCW 42.17A.625 shall be delivered to the commission, and the candidate or political committee to whom the contribution or contributions are made, within twenty-four hours of the time, or on the first working day after: The contribution is made; the aggregate of contributions made first equals one thousand dollars or more; or any subsequent contribution to the same person or entity is made.

(7) The special report shall include:

- (a) The amount of the contribution or contributions;
- (b) The date or dates of receipt;
- (c) The name and address of the donor;
- (d) The name and address of the recipient;

(e) A statement that the candidate or political committee has received a certification from any partnership, association, corporation, organization, or other combination of persons making a contribution reportable under this section that:

- (i) The contribution is not financed in any part by a foreign national; and
 - (ii) Foreign nationals are not involved in making decisions regarding the contribution in any way; and
- (f) Any other information the commission may by rule require.

(8) Contributions reported under this section shall also be reported as required by other provisions of this chapter.

(9) The commission shall prepare daily a summary of the special reports made under this section and RCW 42.17A.625.

(10) Contributions governed by this section include, but are not limited to, contributions made or received indirectly through a third party or entity whether the contributions are or are not reported to the commission as earmarked contributions under RCW 42.17A.270. [2020 c 152 § 7; 2019 c 428 § 24; 2010 c 204 § 414; 2001 c 54 § 2; 1995 c 397 § 4; 1991 c 157 § 1; 1989 c 280 § 11; 1986 c 228 § 2; 1985 c 359 § 1; 1983 c 176 § 1. Formerly RCW 42.17.105.]

Findings—2020 c 152: See note following RCW 42.17A.417.

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

Additional notes found at www.leg.wa.gov

42.17A.270 Earmarked contributions. A political committee receiving a contribution earmarked for the benefit of a candidate or another political committee shall:

- (1) Report the contribution as required in RCW 42.17A.235 and 42.17A.240;
- (2) Complete a report, entitled "Earmarked contributions," on a form prescribed by the commission that identifies

the name and address of the person who made the contribution, the candidate or political committee for whose benefit the contribution is earmarked, the amount of the contribution, and the date that the contribution was received; and

(3) Mail or deliver to the commission and the candidate or political committee benefiting from the contribution a copy of the "Earmarked contributions" report within two working days of receipt of the contribution.

(4) A candidate or political committee receiving notification of an earmarked contribution under subsection (3) of this section shall report the contribution, once notification of the contribution is received by the candidate or committee, in the same manner as any other contribution, as required by RCW 42.17A.235 and 42.17A.240. [2010 c 204 § 416; 1989 c 280 § 13; 1986 c 228 § 3. Formerly RCW 42.17.135.]

Additional notes found at www.leg.wa.gov

POLITICAL ADVERTISING AND ELECTIONEERING COMMUNICATIONS

42.17A.300 Findings—Intent—Rule-making authority. (1) The legislature finds that:

(a) Timely disclosure to voters of the identity and sources of funding for electioneering communications is vitally important to the integrity of state, local, and judicial elections.

(b) Electioneering communications that identify political candidates for state, local, or judicial office and that are distributed sixty days before an election for those offices are intended to influence voters and the outcome of those elections.

(c) The state has a compelling interest in providing voters information about electioneering communications in political campaigns concerning candidates for state, local, or judicial office so that voters can be fully informed as to the: (i) Source of support or opposition to those candidates; and (ii) identity of persons attempting to influence the outcome of state, local, and judicial candidate elections.

(d) Nondisclosure of financial information about advertising that masquerades as relating only to issues and not to candidate campaigns fosters corruption or the appearance of corruption. These consequences can be substantially avoided by full disclosure of the identity and funding of those persons paying for such advertising.

(e) The United States supreme court held in *McConnell et al. v. Federal Elections Commission*, 540 U.S. 93, 124 S.Ct. 619, 157 L.Ed.2d 491 (2003) that speakers seeking to influence elections do not possess an inviolable free speech right to engage in electioneering communications regarding elections, including when issue advocacy is the functional equivalent of express advocacy. Therefore, such election campaign communications can be regulated and the source of funding disclosed.

(f) The state has a sufficiently compelling interest in preventing corruption in political campaigns to justify and restore contribution limits and restrictions on the use of soft money in RCW 42.17A.405. Those interests include restoring restrictions on the use of such funds for electioneering communications, as well as the laws preventing circumvention of those limits and restrictions.

(2) Based upon the findings in this section, chapter 445, Laws of 2005 is narrowly tailored to accomplish the following and is intended to:

(a) Improve the disclosure to voters of information concerning persons and entities seeking to influence state, local, and judicial campaigns through reasonable and effective mechanisms, including improving disclosure of the source, identity, and funding of electioneering communications concerning state, local, and judicial candidate campaigns;

(b) Regulate electioneering communications that mention state, local, and judicial candidates and that are broadcast, mailed, erected, distributed, or otherwise published right before the election so that the public knows who is paying for such communications;

(c) Reenact and amend the contribution limits in RCW 42.17A.405 (7) and (15) and the restrictions on the use of soft money, including as applied to electioneering communications, as those limits and restrictions were in effect following the passage of chapter 2, Laws of 1993 (Initiative Measure No. 134) and before the state supreme court decision in *Washington State Republican Party v. Washington State Public Disclosure Commission*, 141 Wn.2d 245, 4 P.3d 808 (2000). The commission is authorized to fully restore the implementation of the limits and restrictions of RCW 42.17A.405 (7) and (15) in light of *McConnell et al. v. Federal Elections Commission*, 540 U.S. 93, 124 S.Ct. 619, 157 L.Ed.2d 491 (2003). The United States supreme court upheld the disclosure and regulation of electioneering communications in political campaigns, including but not limited to issue advocacy that is the functional equivalent of express advocacy; and

(d) Authorize the commission to adopt rules to implement chapter 445, Laws of 2005. [2010 c 204 § 501; 2005 c 445 § 1. Formerly RCW 42.17.561.]

42.17A.305 Report—Information required—Time—Method—By whom—Penalty. (1) A payment for or promise to pay for any electioneering communication shall be reported to the commission by the sponsor on forms the commission shall develop by rule to include, at a minimum, the following information:

(a) Name and address of the sponsor;

(b) Source of funds for the communication, including:

(i) General treasury funds. The name and address of businesses, unions, groups, associations, or other organizations using general treasury funds for the communication, however, if a business, union, group, association, or other organization undertakes a special solicitation of its members or other persons for an electioneering communication, or it otherwise receives funds for an electioneering communication, that entity shall report pursuant to (b)(ii) of this subsection;

(ii) Special solicitations and other funds. The name, address, and, for individuals, occupation and employer, of a person whose funds were used to pay for the electioneering communication, along with the amount, if such funds from the person have exceeded two hundred fifty dollars in the aggregate for the electioneering communication;

(iii) A statement from the sponsor that:

(A) The electioneering communication is not financed in any part by a foreign national; and

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(B) Foreign nationals are not involved in making decisions regarding the electioneering communication in any way; and

(iv) Any other source information required or exempted by the commission by rule;

(c) Name and address of the person to whom an electioneering communication related expenditure was made;

(d) A detailed description of each expenditure of more than one hundred dollars;

(e) The date the expenditure was made and the date the electioneering communication was first broadcast, transmitted, mailed, erected, distributed, or otherwise published;

(f) The amount of the expenditure;

(g) The name of each candidate clearly identified in the electioneering communication, the office being sought by each candidate, and the amount of the expenditure attributable to each candidate; and

(h) Any other information the commission may require or exempt by rule.

(2) Electioneering communications shall be reported as follows: The sponsor of an electioneering communication shall report to the commission within twenty-four hours of, or on the first working day after, the date the electioneering communication is broadcast, transmitted, mailed, erected, distributed, digitally or otherwise, or otherwise published.

(3) Electioneering communications shall be reported electronically by the sponsor using software provided or approved by the commission. The commission may make exceptions on a case-by-case basis for a sponsor who lacks the technological ability to file reports using the electronic means provided or approved by the commission.

(4) All persons required to report under RCW 42.17A.225, 42.17A.235, 42.17A.240, and 42.17A.255 are subject to the requirements of this section, although the commission may determine by rule that persons filing according to those sections may be exempt from reporting some of the information otherwise required by this section. The commission may determine that reports filed pursuant to this section also satisfy the requirements of RCW 42.17A.255 and 42.17A.260.

(5) Failure of any sponsor to report electronically under this section shall be a violation of this chapter. [2020 c 152 § 8; 2019 c 428 § 25; 2010 c 204 § 502; 2005 c 445 § 3. Formerly RCW 42.17.565.]

Findings—2020 c 152: See note following RCW 42.17A.417.

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

42.17A.310 When a contribution. (1) An electioneering communication made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents is a contribution to the candidate.

(2) An electioneering communication made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a political committee or its agents is a contribution to the political committee.

(3) If an electioneering communication is not a contribution pursuant to subsection (1) or (2) of this section, the sponsor shall file an affidavit or declaration so stating at the time the sponsor is required to report the electioneering communi-

ation expense under RCW 42.17A.305. [2010 c 204 § 503; 2005 c 445 § 4. Formerly RCW 42.17.570.]

42.17A.315 Recordkeeping. (1) The sponsor of an electioneering communication shall preserve all financial records relating to the communication, including books of account, bills, receipts, contributor information, and ledgers, for not less than five calendar years following the year in which the communication was broadcast, transmitted, mailed, erected, or otherwise published.

(2) All reports filed under RCW 42.17A.305 shall be certified as correct by the sponsor. If the sponsor is an individual using his or her own funds to pay for the communication, the certification shall be signed by the individual. If the sponsor is a political committee, the certification shall be signed by the committee treasurer. If the sponsor is another entity, the certification shall be signed by the individual responsible for authorizing the expenditure on the entity's behalf. [2010 c 204 § 504; 2005 c 445 § 5. Formerly RCW 42.17.575.]

42.17A.320 Identification of sponsor—Exemptions.

(1) All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address. All radio and television political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name. The use of an assumed name for the sponsor of electioneering communications, independent expenditures, or political advertising shall be unlawful. For partisan office, if a candidate has expressed a party or independent preference on the declaration of candidacy, that party or independent designation shall be clearly identified in electioneering communications, independent expenditures, or political advertising.

(2) In addition to the information required by subsection (1) of this section, except as specifically addressed in subsections (4) and (5) of this section, all political advertising undertaken as an independent expenditure or an electioneering communication by a person or entity other than a bona fide political party must include as part of the communication:

(a) The statement: "No candidate authorized this ad. It is paid for by (name, address, city, state)";

(b) If the sponsor is a political committee, the statement: "Top Five Contributors," followed by a listing of the names of the five persons making the largest contributions as determined by RCW 42.17A.350(1); and if necessary, the statement "Top Three Donors to PAC Contributors," followed by a listing of the names of the three individuals or entities, other than political committees, making the largest aggregated contributions as determined by RCW 42.17A.350(2); and

(c) If the sponsor is a political committee established, maintained, or controlled directly, or indirectly through the formation of one or more political committees, by an individual, corporation, union, association, or other entity, the full name of that individual or entity.

(3) The information required by subsections (1) and (2) of this section shall:

(a) Appear on the first page or fold of the written advertisement or communication in at least ten-point type, or in type at least ten percent of the largest size type used in a writ-

ten advertisement or communication directed at more than one voter, such as a billboard or poster, whichever is larger;

(b) Not be subject to the half-tone or screening process; and

(c) Be set apart from any other printed matter. No text may be before, after, or immediately adjacent to the information required by subsections (1) and (2) of this section.

(4) In an independent expenditure or electioneering communication transmitted via television or other medium that includes a visual image, the following statement must either be clearly spoken, or appear in print and be visible for at least four seconds, appear in letters greater than four percent of the visual screen height on a solid black background on the entire bottom one-third of the television or visual display screen, or bottom one-fourth of the screen if the sponsor does not have or is otherwise not required to list its top five contributors, and have a reasonable color contrast with the background: "No candidate authorized this ad. Paid for by (name, city, state)." If the advertisement or communication is undertaken by a nonindividual other than a party organization, then the following notation must also be included: "Top Five Contributors" followed by a listing of the names of the five persons making the largest aggregate contributions as determined by RCW 42.17A.350(1); and if necessary, the statement "Top Three Donors to PAC Contributors," followed by a listing of the names of the three individuals or entities other than political committees making the largest aggregate contributions to political committees as determined by RCW 42.17A.350(2). Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(5) The following statement shall be clearly spoken in an independent expenditure or electioneering communication transmitted by a method that does not include a visual image: "No candidate authorized this ad. Paid for by (name, city, state)." If the independent expenditure or electioneering communication is undertaken by a nonindividual other than a party organization, then the following statement must also be included: "Top Five Contributors" followed by a listing of the names of the five persons making the largest contributions as determined by RCW 42.17A.350(1); and if necessary, the statement "Top Three Donors to PAC Contributors," followed by a listing of the names of the three individuals or entities, other than political committees, making the largest aggregate contributions to political committees as determined by RCW 42.17A.350(2). Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(6) Political advertising costing one thousand dollars or more supporting or opposing ballot measures sponsored by a political committee must include the information on the top five contributors and top three contributors, other than political committees, as required by RCW 42.17A.350. A series of political advertising sponsored by the same political committee, each of which is under one thousand dollars, must include the top five contributors and top three contributors, other than political committees, as required by RCW 42.17A.350 once their cumulative value reaches one thousand dollars or more.

(7) Political yard signs are exempt from the requirements of this section that the sponsor's name and address, and the top five contributors and top three PAC contributors as required by RCW 42.17A.350, be listed on the advertising. In addition, the public disclosure commission shall, by rule, exempt from the identification requirements of this section forms of political advertising such as campaign buttons, balloons, pens, pencils, sky-writing, inscriptions, and other forms of advertising where identification is impractical.

(8) For the purposes of this section, "yard sign" means any outdoor sign with dimensions no greater than eight feet by four feet. [2019 c 261 § 3; 2013 c 138 § 1; 2012 c 226 § 1; 2010 c 204 § 505; 2005 c 445 § 9; 1995 c 397 § 19; 1993 c 2 § 22 (Initiative Measure No. 134, approved November 3, 1992); 1984 c 216 § 1. Formerly RCW 42.17.510.]

Findings—Intent—2019 c 261: See note following RCW 42.17A.350. *Advertising rates for political candidates: RCW 65.16.095.*

42.17A.330 Picture of candidate. At least one picture of the candidate used in any political advertising shall have been taken within the last five years and shall be no smaller than any other picture of the same candidate used in the same advertisement. [2010 c 204 § 506; 1984 c 216 § 2. Formerly RCW 42.17.520.]

42.17A.335 Political advertising or electioneering communication—Libel or defamation per se. (1) It is a violation of this chapter for a person to sponsor with actual malice a statement constituting libel or defamation per se under the following circumstances:

(a) Political advertising or an electioneering communication that contains a false statement of material fact about a candidate for public office;

(b) Political advertising or an electioneering communication that falsely represents that a candidate is the incumbent for the office sought when in fact the candidate is not the incumbent;

(c) Political advertising or an electioneering communication that makes either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement.

(2) For the purposes of this section, "libel or defamation per se" means statements that tend (a) to expose a living person to hatred, contempt, ridicule, or obloquy, or to deprive him or her of the benefit of public confidence or social intercourse, or to injure him or her in his or her business or occupation, or (b) to injure any person, corporation, or association in his, her, or its business or occupation.

(3) It is not a violation of this section for a candidate or his or her agent to make statements described in subsection (1)(a) or (b) of this section about the candidate himself or herself because a person cannot defame himself or herself. It is not a violation of this section for a person or organization referenced in subsection (1)(c) of this section to make a statement about that person or organization because such persons and organizations cannot defame themselves.

(4) Any violation of this section shall be proven by clear and convincing evidence. If a violation is proven, damages are presumed and do not need to be proven. [2009 c 222 § 2;

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2005 c 445 § 10; 1999 c 304 § 2; 1988 c 199 § 2; 1984 c 216 § 3. Formerly RCW 42.17.530.]

Intent—Findings—2009 c 222: "(1) The concurring opinion of the Washington state supreme court in *Rickert v. State, Public Disclosure Commission*, 161 Wn.2d 843, 168 P. 3d 826 (2007) found the statute that prohibits persons from sponsoring, with actual malice, political advertising and electioneering communications about a candidate containing false statements of material fact to be invalid under the First Amendment to the United States Constitution because it posed no requirement that the prohibited statements be defamatory.

(2) It is the intent of the legislature to amend *chapter 42.17 RCW to find that a violation of state law occurs if a person sponsors false statements about candidates in political advertising and electioneering communications when the statements are made with actual malice and are defamatory.

(3) The legislature finds that in such circumstances damages are presumed and do not need to be established when such statements are made with actual malice in political advertising and electioneering communications and constitute libel or defamation per se. The legislature finds that incumbents, challengers, voters, and the political process will benefit from vigorous political debate that is not made with actual malice and is not defamatory.

(4) The legislature finds that when such defamatory statements contain a false statement of material fact about a candidate for public office they expose the candidate to contempt, ridicule, or reproach and can deprive the candidate of the benefit of public confidence, or prejudice him or her in his or her profession, trade, or vocation. The legislature finds that when such statements falsely represent that a candidate is the incumbent for the office sought when in fact the candidate is not the incumbent they deprive the actual incumbent and the candidates of the benefit of public confidence and injure the actual incumbent in the ability to effectively serve as an elected official. The legislature further finds that defamatory statements made by an incumbent regarding the incumbent's challenger may deter individuals from seeking public office and harm the democratic process. Further, the legislature finds that when such statements make, either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement, they deprive the person or organization of the benefit of public confidence and/or will expose the person or organization to contempt, ridicule, or reproach, or injure the person or organization in their business or occupation.

(5) The legislature finds that defamatory statements, made with actual malice, damage the integrity of elections by distorting the electoral process. Democracy is premised on an informed electorate. To the extent such defamatory statements misinform the voters, they interfere with the process upon which democracy is based. Such defamatory statements also lower the quality of campaign discourse and debate, and lead or add to voter alienation by fostering voter cynicism and distrust of the political process." [2009 c 222 § 1.]

***Reviser's note:** Provisions in chapter 42.17 RCW relating to campaign finance were recodified in chapter 42.17A RCW by 2010 c 204, effective January 1, 2012.

Finding—Intent—1999 c 304: "(1) The Washington supreme court in a case involving a ballot measure, *State v. 119 Vote No! Committee*, 135 Wn.2d 618 (1998), found the statute that prohibits persons from sponsoring, with actual malice, political advertising containing false statements of material fact to be invalid under the First Amendment to the United States Constitution.

(2) The legislature finds that a review of the opinions indicates that a majority of the supreme court may find valid a statute that limited such a prohibition on sponsoring with actual malice false statements of material fact in a political campaign to statements about a candidate in an election for public office.

(3) It is the intent of the legislature to amend the current law to provide protection for candidates for public office against false statements of material fact sponsored with actual malice." [1999 c 304 § 1.]

42.17A.340 Responsibility for compliance. (1) Except as provided in subsection (2) of this section, the responsibility for compliance with RCW 42.17A.320 through 42.17A.335 shall be with the sponsor of the political advertising and not with the broadcasting station or other medium.

(2) If a broadcasting station or other medium changes the content of a political advertisement, the station or medium

shall be responsible for any failure of the advertisement to comply with RCW 42.17A.320 through 42.17A.335 that results from that change. [2010 c 204 § 507; 1984 c 216 § 4. Formerly RCW 42.17.540.]

42.17A.345 Commercial advertisers—Public inspection of documents—Copies to commission. (1) Each commercial advertiser who has accepted or provided political advertising or electioneering communications during the election campaign shall maintain current books of account and related materials as provided by rule that shall be open for public inspection during normal business hours during the campaign and for a period of no less than five years after the date of the applicable election. The documents and books of account shall specify:

(a) The names and addresses of persons from whom it accepted political advertising or electioneering communications;

(b) The exact nature and extent of the services rendered; and

(c) The total cost and the manner of payment for the services.

(2) At the request of the commission, each commercial advertiser required to comply with subsection (1) of this section shall provide to the commission copies of the information that must be maintained and be open for public inspection pursuant to subsection (1) of this section. [2019 c 428 § 26; 2010 c 204 § 508; 2005 c 445 § 8; 1975-'76 2nd ex.s. c 112 § 5; 1973 c 1 § 11 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.110.]

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

42.17A.350 Top five contributors to political advertisement. (1) For any requirement to include the top five contributors under RCW 42.17A.320 or any other provision of this chapter, the sponsor must identify the five persons or entities making the largest contributions to the sponsor in excess of the threshold aggregate value to be considered an independent expenditure in an election for public office under *RCW 42.17A.005(29)(a)(iv) reportable under this chapter during the twelve-month period preceding the date on which the advertisement is initially to be published or otherwise presented to the public.

(2) If one or more of the top five contributors identified under subsection (1) of this section is a political committee, the top three contributors to each of those political committees during the same period must then be identified, and so on, until the individuals or entities other than political committees with the largest aggregate contributions to each political committee identified under subsection (1) of this section have also been identified. The sponsor must identify the three individuals or entities, not including political committees, who made the largest aggregate contributions to any political committee identified under subsection (1) of this section in excess of the threshold aggregate value to be considered an independent expenditure in an election for public office under *RCW 42.17A.005(29)(a)(iv) reportable under this chapter during the same period, and the names of those individuals or entities must be displayed in the advertisement

alongside the statement "Top Three Donors to PAC Contributors."

(3) Contributions to the sponsor or a political committee that are earmarked, tracked, and used for purposes other than the advertisement in question should not be counted in identifying the top five contributors under subsection (1) of this section or the top three contributors under subsection (2) of this section.

(4) The sponsor shall not be liable for a violation of this section that occurs because a contribution to any political committee identified under subsection (1) of this section has not been reported to the commission.

(5) The commission is authorized to adopt rules, as needed, to prevent ways to circumvent the purposes of the required disclosures in this section to inform voters about the individuals and entities sponsoring political advertisements. [2019 c 261 § 2.]

***Reviser's note:** RCW 42.17A.005 was amended by 2020 c 152 § 2, changing subsection (29) to subsection (30).

Findings—Intent—2019 c 261: "The legislature finds that the public has the right to know who is contributing to election campaigns in Washington state and that campaign finance disclosure deters corruption, increases public confidence in Washington state elections, raises the level of debate, and strengthens our representative democracy.

The legislature finds that campaign finance disclosure is overwhelmingly supported by the citizens of Washington state as evidenced by the two initiatives that largely established Washington's current system. Both passed with more than seventy-two percent of the popular vote, as well as winning margins in every county in the state.

One of the cornerstones of Washington state's campaign finance disclosure laws is the requirement that political advertisements disclose the sponsor and the sponsor's top five donors. Many political action committees have avoided this important transparency requirement by funneling money from political action committee to political action committee so the top five donors listed are deceptive political action committee names rather than the real donors. The legislature finds that this practice, sometimes called "gray money" or "donor washing," undermines the intent of Washington state's campaign finance laws and impairs the transparency required for fair elections and a healthy democracy.

Therefore, the legislature intends to close this disclosure loophole, increase transparency and accountability, raise the level of discourse, deter corruption, and strengthen confidence in the election process by prohibiting political committees from receiving an overwhelming majority of their funds from one or a combination of political committees." [2019 c 261 § 1.]

CAMPAIGN CONTRIBUTION LIMITS AND OTHER RESTRICTIONS

42.17A.400 Findings—Intent. (1) The people of the state of Washington find and declare that:

(a) The financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence on the election of candidates.

(b) Rapidly increasing political campaign costs have led many candidates to raise larger percentages of money from special interests with a specific financial stake in matters before state government. This has caused the public perception that decisions of elected officials are being improperly influenced by monetary contributions.

(c) Candidates are raising less money in small contributions from individuals and more money from special interests. This has created the public perception that individuals have an insignificant role to play in the political process.

(2) By limiting campaign contributions, the people intend to:

(a) Ensure that individuals and interest groups have fair and equal opportunity to influence elective and governmental processes;

(b) Reduce the influence of large organizational contributors; and

(c) Restore public trust in governmental institutions and the electoral process. [2010 c 204 § 601; 1993 c 2 § 1 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.610.]

42.17A.405 Limits specified—Exemptions. (1) The contribution limits in this section apply to:

(a) Candidates for legislative office;

(b) Candidates for state office other than legislative office;

(c) Candidates for county office;

(d) Candidates for port district office;

(e) Candidates for city council office;

(f) Candidates for mayoral office;

(g) Candidates for school board office;

(h) Candidates for public hospital district board of commissioners in districts with a population over one hundred fifty thousand;

(i) Persons holding an office in (a) through (h) of this subsection against whom recall charges have been filed or to a political committee having the expectation of making expenditures in support of the recall of a person holding the office;

(j) Caucus political committees;

(k) Bona fide political parties.

(2) No person, other than a bona fide political party or a caucus political committee, may make contributions to a candidate for a legislative office, county office, city council office, mayoral office, school board office, or public hospital district board of commissioners that in the aggregate exceed *eight hundred dollars or to a candidate for a public office in a port district or a state office other than a legislative office that in the aggregate exceed *one thousand six hundred dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions to candidates subject to the limits in this section made with respect to a primary may not be made after the date of the primary. However, contributions to a candidate or a candidate's authorized committee may be made with respect to a primary until thirty days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary; and (c) the contributions may only be raised and spent to satisfy the outstanding debt. Contributions to candidates subject to the limits in this section made with respect to a general election may not be made after the final day of the applicable election cycle.

(3) No person, other than a bona fide political party or a caucus political committee, may make contributions to a state official, a county official, a city official, a school board member, a public hospital district commissioner, or a public official in a port district against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the state official, county official, city official, school board member, public hospital district commissioner, or public official in a port

district during a recall campaign that in the aggregate exceed *eight hundred dollars if for a legislative office, county office, school board office, public hospital district office, or city office, or *one thousand six hundred dollars if for a port district office or a state office other than a legislative office.

(4)(a) Notwithstanding subsection (2) of this section, no bona fide political party or caucus political committee may make contributions to a candidate during an election cycle that in the aggregate exceed (i) eighty cents multiplied by the number of eligible registered voters in the jurisdiction from which the candidate is elected if the contributor is a caucus political committee or the governing body of a state organization, or (ii) forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No candidate may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed forty cents times the number of registered voters in the jurisdiction from which the candidate is elected.

(5)(a) Notwithstanding subsection (3) of this section, no bona fide political party or caucus political committee may make contributions to a state official, county official, city official, school board member, public hospital district commissioner, or a public official in a port district against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the state official, county official, city official, school board member, public hospital district commissioner, or a public official in a port district during a recall campaign that in the aggregate exceed (i) eighty cents multiplied by the number of eligible registered voters in the jurisdiction entitled to recall the state official if the contributor is a caucus political committee or the governing body of a state organization, or (ii) forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No official holding an office specified in subsection (1) of this section against whom recall charges have been filed, no authorized committee of the official, and no political committee having the expectation of making expenditures in support of the recall of the official may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected.

(6) For purposes of determining contribution limits under subsections (4) and (5) of this section, the number of eligible registered voters in a jurisdiction is the number at the time of the most recent general election in the jurisdiction.

(7) Notwithstanding subsections (2) through (5) of this section, no person other than an individual, bona fide political party, or caucus political committee may make contributions reportable under this chapter to a caucus political committee that in the aggregate exceed *eight hundred dollars in

a calendar year or to a bona fide political party that in the aggregate exceed *four thousand dollars in a calendar year. This subsection does not apply to loans made in the ordinary course of business.

(8) For the purposes of RCW 42.17A.125, 42.17A.405 through 42.17A.415, 42.17A.450 through 42.17A.495, 42.17A.500, 42.17A.560, and 42.17A.565, a contribution to the authorized political committee of a candidate or of an official specified in subsection (1) of this section against whom recall charges have been filed is considered to be a contribution to the candidate or official.

(9) A contribution received within the twelve-month period after a recall election concerning an office specified in subsection (1) of this section is considered to be a contribution during that recall campaign if the contribution is used to pay a debt or obligation incurred to influence the outcome of that recall campaign.

(10) The contributions allowed by subsection (3) of this section are in addition to those allowed by subsection (2) of this section, and the contributions allowed by subsection (5) of this section are in addition to those allowed by subsection (4) of this section.

(11) RCW 42.17A.125, 42.17A.405 through 42.17A.415, 42.17A.450 through 42.17A.495, 42.17A.500, 42.17A.560, and 42.17A.565 apply to a special election conducted to fill a vacancy in an office specified in subsection (1) of this section. However, the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy shall not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

(12) Notwithstanding the other subsections of this section, no corporation or business entity not doing business in Washington state, no labor union with fewer than ten members who reside in Washington state, and no political committee that has not received contributions of *ten dollars or more from at least ten persons registered to vote in Washington state during the preceding one hundred eighty days may make contributions reportable under this chapter to a state office candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official. This subsection does not apply to loans made in the ordinary course of business.

(13) Notwithstanding the other subsections of this section, no county central committee or legislative district committee may make contributions reportable under this chapter to a candidate specified in subsection (1) of this section, or an official specified in subsection (1) of this section against whom recall charges have been filed, or political committee having the expectation of making expenditures in support of the recall of an official specified in subsection (1) of this section if the county central committee or legislative district committee is outside of the jurisdiction entitled to elect the candidate or recall the official.

(14) No person may accept contributions that exceed the contribution limitations provided in this section.

(15) The following contributions are exempt from the contribution limits of this section:

(a) An expenditure or contribution earmarked for voter registration, for absentee ballot information, for precinct caucuses, for get-out-the-vote campaigns, for precinct judges or inspectors, for sample ballots, or for ballot counting, all without promotion of or political advertising for individual candidates;

(b) An expenditure by a political committee for its own internal organization or fund-raising without direct association with individual candidates; or

(c) An expenditure or contribution for independent expenditures as defined in RCW 42.17A.005 or electioneering communications as defined in RCW 42.17A.005. [2019 c 100 § 1; 2013 c 311 § 1; 2012 c 202 § 1. Prior: 2010 c 206 § 1; 2010 c 204 § 602; 2006 c 348 § 1; 2005 c 445 § 11; prior: 2001 c 208 § 1; 1995 c 397 § 20; 1993 c 2 § 4 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.640.]

***Reviser's note:** The dollar amounts in this section may have been adjusted for inflation by rule of the commission adopted under the authority of RCW 42.17A.125. For current dollar amounts, see WAC 390-05-400.

42.17A.410 Candidates for judicial office—Special elections to fill vacancies—Contribution limits—Adjustments.

(1) No person may make contributions to a candidate for judicial office that in the aggregate exceed *one thousand six hundred dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions made with respect to a primary may not be made after the date of the primary. However, contributions to a candidate or a candidate's authorized committee may be made with respect to a primary until thirty days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary; and (c) the contributions may only be raised and spent to satisfy the outstanding debt. Contributions made with respect to a general election may not be made after the final day of the applicable election cycle.

(2) This section through RCW 42.17A.490 apply to a special election conducted to fill a vacancy in an office. However, the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy will not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

(3) No person may accept contributions that exceed the contribution limitations provided in this section.

(4) The dollar limits in this section must be adjusted according to RCW 42.17A.125. [2010 c 204 § 603; 2006 c 348 § 2. Formerly RCW 42.17.645.]

***Reviser's note:** The dollar amounts in this section may have been adjusted for inflation by rule of the commission adopted under the authority of RCW 42.17A.125. For current dollar amounts, see WAC 390-05-400.

42.17A.415 Contributions. (1) Contributions to candidates for state office made and received before December 3, 1992, are considered to be contributions under *RCW 42.17.640 through 42.17.790. Monetary contributions that exceed the contribution limitations and that have not been spent by the recipient of the contribution by December 3,

1992, must be disposed of in accordance with RCW 42.17A.430.

(2) Contributions to other candidates subject to the contribution limits of this chapter made and received before June 7, 2006, are considered to be contributions under *RCW 42.17.640 through 42.17.790. Contributions that exceed the contribution limitations and that have not been spent by the recipient of the contribution by June 7, 2006, must be disposed of in accordance with RCW 42.17A.430 except for subsections (6) and (7) of that section. [2011 c 60 § 25; 2006 c 348 § 4; 1993 c 2 § 10 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.700.]

***Reviser's note:** RCW 42.17.640 through 42.17.790 were recodified as RCW 42.17A.125, 42.17A.405 through 42.17A.415, 42.17A.450 through 42.17A.495, 42.17A.500, 42.17A.560, and 42.17A.565 pursuant to 2010 c 204 § 1102, effective January 1, 2012.

42.17A.417 Foreign nationals—Contributions, expenditures, and electioneering prohibited. (1) A foreign national may not make a contribution to any candidate or political committee, make an expenditure in support of or in opposition to any candidate or ballot measure, or sponsor political advertising or an electioneering communication.

(2) A person may not make a contribution to any candidate or political committee, make an expenditure in support of or in opposition to any candidate or ballot measure, or sponsor political advertising or an electioneering communication, if:

(a) The contribution, expenditure, political advertising, or electioneering communication is financed in any part by a foreign national; or

(b) Foreign nationals are involved in making decisions regarding the contribution, expenditure, political advertising, or electioneering communication in any way. [2020 c 152 § 9.]

Findings—2020 c 152: "The legislature finds that the First Amendment rights of freedom of speech and free association, as they relate to participating in elections, are core values in the United States. The United States supreme court has repeatedly held that these rights include the right to make campaign contributions in support of candidates and ballot measures at the federal, state, and local levels.

The legislature also finds, in accordance with federal law, that these rights are reserved solely for citizens of the United States and permanent legal residents, whether they act as individuals or in association. The First Amendment protection for political speech does not apply to foreign nationals, who are forbidden under 52 U.S.C. Sec. 30121 from directly or indirectly making political contributions or financing independent expenditures and electioneering communications, either individually or collectively through a corporation or other association. Furthermore, federal law prohibits any person from knowingly soliciting or receiving contributions from a foreign national. Therefore, it falls to individual states to help protect the prohibition on foreign influence in our state and local elections by requiring certification that contributions, expenditures, political advertising, and electioneering communications are not financed in any part by foreign nationals and that foreign nationals are not involved in making decisions regarding such election activity in any way." [2020 c 152 § 1.]

42.17A.418 Foreign nationals—Contribution certification. (1) Each candidate or political committee that has accepted a contribution, and each out-of-state committee that has accepted a contribution reportable under RCW 42.17A.250, from a partnership, association, corporation, organization, or other combination of persons must receive a certification from each contributor that:

(a) The contribution is not financed in any part by a foreign national; and

(b) Foreign nationals are not involved in making decisions regarding the contribution in any way.

(2) The certifications must be maintained for a period of no less than three years after the date of the applicable election.

(3) At the request of the commission, each candidate or committee required to comply with subsection (1) of this section must provide to the commission copies of the certifications maintained under this section. [2020 c 152 § 10.]

Findings—2020 c 152: See note following RCW 42.17A.417.

42.17A.420 Reportable contributions—Preelection limitations. (1) It is a violation of this chapter for any person to make, or for any candidate or political committee to accept from any one person, contributions reportable under RCW 42.17A.240 in the aggregate exceeding fifty thousand dollars for any campaign for statewide office or exceeding five thousand dollars for any other campaign subject to the provisions of this chapter within twenty-one days of a general election. This subsection does not apply to:

(a) Contributions made by, or accepted from, a bona fide political party as defined in this chapter, excluding the county central committee or legislative district committee;

(b) Contributions made to, or received by, a ballot proposition committee; or

(c) Payments received by an incidental committee.

(2) Contributions governed by this section include, but are not limited to, contributions made or received indirectly through a third party or entity whether the contributions are or are not reported to the commission as earmarked contributions under RCW 42.17A.270. [2019 c 428 § 27; 2018 c 111 § 7; 2010 c 204 § 604.]

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

Effective date—Short title—Findings—Intent—Implementation with existing funds—2018 c 111: See notes following RCW 42.17A.207.

42.17A.425 Expenditures—Authorization of and restrictions on. No expenditures may be made or incurred by any candidate or political committee unless authorized by the candidate or the person or persons named on the candidate's or committee's registration form. A record of all such expenditures shall be maintained by the treasurer.

No expenditure of more than fifty dollars may be made in currency unless a receipt, signed by the recipient and by the candidate or treasurer, is prepared and made a part of the campaign's or political committee's financial records. [2010 c 204 § 605; 2007 c 358 § 3; 1989 c 280 § 7; 1985 c 367 § 5; 1973 c 1 § 7 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.070.]

Additional notes found at www.leg.wa.gov

42.17A.430 Disposal of surplus funds. The surplus funds of a candidate or a candidate's authorized committee may only be disposed of in any one or more of the following ways:

(1) Return the surplus to a contributor in an amount not to exceed that contributor's original contribution;

(2) Using surplus, reimburse the candidate for lost earnings incurred as a result of that candidate's election campaign. Lost earnings shall be verifiable as unpaid salary or, when the candidate is not salaried, as an amount not to exceed income received by the candidate for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented and a record thereof shall be maintained by the candidate or the candidate's authorized committee. The committee shall maintain a copy of this record in accordance with *RCW 42.17A.235(6);

(3) Transfer the surplus without limit to a political party or to a caucus political committee;

(4) Donate the surplus to a charitable organization registered in accordance with chapter 19.09 RCW;

(5) Transmit the surplus to the state treasurer for deposit in the general fund, the Washington state legacy project, state library, and archives account under RCW 43.07.380, or the legislative international trade account under RCW 43.15.050, as specified by the candidate or political committee; or

(6) Hold the surplus in the depository or depositories designated in accordance with RCW 42.17A.215 for possible use in a future election campaign for the same office last sought by the candidate and report any such disposition in accordance with RCW 42.17A.240. If the candidate subsequently announces or publicly files for office, the appropriate information must be reported to the commission in accordance with RCW 42.17A.205 through 42.17A.240. If a subsequent office is not sought the surplus held shall be disposed of in accordance with the requirements of this section.

(7) Hold the surplus campaign funds in a separate account for nonreimbursed public office-related expenses or as provided in this section, and report any such disposition in accordance with RCW 42.17A.240. The separate account required under this subsection shall not be used for deposits of campaign funds that are not surplus.

(8) No candidate or authorized committee may transfer funds to any other candidate or other political committee.

The disposal of surplus funds under this section shall not be considered a contribution for purposes of this chapter. [2010 c 204 § 606; 2005 c 467 § 1; 1995 c 397 § 31; 1993 c 2 § 20 (Initiative Measure No. 134, approved November 3, 1992); 1982 c 147 § 8; 1977 ex.s. c 336 § 3. Formerly RCW 42.17.095.]

***Reviser's note:** RCW 42.17.080(6) was recodified as RCW 42.17A.235(6) pursuant to 2010 c 204 § 1102. However, RCW 42.17.080 was also amended by 2010 c 205 § 6, changing subsection (6) to subsection (5). RCW 42.17A.235 was subsequently amended by 2018 c 304 § 7, changing subsection (5) to subsection (7).

Additional notes found at www.leg.wa.gov

42.17A.435 Identification of contributions and communications. No contribution shall be made and no expenditure shall be incurred, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the contribution or in any other manner so as to effect concealment. [1975 1st ex.s. c 294 § 8; 1973 c 1 § 12 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.120.]

42.17A.440 Candidates' political committees—Limitations. A candidate may not knowingly establish, use, direct, or control more than one political committee for the purpose of supporting that candidate during a particular election campaign. This does not prohibit: (1) In addition to a candidate's having his or her own political committee, the candidate's participation in a political committee established to support a slate of candidates that includes the candidate; or (2) joint fund-raising efforts by candidates when a separate political committee is established for that purpose and all contributions are disbursed to and accounted for on a pro rata basis by the benefiting candidates. [2010 c 204 § 607.]

42.17A.442 Contributions by political committees to political committees. A political committee may make a contribution to another political committee only when the contributing political committee has received contributions of ten dollars or more each from at least ten persons registered to vote in Washington state. [2011 c 145 § 5.]

Findings—Intent—Effective date—2011 c 145: See notes following RCW 42.17A.005.

42.17A.445 Personal use of contributions—When permitted. Contributions received and reported in accordance with RCW 42.17A.220 through 42.17A.240 and 42.17A.425 may only be paid to a candidate, or a treasurer or other individual or expended for such individual's personal use under the following circumstances:

(1) Reimbursement for or payments to cover lost earnings incurred as a result of campaigning or services performed for the political committee. Lost earnings shall be verifiable as unpaid salary, or when the individual is not salaried, as an amount not to exceed income received by the individual for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented and a record shall be maintained by the candidate or the candidate's authorized committee in accordance with RCW 42.17A.235.

(2) Reimbursement for direct out-of-pocket election campaign and postelection campaign related expenses made by the individual. To receive reimbursement from the political committee, the individual shall provide the political committee with written documentation as to the amount, date, and description of each expense, and the political committee shall include a copy of such information when its expenditure for such reimbursement is reported pursuant to RCW 42.17A.240.

(3) Repayment of loans made by the individual to political committees shall be reported pursuant to RCW 42.17A.240. However, contributions may not be used to reimburse a candidate for loans totaling more than *four thousand seven hundred dollars made by the candidate to the candidate's own authorized committee. [2010 c 204 § 608; 1995 c 397 § 29; 1993 c 2 § 21 (Initiative Measure No. 134, approved November 3, 1992); 1989 c 280 § 12; 1985 c 367 § 7; 1977 ex.s. c 336 § 6. Formerly RCW 42.17.125.]

***Reviser's note:** The dollar amounts in this section may have been adjusted for inflation by rule of the commission adopted under the authority of RCW 42.17A.125. For current dollar amounts, see WAC 390-05-400.

Additional notes found at www.leg.wa.gov

42.17A.450 Attribution and aggregation of family contributions. (1) Contributions by spouses are considered separate contributions.

(2) Contributions by unemancipated children under eighteen years of age are considered contributions by their parents and are attributed proportionately to each parent. Fifty percent of the contributions are attributed to each parent or, in the case of a single custodial parent, the total amount is attributed to the parent. [2018 c 304 § 11; 1993 c 2 § 5 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.650.]

Finding—Intent—2018 c 304: See note following RCW 42.17A.235.

42.17A.455 Attribution of contributions by controlled entities. For purposes of this chapter:

(1) A contribution by a political committee with funds that have all been contributed by one person who exercises exclusive control over the distribution of the funds of the political committee is a contribution by the controlling person.

(2) Two or more entities are treated as a single entity if one of the two or more entities is a subsidiary, branch, or department of a corporation that is participating in an election campaign or making contributions, or a local unit or branch of a trade association, labor union, or collective bargaining association that is participating in an election campaign or making contributions. All contributions made by a person or political committee whose contribution or expenditure activity is financed, maintained, or controlled by a trade association, labor union, collective bargaining organization, or the local unit of a trade association, labor union, or collective bargaining organization are considered made by the trade association, labor union, collective bargaining organization, or local unit of a trade association, labor union, or collective bargaining organization.

(3) The commission shall adopt rules to carry out this section and is not subject to the time restrictions of RCW 42.17A.110(1). [2010 c 204 § 609; 2005 c 445 § 12; 1993 c 2 § 6 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.660.]

42.17A.460 Attribution of contributions generally—"Earmarking." All contributions made by a person or entity, either directly or indirectly, to a candidate, to a state official against whom recall charges have been filed, or to a political committee, are considered to be contributions from that person or entity to the candidate, state official, or political committee, as are contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to the candidate, state official, or political committee. For the purposes of this section, "earmarked" means a designation, instruction, or encumbrance, whether direct or indirect, expressed or implied, or oral or written, that is intended to result in or does result in all or any part of a contribution being made to a certain candidate or state official. If a conduit or intermediary exercises any direction or control over the choice of the recipient candidate or state official, the contribution is considered to be by both the original contributor and the conduit or intermediary. [1993 c 2 § 7 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.670.]

(2020 Ed.)

42.17A.465 Restriction on loans. (1) A loan is considered to be a contribution from the lender and any guarantor of the loan and is subject to the contribution limitations of this chapter. The full amount of the loan shall be attributed to the lender and to each guarantor.

(2) A loan to a candidate for public office or the candidate's authorized committee must be by written agreement.

(3) The proceeds of a loan made to a candidate for public office:

(a) By a commercial lending institution;

(b) Made in the regular course of business; and

(c) On the same terms ordinarily available to members of the public, are not subject to the contribution limits of this chapter. [2010 c 204 § 610; 1995 c 397 § 22; 1993 c 2 § 12 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.720.]

42.17A.470 Contributions on behalf of another. (1) A person, other than an individual, may not be an intermediary or an agent for a contribution.

(2) An individual may not make a contribution on behalf of another person or entity, or while acting as the intermediary or agent of another person or entity, without disclosing to the recipient of the contribution both his or her full name, street address, occupation, name of employer, if any, or place of business if self-employed, and the same information for each contributor for whom the individual serves as intermediary or agent. [1993 c 2 § 13 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.730.]

42.17A.475 Certain contributions required to be by written instrument. (1) A person may not make a contribution of more than *one hundred dollars, other than an in-kind contribution, except by a written instrument containing the name of the donor and the name of the payee.

(2) A political committee may not make a contribution, other than in-kind, except by a written instrument containing the name of the donor and the name of the payee. [2019 c 428 § 28; 2010 c 204 § 611; 1995 c 397 § 23; 1993 c 2 § 14 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.740.]

***Reviser's note:** The dollar amounts in this section may have been adjusted for inflation by rule of the commission adopted under the authority of RCW 42.17A.125. For current dollar amounts, see WAC 390-05-400.

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

42.17A.480 Solicitation of endorsement fees. A person may not solicit from a candidate for public office, political committee, political party, or other person money or other property as a condition or consideration for an endorsement, article, or other communication in the news media promoting or opposing a candidate for public office, political committee, or political party. [1995 c 397 § 25; 1993 c 2 § 17 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.770.]

42.17A.485 Reimbursement for contributions. A person may not, directly or indirectly, reimburse another person for a contribution to a candidate for public office, political committee, or political party. [1995 c 397 § 26; 1993 c 2 § 18

(Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.780.]

42.17A.490 Prohibition on use of contributions for a different office. (1) Except as provided in subsection (2) of this section, a candidate for public office or the candidate's authorized committee may not use or permit the use of contributions, whether or not surplus, solicited for or received by the candidate or the candidate's authorized committee to further the candidacy of the individual for an office other than the office designated on the statement of organization. A contribution solicited for or received on behalf of the candidate is considered solicited or received for the candidacy for which the individual is then a candidate if the contribution is solicited or received before the general election for which the candidate is a nominee or is unopposed.

(2) With the written approval of the contributor, a candidate or the candidate's authorized committee may use or permit the use of contributions, whether or not surplus, solicited for or received by the candidate or the candidate's authorized committee from that contributor to further the candidacy of the individual for an office other than the office designated on the statement of organization. If the contributor does not approve the use of his or her contribution to further the candidacy of the individual for an office other than the office designated on the statement of organization at the time of the contribution, the contribution must be considered surplus funds and disposed of in accordance with RCW 42.17A.430. [2010 c 204 § 612; 1995 c 397 § 27; 1993 c 2 § 19 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.790.]

42.17A.495 Limitations on employers or labor organizations. (1) No employer or labor organization may increase the salary of an officer or employee, or compensate an officer, employee, or other person or entity, with the intention that the increase in salary, or the compensation, or a part of it, be contributed or spent to support or oppose a candidate, state official against whom recall charges have been filed, political party, or political committee.

(2) No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee. At least annually, an employee from whom wages or salary are withheld under subsection (3) of this section shall be notified of the provisions of this subsection.

(3) No employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries may withhold or divert a portion of an employee's wages or salaries for contributions to political committees or for use as political contributions except upon the written request of the employee. The request must be made on a form prescribed by the commission informing the employee of the prohibition against employer and labor organization discrimination described in subsection (2) of this section. The employee may revoke the request at any time. At least annually, the employee shall be notified about the right to revoke the request.

(4) Each person or entity who withholds contributions under subsection (3) of this section shall maintain open for public inspection for a period of no less than three years, during normal business hours, documents and books of accounts that shall include a copy of each employee's request, the amounts and dates funds were actually withheld, and the amounts and dates funds were transferred to a political committee. Copies of such information shall be delivered to the commission upon request. [2010 c 204 § 613; 2002 c 156 § 1; 1993 c 2 § 8 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.680.]

Additional notes found at www.leg.wa.gov

42.17A.500 Agency shop fees as contributions. (1) A labor organization may not use agency shop fees paid by an individual who is not a member of the organization to make contributions or expenditures to influence an election or to operate a political committee, unless affirmatively authorized by the individual.

(2) A labor organization does not use agency shop fees when it uses its general treasury funds to make such contributions or expenditures if it has sufficient revenues from sources other than agency shop fees in its general treasury to fund such contributions or expenditures. [2007 c 438 § 1; 1993 c 2 § 16 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.760.]

Additional notes found at www.leg.wa.gov

42.17A.550 Use of public funds for political purposes. Public funds, whether derived through taxes, fees, penalties, or any other sources, shall not be used to finance political campaigns for state or school district office. A county, city, town, or district that establishes a program to publicly finance local political campaigns may only use funds derived from local sources to fund the program. A local government must submit any proposal for public financing of local political campaigns to voters for their adoption and approval or rejection. [2008 c 29 § 1; 1993 c 2 § 24 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.128.]

PUBLIC OFFICIALS', EMPLOYEES', AND AGENCIES'
CAMPAIGN RESTRICTIONS AND PROHIBITIONS—
REPORTING

42.17A.555 Use of public office or agency facilities in campaigns—Prohibition—Exceptions. No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency. However, this does not apply to the following activities:

(1) Action taken at an open public meeting by members of an elected legislative body or by an elected board, council, or commission of a special purpose district including, but not limited to, fire districts, public hospital districts, library districts, park districts, port districts, public utility districts, school districts, sewer districts, and water districts, to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body, members of the board, council, or commission of the special purpose district, or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(2) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry;

(3) Activities which are part of the normal and regular conduct of the office or agency.

(4) This section does not apply to any person who is a state officer or state employee as defined in RCW 42.52.010. [2010 c 204 § 701; 2006 c 215 § 2; 1979 ex.s. c 265 § 2; 1975-'76 2nd ex.s. c 112 § 6; 1973 c 1 § 13 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.130.]

Finding—Intent—2006 c 215: "(1) The legislature finds that the public benefits from an open and inclusive discussion of proposed ballot measures by local elected leaders, and that for twenty-five years these discussions have included the opportunity for elected boards, councils, and commissions of special purpose districts to vote in open public meetings in order to express their support of, or opposition to, ballot propositions affecting their jurisdictions.

(2) The legislature intends to affirm and clarify the state's long-standing policy of promoting informed public discussion and understanding of ballot propositions by allowing elected boards, councils, and commissions of special purpose districts to adopt resolutions supporting or opposing ballot propositions." [2006 c 215 § 1.]

Disposition of violations before January 1, 1995: "Any violations occurring prior to January 1, 1995, of any of the following laws shall be disposed of as if chapter 154, Laws of 1994 were not enacted and such laws continued in full force and effect: *RCW 42.17.130, chapter 42.18 RCW, chapter 42.21 RCW, and chapter 42.22 RCW." [1994 c 154 § 226.]

***Reviser's note:** RCW 42.17.130 was recodified as RCW 42.17A.555 pursuant to 2010 c 204 § 1102, effective January 1, 2012.

42.17A.560 Time limit for state official to solicit or accept contributions. (1) During the period beginning on the thirtieth day before the date a regular legislative session convenes and continuing through the date of final adjournment, and during the period beginning on the date a special legislative session convenes and continuing through the date that session adjourns, no state official or a person employed by or acting on behalf of a state official or state legislator may solicit or accept contributions to a public office fund, to a candidate or authorized committee, or to retire a campaign debt. Contributions received through the mail after the thirtieth day before a regular legislative session may be accepted if the contribution is postmarked prior to the thirtieth day before the session.

(2) This section does not apply to activities authorized in RCW 43.07.370. [2006 c 348 § 5; 2006 c 344 § 31; 2003 c 164 § 3; 1993 c 2 § 11 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.710.]

(2020 Ed.)

Reviser's note: This section was amended by 2006 c 344 § 31 and by 2006 c 348 § 5, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

42.17A.565 Solicitation of contributions by public officials or employees. (1) No state or local official or state or local official's agent may knowingly solicit, directly or indirectly, a contribution to a candidate for public office, political party, or political committee from an employee in the state or local official's agency.

(2) No state or local official or public employee may provide an advantage or disadvantage to an employee or applicant for employment in the classified civil service concerning the applicant's or employee's:

- (a) Employment;
- (b) Conditions of employment; or
- (c) Application for employment,

based on the employee's or applicant's contribution or promise to contribute or failure to make a contribution or contribute to a political party or political committee. [1995 c 397 § 24; 1993 c 2 § 15 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.750.]

42.17A.570 Public accounts of governmental entities held by financial institutions—Statements and reports—Contents—Filing. After January 1st and before April 15th of each calendar year, the state treasurer, each county, public utility district, and port district treasurer, and each treasurer of an incorporated city or town whose population exceeds one thousand shall file with the commission:

(1) A statement under oath that no public funds under that treasurer's control were invested in any institution where the treasurer or, in the case of a county, a member of the county finance committee, held during the reporting period an office, directorship, partnership interest, or ownership interest; or

(2) A report disclosing for the previous calendar year: (a) The name and address of each financial institution in which the treasurer or, in the case of a county, a member of the county finance committee, held during the reporting period an office, directorship, partnership interest, or ownership interest which holds or has held during the reporting period public accounts of the governmental entity for which the treasurer is responsible; (b) the aggregate sum of time and demand deposits held in each such financial institution on December 31; and (c) the highest balance held at any time during such reporting period. The state treasurer shall disclose the highest balance information only upon a public records request under chapter 42.56 RCW. The statement or report required by this section shall be filed either with the statement required under RCW 42.17A.700 or separately. [2010 c 204 § 702; 2005 c 274 § 282; 1983 c 213 § 1; 1981 c 102 § 1; 1975-'76 2nd ex.s. c 112 § 10. Formerly RCW 42.17.245.]

42.17A.575 Public service announcements. No state-elected official or municipal officer may speak or appear in a public service announcement that is broadcast, shown, or distributed in any form whatsoever during the period beginning January 1st and continuing through the general election if

that official or officer is a candidate. If the official or officer does not control the broadcast, showing, or distribution of a public service announcement in which he or she speaks or appears, then the official or officer shall contractually limit the use of the public service announcement to be consistent with this section prior to participating in the public service announcement. This section does not apply to public service announcements that are part of the regular duties of the office that only mention or visually display the office or office seal or logo and do not mention or visually display the name of the official or officer in the announcement. [2010 c 204 § 703.]

LOBBYING DISCLOSURE AND RESTRICTIONS

42.17A.600 Registration of lobbyists. (1) Before lobbying, or within thirty days after being employed as a lobbyist, whichever occurs first, unless exempt under RCW 42.17A.610, a lobbyist shall register by filing with the commission a lobbyist registration statement, in such detail as the commission shall prescribe, that includes the following information:

(a) The lobbyist's name, permanent business address, electronic contact information, and any temporary residential and business addresses in Thurston county during the legislative session;

(b) The name, address and occupation or business of the lobbyist's employer;

(c) The duration of the lobbyist's employment;

(d) The compensation to be received for lobbying, the amount to be paid for expenses, and what expenses are to be reimbursed;

(e) Whether the lobbyist is employed solely as a lobbyist or whether the lobbyist is a regular employee performing services for the lobbyist's employer which include but are not limited to the influencing of legislation;

(f) The general subject or subjects to be lobbied;

(g) A written authorization from each of the lobbyist's employers confirming such employment;

(h) The name, address, and electronic contact information of the person who will have custody of the accounts, bills, receipts, books, papers, and documents required to be kept under this chapter;

(i) If the lobbyist's employer is an entity (including, but not limited to, business and trade associations) whose members include, or which as a representative entity undertakes lobbying activities for, businesses, groups, associations, or organizations, the name and address of each member of such entity or person represented by such entity whose fees, dues, payments, or other consideration paid to such entity during either of the prior two years have exceeded *five hundred dollars or who is obligated to or has agreed to pay fees, dues, payments, or other consideration exceeding *five hundred dollars to such entity during the current year;

(j) An attestation that the lobbyist has read and completed a training course provided under RCW 44.04.390 regarding the legislative code of conduct and any policies related to appropriate conduct adopted by the senate or the house of representatives.

(2) Any lobbyist who receives or is to receive compensation from more than one person for lobbying shall file a separate notice of representation for each person. However, if

two or more persons are jointly paying or contributing to the payment of the lobbyist, the lobbyist may file a single statement detailing the name, business address, and occupation of each person paying or contributing and the respective amounts to be paid or contributed.

(3) Whenever a change, modification, or termination of the lobbyist's employment occurs, the lobbyist shall file with the commission an amended registration statement within one week of the change, modification, or termination.

(4) Each registered lobbyist shall file a new registration statement, revised as appropriate, on the second Monday in January of each odd-numbered year. Failure to do so terminates the lobbyist's registration. [2019 c 469 § 2; 2019 c 428 § 29; 2010 c 204 § 801; 1987 c 201 § 1; 1982 c 147 § 10; 1973 c 1 § 15 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.150.]

Reviser's note: *(1) The dollar amounts in this section may have been adjusted for inflation by rule of the commission adopted under the authority of RCW 42.17A.125. For current dollar amounts, see WAC 390-20-150.

(2) This section was amended by 2019 c 428 § 29 and by 2019 c 469 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2019 c 469 §§ 2 and 3: "Sections 2 and 3 of this act take effect December 31, 2019." [2019 c 469 § 5.]

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

42.17A.603 Code of conduct—Verification—Penalty.

(1) A lobbyist who is registered under RCW 42.17A.600 before December 31, 2019, is required to update the lobbyist's registration materials to include the attestation required by RCW 42.17A.600(1)(j) by December 31, 2019.

(2) The commission shall revoke the registration of any lobbyist registered under RCW 42.17A.600 who does not comply with subsection (1) of this section.

(3) The commission may not impose any other penalty on a lobbyist registered under RCW 42.17A.600 for failure to comply with subsection (1) of this section.

(4) The commission shall collaborate with the chief clerk of the house of representatives and the secretary of the senate to develop a process to verify that lobbyists who submit an attestation under RCW 42.17A.600(1)(j) have completed the training course provided under RCW 44.04.390. [2019 c 469 § 4.]

42.17A.605 Photograph and information—Publication.

Each lobbyist shall at the time the lobbyist registers submit electronically to the commission a recent photograph of the lobbyist of a size and format as determined by rule of the commission, together with the name of the lobbyist's employer, the length of the lobbyist's employment as a lobbyist before the legislature, a brief biographical description, and any other information the lobbyist may wish to submit not to exceed fifty words in length. The photograph, information, and attestation submitted under RCW 42.17A.600(1)(j) shall be published by the commission on its web site. [2019 c 469 § 3; 2019 c 428 § 30; 2010 c 204 § 802; 1995 c 397 § 6; 1985 c 367 § 8; 1982 c 147 § 11; 1975 1st ex.s. c 294 § 21. Formerly RCW 42.17.155.]

Reviser's note: This section was amended by 2019 c 428 § 30 and by 2019 c 469 § 3, each without reference to the other. Both amendments are

incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2019 c 469 §§ 2 and 3: See note following RCW 42.17A.600.

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

42.17A.610 Exemption from registration and reporting. The following persons and activities are exempt from registration and reporting under RCW 42.17A.600, 42.17A.615, and 42.17A.640:

(1) Persons who limit their lobbying activities to appearing before public sessions of committees of the legislature, or public hearings of state agencies;

(2) Activities by lobbyists or other persons whose participation has been solicited by an agency under RCW 34.05.310(2);

(3) News or feature reporting activities and editorial comment by working members of the press, radio, digital media, or television and the publication or dissemination thereof by a newspaper, book publisher, regularly published periodical, radio station, digital platform, or television station;

(4) Persons who lobby without compensation or other consideration for acting as a lobbyist, if the person makes no expenditure for or on behalf of any member of the legislature or elected official or public officer or employee of the state of Washington in connection with such lobbying. The exemption contained in this subsection is intended to permit and encourage citizens of this state to lobby any legislator, public official, or state agency without incurring any registration or reporting obligation provided they do not exceed the limits stated above. Any person exempt under this subsection (4) may at the person's option register and report under this chapter;

(5) Persons who restrict their lobbying activities to no more than four days or parts of four days during any three-month period and whose total expenditures during such three-month period for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington in connection with such lobbying do not exceed *twenty-five dollars. The commission shall adopt rules to require disclosure by persons exempt under this subsection or their employers or entities which sponsor or subordinate the lobbying activities of such persons if it determines that such regulations are necessary to prevent frustration of the purposes of this chapter. Any person exempt under this subsection (5) may at the person's option register and report under this chapter;

(6) The governor;

(7) The lieutenant governor;

(8) Except as provided by RCW 42.17A.635(1), members of the legislature;

(9) Except as provided by RCW 42.17A.635(1), persons employed by the legislature for the purpose of aiding in the preparation or enactment of legislation or the performance of legislative duties;

(10) Elected officials, and officers and employees of any agency reporting under RCW 42.17A.635(5). [2019 c 428 § 31; 2010 c 204 § 803; 1998 c 55 § 3; 1995 c 397 § 32; 1982 c 147 § 12; 1977 ex.s. c 313 § 4; 1975 1st ex.s. c 294 § 9; 1973

(2020 Ed.)

c 1 § 16 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.160.]

***Reviser's note:** The dollar amounts in this section may have been adjusted for inflation by rule of the commission adopted under the authority of RCW 42.17A.125. For current dollar amounts, see WAC 390-20-150.

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

Additional notes found at www.leg.wa.gov

42.17A.615 Reporting by lobbyists—Rules. (1) Any lobbyist registered under RCW 42.17A.600 and any person who lobbies shall file electronically with the commission monthly reports of the lobbyist's or person's lobbying activities. The reports shall be made in the form and manner prescribed by the commission and must be signed by the lobbyist. The monthly report shall be filed within fifteen days after the last day of the calendar month covered by the report.

(2) The monthly report shall contain:

(a) The totals of all expenditures for lobbying activities made or incurred by the lobbyist or on behalf of the lobbyist by the lobbyist's employer during the period covered by the report. Expenditure totals for lobbying activities shall be segregated according to financial category, including compensation; food and refreshments; living accommodations; advertising; travel; contributions; and other expenses or services. Each individual expenditure of more than *twenty-five dollars for entertainment shall be identified by date, place, amount, and the names of all persons taking part in the entertainment, along with the dollar amount attributable to each person, including the lobbyist's portion.

(b) In the case of a lobbyist employed by more than one employer, the proportionate amount of expenditures in each category incurred on behalf of each of the lobbyist's employers.

(c) An itemized listing of each contribution of money or of tangible or intangible personal property, whether contributed by the lobbyist personally or delivered or transmitted by the lobbyist, to any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition, or for or on behalf of any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition. All contributions made to, or for the benefit of, any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition shall be identified by date, amount, and the name of the candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition receiving, or to be benefited by each such contribution.

(d) The subject matter of proposed legislation or other legislative activity or rule making under chapter 34.05 RCW, the state administrative procedure act, and the state agency considering the same, which the lobbyist has been engaged in supporting or opposing during the reporting period, unless exempt under RCW 42.17A.610(2).

(e) A listing of each payment for an item specified in RCW 42.52.150(5) in excess of *fifty dollars and each item specified in RCW 42.52.010(9) (d) and (f) made to a state elected official, state officer, or state employee. Each item

shall be identified by recipient, date, and approximate value of the item.

(f) The total expenditures paid or incurred during the reporting period by the lobbyist for lobbying purposes, whether through or on behalf of a lobbyist or otherwise, for (i) political advertising as defined in RCW 42.17A.005; and (ii) public relations, telemarketing, polling, or similar activities if the activities, directly or indirectly, are intended, designed, or calculated to influence legislation or the adoption or rejection of a rule, standard, or rate by an agency under the administrative procedure act. The report shall specify the amount, the person to whom the amount was paid, and a brief description of the activity.

(3) Lobbyists are not required to report the following:

(a) Unreimbursed personal living and travel expenses not incurred directly for lobbying;

(b) Any expenses incurred for the lobbyist's own living accommodations;

(c) Any expenses incurred for the lobbyist's own travel to and from hearings of the legislature;

(d) Any expenses incurred for telephone, and any office expenses, including rent and salaries and wages paid for staff and secretarial assistance.

(4) The commission may adopt rules to vary the content of lobbyist reports to address specific circumstances, consistent with this section. Lobbyist reports are subject to audit by the commission. [2019 c 428 § 32; 2010 c 204 § 804; 1995 c 397 § 33; 1991 sp.s. c 18 § 2; 1990 c 139 § 3; 1989 c 175 § 90; 1987 c 423 § 1; 1985 c 367 § 9; 1982 c 147 § 13; 1977 ex.s. c 313 § 5; 1975 1st ex.s. c 294 § 10; 1973 c 1 § 17 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.170.]

***Reviser's note:** The dollar amounts in this section may have been adjusted for inflation by rule of the commission adopted under the authority of RCW 42.17A.125. For current dollar amounts, see WAC 390-20-150.

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

Legislative intent—1990 c 139: See note following RCW 42.17A.005.

Additional notes found at www.leg.wa.gov

42.17A.620 Notification to person named in report.

(1) When a listing or a report of contributions is made to the commission under RCW 42.17A.615(2)(c), a copy of the listing or report must be given to the candidate, elected official, professional staff member of the legislature, or officer or employee of an agency, or a political committee supporting or opposing a ballot proposition named in the listing or report.

(2) If a state elected official or a member of the official's immediate family is identified by a lobbyist in a lobbyist report as having received from the lobbyist an item specified in RCW 42.52.150(5) or *42.52.010(10) (d) or (f), the lobbyist shall transmit to the official a copy of the completed form used to identify the item in the report at the same time the report is filed with the commission. [2010 c 204 § 805; 1993 c 2 § 32 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.172.]

***Reviser's note:** RCW 42.52.010 was amended by 2011 c 60 § 28, changing subsection (10)(d) or (f) to subsection (9)(d) or (f).

42.17A.625 Special reports—Lobbyists—Late contributions or large totals. Any lobbyist registered under RCW 42.17A.600, any person who lobbies, and any lobbyist's employer making a contribution or an aggregate of contributions to a single entity that is one thousand dollars or more during a special reporting period, as specified in RCW 42.17A.265, before a primary or general election shall file one or more special reports in the same manner and to the same extent that a contributing political committee must file under RCW 42.17A.265. [2010 c 204 § 806; 2001 c 54 § 3; 1991 c 157 § 2; 1985 c 359 § 2. Formerly RCW 42.17.175.]

Additional notes found at www.leg.wa.gov

42.17A.630 Reports by employers of registered lobbyists, other persons. (1) Every employer of a lobbyist registered under this chapter during the preceding calendar year and every person other than an individual who made contributions aggregating to more than *sixteen thousand dollars or independent expenditures aggregating to more than *eight hundred dollars during the preceding calendar year shall file with the commission on or before the last day of February of each year a statement disclosing for the preceding calendar year the following information:

(a) The name of each state elected official and the name of each candidate for state office who was elected to the office and any member of the immediate family of those persons to whom the person reporting has paid any compensation in the amount of eight hundred dollars or more during the preceding calendar year for personal employment or professional services, including professional services rendered by a corporation, partnership, joint venture, association, union, or other entity in which the person holds any office, directorship, or any general partnership interest, or an ownership interest of ten percent or more, the value of the compensation in accordance with the reporting provisions set out in RCW 42.17A.710(3), and the consideration given or performed in exchange for the compensation.

(b) The name of each state elected official, successful candidate for state office, or members of the official's or candidate's immediate family to whom the person reporting made expenditures, directly or indirectly, either through a lobbyist or otherwise, the amount of the expenditures and the purpose for the expenditures. For the purposes of this subsection, "expenditure" shall not include any expenditure made by the employer in the ordinary course of business if the expenditure is not made for the purpose of influencing, honoring, or benefiting the elected official, successful candidate, or member of his immediate family, as an elected official or candidate.

(c) The total expenditures made by the person reporting for lobbying purposes, whether through or on behalf of a registered lobbyist or otherwise.

(d) All contributions made to a political committee supporting or opposing a candidate for state office, or to a political committee supporting or opposing a statewide ballot proposition. Such contributions shall be identified by the name and the address of the recipient and the aggregate amount contributed to each such recipient.

(e) The name and address of each registered lobbyist employed by the person reporting and the total expenditures

made by the person reporting for each lobbyist for lobbying purposes.

(f) The names, offices sought, and party affiliations of candidates for state offices supported or opposed by independent expenditures of the person reporting and the amount of each such expenditure.

(g) The identifying proposition number and a brief description of any statewide ballot proposition supported or opposed by expenditures not reported under (d) of this subsection and the amount of each such expenditure.

(h) Any other information the commission prescribes by rule.

(2)(a) Except as provided in (b) of this subsection, an employer of a lobbyist registered under this chapter shall file a special report with the commission if the employer makes a contribution or contributions aggregating more than one hundred dollars in a calendar month to any one of the following: A candidate, elected official, officer or employee of an agency, or political committee. The report shall identify the date and amount of each such contribution and the name of the candidate, elected official, agency officer or employee, or political committee receiving the contribution or to be benefited by the contribution. The report shall be filed on a form prescribed by the commission and shall be filed within fifteen days after the last day of the calendar month during which the contribution was made.

(b) The provisions of (a) of this subsection do not apply to a contribution that is made through a registered lobbyist and reportable under RCW 42.17A.425. [2019 c 428 § 33; 2010 c 204 § 807; 1993 c 2 § 27 (Initiative Measure No. 134, approved November 3, 1992); 1990 c 139 § 4; 1987 c 423 § 2; 1984 c 34 § 6; 1975 1st ex.s. c 294 § 11; 1973 c 1 § 18 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.180.]

***Reviser's note:** The dollar amounts in this section may have been adjusted for inflation by rule of the commission adopted under the authority of RCW 42.17A.125. For current dollar amounts, see WAC 390-05-400 and 390-20-150.

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

Legislative intent—1990 c 139: See note following RCW 42.17A.005.

42.17A.635 Legislative activities of state agencies, other units of government, elective officials, employees.

(1) The house of representatives and the senate shall report annually: The total budget; the portion of the total attributed to staff; and the number of full-time and part-time staff positions by assignment, with dollar figures as well as number of positions.

(2) Unless authorized by subsection (3) of this section or otherwise expressly authorized by law, no public funds may be used directly or indirectly for lobbying. However, this does not prevent officers or employees of an agency from communicating with a member of the legislature on the request of that member; or communicating to the legislature, through the proper official channels, requests for legislative action or appropriations that are deemed necessary for the efficient conduct of the public business or actually made in the proper performance of their official duties. This subsection does not apply to the legislative branch.

(3) Any agency, not otherwise expressly authorized by law, may expend public funds for lobbying, but such lobbying activity shall be limited to (a) providing information or communicating on matters pertaining to official agency business to any elected official or officer or employee of any agency or (b) advocating the official position or interests of the agency to any elected official or officer or employee of any agency. Public funds may not be expended as a direct or indirect gift or campaign contribution to any elected official or officer or employee of any agency. For the purposes of this subsection, "gift" means a voluntary transfer of any thing of value without consideration of equal or greater value, but does not include informational material transferred for the sole purpose of informing the recipient about matters pertaining to official agency business. This section does not permit the printing of a state publication that has been otherwise prohibited by law.

(4) No elective official or any employee of his or her office or any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, in any effort to support or oppose an initiative to the legislature. "Facilities of a public office or agency" has the same meaning as in RCW 42.17A.555 and 42.52.180. The provisions of this subsection shall not apply to the following activities:

(a) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose an initiative to the legislature so long as (i) any required notice of the meeting includes the title and number of the initiative to the legislature, and (ii) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(b) A statement by an elected official in support of or in opposition to any initiative to the legislature at an open press conference or in response to a specific inquiry;

(c) Activities that are part of the normal and regular conduct of the office or agency;

(d) Activities conducted regarding an initiative to the legislature that would be permitted under RCW 42.17A.555 and 42.52.180 if conducted regarding other ballot measures.

(5) Each state agency, county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district that expends public funds for lobbying shall file with the commission, except as exempted by (d) of this subsection, quarterly statements providing the following information for the quarter just completed:

(a) The name of the agency filing the statement;

(b) The name, title, and job description and salary of each elected official, officer, or employee who lobbied, a general description of the nature of the lobbying, and the proportionate amount of time spent on the lobbying;

(c) A listing of expenditures incurred by the agency for lobbying including but not limited to travel, consultant or other special contractual services, and brochures and other publications, the principal purpose of which is to influence legislation;

(d) For purposes of this subsection, "lobbying" does not include:

(i) Requests for appropriations by a state agency to the office of financial management pursuant to chapter 43.88 RCW nor requests by the office of financial management to the legislature for appropriations other than its own agency budget requests;

(ii) Recommendations or reports to the legislature in response to a legislative request expressly requesting or directing a specific study, recommendation, or report by an agency on a particular subject;

(iii) Official reports including recommendations submitted to the legislature on an annual or biennial basis by a state agency as required by law;

(iv) Requests, recommendations, or other communication between or within state agencies or between or within local agencies;

(v) Any other lobbying to the extent that it includes:

(A) Telephone conversations or preparation of written correspondence;

(B) In-person lobbying on behalf of an agency of no more than four days or parts thereof during any three-month period by officers or employees of that agency and in-person lobbying by any elected official of such agency on behalf of such agency or in connection with the powers, duties, or compensation of such official. The total expenditures of nonpublic funds made in connection with such lobbying for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington may not exceed fifteen dollars for any three-month period. The exemption under this subsection (5)(d)(v)(B) is in addition to the exemption provided in (d)(v)(A) of this subsection;

(C) Preparation or adoption of policy positions.

The statements shall be in the form and the manner prescribed by the commission and shall be filed within one month after the end of the quarter covered by the report.

(6) In lieu of reporting under subsection (5) of this section, any county, city, town, municipal corporation, quasi municipal corporation, or special purpose district may determine and so notify the public disclosure commission that elected officials, officers, or employees who, on behalf of any such local agency, engage in lobbying reportable under subsection (5) of this section shall register and report such reportable lobbying in the same manner as a lobbyist who is required to register and report under RCW 42.17A.600 and 42.17A.615. Each such local agency shall report as a lobbyist employer pursuant to RCW 42.17A.630.

(7) The provisions of this section do not relieve any elected official or officer or employee of an agency from complying with other provisions of this chapter, if such elected official, officer, or employee is not otherwise exempted.

(8) The purpose of this section is to require each state agency and certain local agencies to report the identities of those persons who lobby on behalf of the agency for compensation, together with certain separately identifiable and measurable expenditures of an agency's funds for that purpose. This section shall be reasonably construed to accomplish that purpose and not to require any agency to report any of its general overhead cost or any other costs that relate only indirectly or incidentally to lobbying or that are equally attribut-

able to or inseparable from nonlobbying activities of the agency.

The public disclosure commission may adopt rules clarifying and implementing this legislative interpretation and policy. [2010 c 204 § 808; 1995 c 397 § 7; 1986 c 239 § 1; 1979 ex.s. c 265 § 1; 1977 ex.s. c 313 § 6; 1975 1st ex.s. c 294 § 12; 1973 c 1 § 19 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.190.]

Additional notes found at www.leg.wa.gov

42.17A.640 Grass roots lobbying campaigns. (1) Any person who has made expenditures, not reported by a registered lobbyist under RCW 42.17A.615 or by a candidate or political committee under RCW 42.17A.225 or 42.17A.235, exceeding *one thousand dollars in the aggregate within any three-month period or exceeding *five hundred dollars in the aggregate within any one-month period in presenting a program to the public, a substantial portion of which is intended, designed, or calculated primarily to influence legislation shall register and report, as provided in subsection (2) of this section, as a sponsor of a grass roots lobbying campaign.

(2) Within thirty days after becoming a sponsor of a grass roots lobbying campaign, the sponsor shall register by filing with the commission a registration statement, in such detail as the commission shall prescribe, showing:

(a) The sponsor's name, address, and business or occupation, and, if the sponsor is not an individual, the names, addresses, and titles of the controlling persons responsible for managing the sponsor's affairs;

(b) The names, addresses, and business or occupation of all persons organizing and managing the campaign, or hired to assist the campaign, including any public relations or advertising firms participating in the campaign, and the terms of compensation for all such persons;

(c) The names and addresses of each person contributing twenty-five dollars or more to the campaign, and the aggregate amount contributed;

(d) The purpose of the campaign, including the specific legislation, rules, rates, standards, or proposals that are the subject matter of the campaign;

(e) The totals of all expenditures made or incurred to date on behalf of the campaign segregated according to financial category, including but not limited to the following: Advertising, segregated by media, and in the case of large expenditures (as provided by rule of the commission), by outlet; contributions; entertainment, including food and refreshments; office expenses including rent and the salaries and wages paid for staff and secretarial assistance, or the proportionate amount paid or incurred for lobbying campaign activities; consultants; and printing and mailing expenses.

(3) Every sponsor who has registered under this section shall file monthly reports with the commission by the tenth day of the month for the activity during the preceding month. The reports shall update the information contained in the sponsor's registration statement and in prior reports and shall show contributions received and totals of expenditures made during the month, in the same manner as provided for in the registration statement.

(4) When the campaign has been terminated, the sponsor shall file a notice of termination with the final monthly report. The final report shall state the totals of all contribu-

tions and expenditures made on behalf of the campaign, in the same manner as provided for in the registration statement. [2010 c 204 § 809; 1990 c 139 § 5; 1985 c 367 § 10; 1973 c 1 § 20 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.200.]

***Reviser's note:** The dollar amounts in this section may have been adjusted for inflation by rule of the commission adopted under the authority of RCW 42.17A.125. For current dollar amounts, see WAC 390-20-150.

Legislative intent—1990 c 139: See note following RCW 42.17A.005.

42.17A.645 Employment of legislators, board or commission members, or state employees—Statement, contents. If any person registered or required to be registered as a lobbyist, or any employer of any person registered or required to be registered as a lobbyist, employs a member or an employee of the legislature, a member of a state board or commission, or a full-time state employee, and that new employee remains in the partial employ of the state, the new employer must file within fifteen days after employment a statement with the commission, signed under oath, setting out the nature of the employment, the name of the person employed, and the amount of pay or consideration. [2010 c 204 § 810; 1973 c 1 § 21 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.210.]

42.17A.650 Employment of unregistered persons. It is a violation of this chapter for any person to employ for pay or any consideration, or pay or agree to pay any consideration to, a person to lobby who is not registered under this chapter except upon the condition that such a person must register as a lobbyist as provided by this chapter. [2010 c 204 § 811; 1973 c 1 § 22 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.220.]

42.17A.655 Lobbyists' duties, restrictions—Penalties for violations. (1) A person required to register as a lobbyist under RCW 42.17A.600 shall substantiate financial reports required to be made under this chapter with accounts, bills, receipts, books, papers, and other necessary documents and records. All such documents must be obtained and preserved for a period of at least five years from the date of filing the statement containing such items and shall be made available for inspection by the commission at any time. If the terms of the lobbyist's employment contract require that these records be turned over to the lobbyist's employer, responsibility for the preservation and inspection of these records under this subsection shall be with such employer.

(2) A person required to register as a lobbyist under RCW 42.17A.600 shall not:

- (a) Engage in any lobbying activity before registering as a lobbyist;
- (b) Knowingly deceive or attempt to deceive a legislator regarding the facts pertaining to any pending or proposed legislation;
- (c) Cause or influence the introduction of a bill or amendment to that bill for the purpose of later being employed to secure its defeat;
- (d) Knowingly represent an interest adverse to the lobbyist's employer without full disclosure of the adverse interest to the employer and obtaining the employer's written consent;

(e) Exercise any undue influence, extortion, or unlawful retaliation upon any legislator due to the legislator's position or vote on any pending or proposed legislation;

(f) Enter into any agreement, arrangement, or understanding in which any portion of the lobbyist's compensation is or will be contingent upon the lobbyist's success in influencing legislation.

(3) A violation by a lobbyist of this section shall be cause for revocation of the lobbyist's registration, and may subject the lobbyist and the lobbyist's employer, if the employer aids, abets, ratifies, or confirms the violation, to other civil liabilities as provided by this chapter. [2019 c 428 § 34; 2010 c 204 § 812; 1987 c 201 § 2; 1982 c 147 § 14; 1973 c 1 § 23 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.230.]

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

PERSONAL FINANCIAL AFFAIRS REPORTING BY CANDIDATES AND PUBLIC OFFICIALS

42.17A.700 Elected officials, executive state officers, candidates, and appointees—Statement of financial affairs. (1) After January 1st and before April 15th of each year, every elected official and every executive state officer who served for any portion of the preceding year shall electronically file with the commission a statement of financial affairs for the preceding calendar year or for that portion of the year served. Any official or officer in office for any period of time in a calendar year, but not in office as of January 1st of the following year, may electronically file either within sixty days of leaving office or during the January 1st through April 15th reporting period of that following year. Such filing must include information for the portion of the current calendar year for which the official or officer was in office.

(2) Within two weeks of becoming a candidate, every candidate shall file with the commission a statement of financial affairs for the preceding twelve months.

(3) Within two weeks of appointment, every person appointed to a vacancy in an elective office or executive state officer position during the months of January through November shall file with the commission a statement of financial affairs for the preceding twelve months, except as provided in subsection (4) of this section. For appointments made in December, the appointee must file the statement of financial affairs between January 1st and January 15th of the immediate following year for the preceding twelve-month period ending on December 31st.

(4) A statement of a candidate or appointee filed during the period from January 1st to April 15th shall cover the period from January 1st of the preceding calendar year to the time of candidacy or appointment if the filing of the statement would relieve the individual of a prior obligation to file a statement covering the entire preceding calendar year.

(5) No individual may be required to file more than once in any calendar year.

(6) Each statement of financial affairs filed under this section shall be sworn as to its truth and accuracy.

(7) Every elected official and every executive state officer shall file with their statement of financial affairs a state-

ment certifying that they have read and are familiar with RCW 42.17A.555 or 42.52.180, whichever is applicable.

(8) For the purposes of this section, the term "executive state officer" includes those listed in RCW 42.17A.705.

(9) This section does not apply to incumbents or candidates for a federal office or the office of precinct committee officer. [2019 c 428 § 35; 2010 c 204 § 901; 1995 c 397 § 8; 1993 c 2 § 31 (Initiative Measure No. 134, approved November 3, 1992); 1989 c 158 § 1; 1987 c 295 § 19. Prior: 1984 c 125 § 14; 1984 c 34 § 1; 1983 c 161 § 27; 1982 c 10 § 9; prior: 1981 c 311 § 20; 1981 c 67 § 15; 1979 ex.s. c 265 § 3; 1979 c 151 § 73; prior: 1975-'76 2nd ex.s. c 112 § 7; 1975-'76 2nd ex.s. c 104 § 1 (Ref. Bill No. 36); 1975 1st ex.s. c 294 § 13; 1973 c 1 § 24 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.240.]

Effective date—2019 c 428 §§ 35 and 36: "Sections 35 and 36 of this act take effect January 1, 2020." [2019 c 428 § 43.]

Finding—Intent—2019 c 428: See note following RCW 42.17A.160.

Cemetery district commissioners exempt from chapter: RCW 68.52.140, 68.52.220.

Additional notes found at www.leg.wa.gov

42.17A.705 "Executive state officer" defined. For the purposes of RCW 42.17A.700, "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, the director of the department of services for the blind, the secretary of children, youth, and families, the director of the state system of community and technical colleges, the director of commerce, the director of the consolidated technology services agency, the secretary of corrections, the director of ecology, the commissioner of employment security, the chair of the energy facility site evaluation council, the director of enterprise services, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, the executive director of the public disclosure commission, the executive director of the Puget Sound partnership, the director of the recreation and conservation office, the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, and each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, the boards of trustees of each community college and each technical college, each member of the state board for community and technical colleges, state convention and trade center board of directors, Eastern Washington University board of trustees, Washington economic development finance authority, Washington energy northwest executive board, The Evergreen State College board of trustees, executive ethics board, fish and wildlife commission, forest practices appeals board, forest practices board, gambling commission, Washington health care facilities authority, student achievement council, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, state investment board, commission on judicial conduct, legislative ethics board, life sciences discovery fund authority board of trustees, state liquor and cannabis board, lottery commission, Pacific Northwest electric power and conservation planning council, parks and recreation commission, Washington personnel resources board, board of pilotage commissioners, pollution control hearings board, public disclosure commission, public employees' benefits board, recreation and conservation funding board, salmon recovery funding board, shorelines hearings board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, Washington State University board of regents, and Western Washington University board of trustees. [2017 3rd sp.s. c 6 § 111. Prior: 2015 3rd sp.s. c 1 § 406; 2015 3rd sp.s. c 1 § 317; 2012 c 229 § 582; 2011 1st sp.s. c 43 § 109; 2010 c 204 § 902; 2009 c 565 § 24; prior: 2007 c 341 § 48; 2007 c 241 § 2; 2007 c 15 § 1; 2006 c 265 § 113; 2005 c 424 § 17; prior: 2001 c 36 § 1; 2001 c 9 § 1; 1996 c 186 § 504; prior: 1995 c 399 § 60; 1995 c 397 § 10; prior: 1993 sp.s. c 2 § 18; 1993 c 492 § 488; 1993 c 281 § 43; 1991 c 200 § 404; 1991 c 3 § 293; prior: 1989 1st ex.s. c 9 § 812; 1989 c 279 § 22; 1989 c 158 § 2; 1988 c 36 § 13; 1987 c 504 § 14; 1985 c 6 § 8; 1984 c 34 § 2. Formerly RCW 42.17.2401.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Effective date—2012 c 229 §§ 101, 117, 401, 402, 501 through 594, 601 through 609, 701 through 708, 801 through 821, 902, and 904: See note following RCW 28B.77.005.

Effective date—2011 1st sp.s. c 43 § 109: "Section 109 of this act takes effect January 1, 2012." [2011 1st sp.s. c 43 § 111.]

Purpose—2011 1st sp.s. c 43: See note following RCW 43.19.003.

Alphabetization—2010 c 204 § 902: "When RCW 42.17A.705 is codified, the code reviser shall arrange the names of the agencies in each subsection in alphabetical order, arranged according to the first distinctive word of each agency's name." [2010 c 204 § 1101.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.
Additional notes found at www.leg.wa.gov

42.17A.710 Statement of financial affairs—Contents.

(1) The statement of financial affairs required by RCW 42.17A.700 shall disclose the following information for the reporting individual and each member of the reporting individual's immediate family:

(a) Occupation, name of employer, and business address;

(b) Each bank account, savings account, and insurance policy in which a direct financial interest was held that exceeds *twenty thousand dollars at any time during the reporting period; each other item of intangible personal property in which a direct financial interest was held that exceeds *two thousand dollars during the reporting period; the name, address, and nature of the entity; and the nature and highest value of each direct financial interest during the reporting period;

(c) The name and address of each creditor to whom the value of *two thousand dollars or more was owed; the original amount of each debt to each creditor; the amount of each debt owed to each creditor as of the date of filing; the terms of repayment of each debt; and the security given, if any, for each such debt. Debts arising from a "retail installment transaction" as defined in chapter 63.14 RCW (retail installment sales act) need not be reported;

(d) Every public or private office, directorship, and position held as trustee; except that an elected official or executive state officer need not report the elected official's or executive state officer's service on a governmental board, commission, association, or functional equivalent, when such service is part of the elected official's or executive state officer's official duties;

(e) All persons for whom any legislation, rule, rate, or standard has been prepared, promoted, or opposed for current or deferred compensation. For the purposes of this subsection, "compensation" does not include payments made to the person reporting by the governmental entity for which the person serves as an elected official or state executive officer or professional staff member for the person's service in office; the description of such actual or proposed legislation, rules, rates, or standards; and the amount of current or deferred compensation paid or promised to be paid;

(f) The name and address of each governmental entity, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from whom compensation has been received in any form of a total value of *two thousand dollars or more; the value of the compensation; and the consideration given or performed in exchange for the compensation;

(g) The name of any corporation, partnership, joint venture, association, union, or other entity in which is held any office, directorship, or any general partnership interest, or an ownership interest of ten percent or more; the name or title of that office, directorship, or partnership; the nature of ownership interest; and: (i) With respect to a governmental unit in which the official seeks or holds any office or position, if the entity has received compensation in any form during the preceding twelve months from the governmental unit, the value

of the compensation and the consideration given or performed in exchange for the compensation; and (ii) the name of each governmental unit, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from which the entity has received compensation in any form in the amount of *ten thousand dollars or more during the preceding twelve months and the consideration given or performed in exchange for the compensation. As used in (g)(ii) of this subsection, "compensation" does not include payment for water and other utility services at rates approved by the Washington state utilities and transportation commission or the legislative authority of the public entity providing the service. With respect to any bank or commercial lending institution in which is held any office, directorship, partnership interest, or ownership interest, it shall only be necessary to report either the name, address, and occupation of every director and officer of the bank or commercial lending institution and the average monthly balance of each account held during the preceding twelve months by the bank or commercial lending institution from the governmental entity for which the individual is an official or candidate or professional staff member, or all interest paid by a borrower on loans from and all interest paid to a depositor by the bank or commercial lending institution if the interest exceeds *two thousand four hundred dollars;

(h) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds *ten thousand dollars in which any direct financial interest was acquired during the preceding calendar year, and a statement of the amount and nature of the financial interest and of the consideration given in exchange for that interest;

(i) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds *ten thousand dollars in which any direct financial interest was divested during the preceding calendar year, and a statement of the amount and nature of the consideration received in exchange for that interest, and the name and address of the person furnishing the consideration;

(j) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds *ten thousand dollars in which a direct financial interest was held. If a description of the property has been included in a report previously filed, the property may be listed, for purposes of this subsection (1)(j), by reference to the previously filed report;

(k) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds *twenty thousand dollars, in which a corporation, partnership, firm, enterprise, or other entity had a direct financial interest, in which corporation, partnership, firm, or enterprise a ten percent or greater ownership interest was held;

(l) A list of each occasion, specifying date, donor, and amount, at which food and beverage in excess of fifty dollars was accepted under RCW 42.52.150(5);

(m) A list of each occasion, specifying date, donor, and amount, at which items specified in RCW 42.52.010(9) (d) and (f) were accepted; and

(n) Such other information as the commission may deem necessary in order to properly carry out the purposes and policies of this chapter, as the commission shall prescribe by rule.

(2)(a) When judges, prosecutors, sheriffs, or their immediate family members are required to disclose real property that is the personal residence of the judge, prosecutor, or sheriff, the requirements of subsection (1)(h) through (k) of this section may be satisfied for that property by substituting:

- (i) The city or town;
- (ii) The type of residence, such as a single-family or multifamily residence, and the nature of ownership; and
- (iii) Such other identifying information the commission prescribes by rule for the mailing address where the property is located.

(b) Nothing in this subsection relieves the judge, prosecutor, or sheriff of any other applicable obligations to disclose potential conflicts or to recuse oneself.

(3)(a) Where an amount is required to be reported under subsection (1)(a) through (m) of this section, it may be reported within a range as provided in (b) of this subsection.

(b)

Code A	Less than thirty thousand dollars;
Code B	At least thirty thousand dollars, but less than sixty thousand dollars;
Code C	At least sixty thousand dollars, but less than one hundred thousand dollars;
Code D	At least one hundred thousand dollars, but less than two hundred thousand dollars;
Code E	At least two hundred thousand dollars, but less than five hundred thousand dollars;
Code F	At least five hundred thousand dollars, but less than seven hundred and fifty thousand dollars;
Code G	At least seven hundred fifty thousand dollars, but less than one million dollars; or
Code H	One million dollars or more.

(c) An amount of stock may be reported by number of shares instead of by market value. No provision of this subsection may be interpreted to prevent any person from filing more information or more detailed information than required.

(4) Items of value given to an official's or employee's spouse, domestic partner, or family member are attributable to the official or employee, except the item is not attributable if an independent business, family, or social relationship exists between the donor and the spouse, domestic partner, or family member. [2019 c 428 § 36; 2010 c 204 § 903; 2008 c 6 § 202; 1995 c 397 § 9; 1984 c 34 § 3; 1979 ex.s. c 126 § 42. Formerly RCW 42.17.241.]

***Reviser's note:** The dollar amounts in this section may have been adjusted for inflation by rule of the commission adopted under the authority of RCW 42.17A.125. For current dollar amounts, see WAC 390-24-301.

Effective date—2019 c 428 §§ 35 and 36: See note following RCW 42.17A.700.

Finding—Intent—2019 c 428: See note following RCW 42.17A.160.

Purpose—1979 ex.s. c 126: See RCW 29A.60.280(1).

Additional notes found at www.leg.wa.gov

42.17A.715 Concealing identity of source of payment prohibited—Exception. No payment shall be made to any person required to report under RCW 42.17A.700 and no payment shall be accepted by any such person, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the payment or in any other manner so as to effect concealment. The commission may issue categorical and specific exemptions to the reporting of the actual source when there is an undisclosed principal for recognized legitimate business purposes. [2010 c 204 § 904; 1977 ex.s. c 336 § 4. Formerly RCW 42.17.242.]

Additional notes found at www.leg.wa.gov

ENFORCEMENT

42.17A.750 Civil remedies and sanctions—Referral for criminal prosecution. (1) In addition to the penalties in subsection (2) of this section, and any other remedies provided by law, one or more of the following civil remedies and sanctions may be imposed by court order in addition to any other remedies provided by law:

(a) If the court finds that the violation of any provision of this chapter by any candidate, committee, or incidental committee probably affected the outcome of any election, the result of that election may be held void and a special election held within sixty days of the finding. Any action to void an election shall be commenced within one year of the date of the election in question. It is intended that this remedy be imposed freely in all appropriate cases to protect the right of the electorate to an informed and knowledgeable vote.

(b) If any lobbyist or sponsor of any grass roots lobbying campaign violates any of the provisions of this chapter, the lobbyist's or sponsor's registration may be revoked or suspended and the lobbyist or sponsor may be enjoined from receiving compensation or making expenditures for lobbying. The imposition of a sanction shall not excuse the lobbyist from filing statements and reports required by this chapter.

(c) A person who violates any of the provisions of this chapter may be subject to a civil penalty of not more than ten thousand dollars for each violation. However, a person or entity who violates RCW 42.17A.405 may be subject to a civil penalty of ten thousand dollars or three times the amount of the contribution illegally made or accepted, whichever is greater.

(d) When assessing a civil penalty, the court may consider the nature of the violation and any relevant circumstances, including the following factors:

(i) The respondent's compliance history, including whether the noncompliance was isolated or limited in nature, indicative of systematic or ongoing problems, or part of a pattern of violations by the respondent, resulted from a knowing or intentional effort to conceal, deceive or mislead, or from collusive behavior, or in the case of a political committee or other entity, part of a pattern of violations by the respondent's officers, staff, principal decision makers, consultants, or sponsoring organization;

(ii) The impact on the public, including whether the non-compliance deprived the public of timely or accurate information during a time-sensitive period or otherwise had a significant or material impact on the public;

(iii) Experience with campaign finance law and procedures or the financing, staffing, or size of the respondent's campaign or organization;

(iv) The amount of financial activity by the respondent during the statement period or election cycle;

(v) Whether the late or unreported activity was within three times the contribution limit per election, including in proportion to the total amount of expenditures by the respondent in the campaign or statement period;

(vi) Whether the respondent or any person benefited politically or economically from the noncompliance;

(vii) Whether there was a personal emergency or illness of the respondent or member of the respondent's immediate family;

(viii) Whether other emergencies such as fire, flood, or utility failure prevented filing;

(ix) Whether there was commission staff or equipment error, including technical problems at the commission that prevented or delayed electronic filing;

(x) The respondent's demonstrated good-faith uncertainty concerning commission staff guidance or instructions;

(xi) Whether the respondent is a first-time filer;

(xii) Good faith efforts to comply, including consultation with commission staff prior to initiation of enforcement action and cooperation with commission staff during enforcement action and a demonstrated wish to acknowledge and take responsibility for the violation;

(xiii) Penalties imposed in factually similar cases; and

(xiv) Other factors relevant to the particular case.

(e) A person who fails to file a properly completed statement or report within the time required by this chapter may be subject to a civil penalty of ten dollars per day for each day each delinquency continues.

(f) Each state agency director who knowingly fails to file statements required by RCW 42.17A.635 shall be subject to personal liability in the form of a civil penalty in the amount of one hundred dollars per statement. These penalties are in addition to any other civil remedies or sanctions imposed on the agency.

(g) A person who fails to report a contribution or expenditure as required by this chapter may be subject to a civil penalty equivalent to the amount not reported as required.

(h) Any state agency official, officer, or employee who is responsible for or knowingly directs or expends public funds in violation of RCW 42.17A.635 (2) or (3) may be subject to personal liability in the form of a civil penalty in an amount that is at least equivalent to the amount of public funds expended in the violation.

(i) The court may enjoin any person to prevent the doing of any act herein prohibited, or to compel the performance of any act required herein.

(2) The commission may refer the following violations for criminal prosecution:

(a) A person who, with actual malice, violates a provision of this chapter is guilty of a misdemeanor under chapter 9.92 RCW;

(b) A person who, within a five-year period, with actual malice, violates three or more provisions of this chapter is guilty of a gross misdemeanor under chapter 9.92 RCW; and

(c) A person who, with actual malice, procures or offers any false or forged document to be filed, registered, or

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recorded with the commission under this chapter is guilty of a class C felony under chapter 9.94A RCW. [2019 c 428 § 37; 2018 c 304 § 12; 2013 c 166 § 1; 2011 c 145 § 6; 2010 c 204 § 1001; 2006 c 315 § 2; 1993 c 2 § 28 (Initiative Measure No. 134, approved November 3, 1992); 1973 c 1 § 39 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.390.]

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

Finding—Intent—2018 c 304: See note following RCW 42.17A.235.

Effective date—2013 c 166: See note following RCW 42.17A.055.

Findings—Intent—Effective date—2011 c 145: See notes following RCW 42.17A.005.

Intent—2006 c 315: "It is the intent of the legislature to increase the authority of the public disclosure commission to more effectively foster compliance with our state's public disclosure and fair campaign practices act. It is the intent of the legislature to make the agency's penalty authority for violations of this chapter more consistent with other agencies that enforce state ethics laws and more commensurate with the level of political spending in the state of Washington." [2006 c 315 § 1.]

Additional notes found at www.leg.wa.gov

42.17A.755 Violations—Determination by commission—Penalties—Procedure. (1) The commission may initiate or respond to a complaint, request a technical correction, or otherwise resolve matters of compliance with this chapter, in accordance with this section. If a complaint is filed with or initiated by the commission, the commission must:

(a) Dismiss the complaint or otherwise resolve the matter in accordance with subsection (2) of this section, as appropriate under the circumstances after conducting a preliminary review;

(b) Initiate an investigation to determine whether a violation has occurred, conduct hearings, and issue and enforce an appropriate order, in accordance with chapter 34.05 RCW and subsection (3) of this section; or

(c) Refer the matter to the attorney general, in accordance with subsection (4) of this section.

(2)(a) For complaints of remediable violations or requests for technical corrections, the commission may, by rule, delegate authority to its executive director to resolve these matters in accordance with subsection (1)(a) of this section, provided the executive director consistently applies such authority.

(b) The commission shall, by rule, develop additional processes by which a respondent may agree by stipulation to any allegations and pay a penalty subject to a schedule of violations and penalties, unless waived by the commission as provided for in this section. Any stipulation must be referred to the commission for review. If approved or modified by the commission, agreed to by the parties, and the respondent complies with all requirements set forth in the stipulation, the matter is then considered resolved and no further action or review is allowed.

(3) If the commission initiates an investigation, an initial hearing must be held within ninety days of the complaint being filed. Following an investigation, in cases where it chooses to determine whether a violation has occurred, the commission shall hold a hearing pursuant to the administrative procedure act, chapter 34.05 RCW. Any order that the commission issues under this section shall be pursuant to such a hearing.

(a) The person against whom an order is directed under this section shall be designated as the respondent. The order may require the respondent to cease and desist from the activity that constitutes a violation and in addition, or alternatively, may impose one or more of the remedies provided in RCW 42.17A.750(1) (b) through (h), or other requirements as the commission determines appropriate to effectuate the purposes of this chapter.

(b) The commission may assess a penalty in an amount not to exceed ten thousand dollars per violation, unless the parties stipulate otherwise. Any order that the commission issues under this section that imposes a financial penalty must be made pursuant to a hearing, held in accordance with the administrative procedure act, chapter 34.05 RCW.

(c) The commission has the authority to waive a penalty for a first-time violation. A second violation of the same requirement by the same person, regardless if the person or individual committed the violation for a different political committee or incidental committee, shall result in a penalty. Successive violations of the same requirement shall result in successively increased penalties. The commission may suspend any portion of an assessed penalty contingent on future compliance with this chapter. The commission must create a schedule to enhance penalties based on repeat violations by the person.

(d) Any order issued by the commission is subject to judicial review under the administrative procedure act, chapter 34.05 RCW. If the commission's order is not satisfied and no petition for review is filed within thirty days, the commission may petition a court of competent jurisdiction of any county in which a petition for review could be filed under that jurisdiction, for an order of enforcement. Proceedings in connection with the commission's petition shall be in accordance with RCW 42.17A.760.

(4) In lieu of holding a hearing or issuing an order under this section, the commission may refer the matter to the attorney general consistent with this section, when the commission believes:

(a) Additional authority is needed to ensure full compliance with this chapter;

(b) An apparent violation potentially warrants a penalty greater than the commission's penalty authority; or

(c) The maximum penalty the commission is able to levy is not enough to address the severity of the violation.

(5) Prior to filing a citizen's action under RCW 42.17A.775, a person who has filed a complaint pursuant to this section must provide written notice to the attorney general if the commission does not, within 90 [ninety] days of the complaint being filed with the commission, take action pursuant to subsection (1) of this section. A person must simultaneously provide a copy of the written notice to the commission. [2019 c 428 § 38; 2018 c 304 § 13; 2011 c 145 § 7; 2010 c 204 § 1002; 2006 c 315 § 3; 1989 c 175 § 91; 1985 c 367 § 12; 1982 c 147 § 16; 1975-'76 2nd ex.s. c 112 § 12. Formerly RCW 42.17.395.]

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

Finding—Intent—2018 c 304: See note following RCW 42.17A.235.

Findings—Intent—Effective date—2011 c 145: See notes following RCW 42.17A.005.

Intent—Severability—2006 c 315: See notes following RCW 42.17A.750.

Additional notes found at www.leg.wa.gov

42.17A.760 Procedure upon petition for enforcement of order of commission—Court's order of enforcement.

The following procedure shall apply in all cases where the commission has petitioned a court of competent jurisdiction for enforcement of any order it has issued pursuant to this chapter:

(1) A copy of the petition shall be served by certified mail directed to the respondent at his or her last known address. The court shall issue an order directing the respondent to appear at a time designated in the order, not less than five days from the date thereof, and show cause why the commission's order should not be enforced according to its terms.

(2) The commission's order shall be enforced by the court if the respondent does not appear, or if the respondent appears and the court finds, pursuant to a hearing held for that purpose:

(a) That the commission's order is unsatisfied;

(b) That the order is regular on its face; and

(c) That the respondent's answer discloses no valid reason why the commission's order should not be enforced or that the respondent had an appropriate remedy by review under RCW 34.05.570(3) and failed to avail himself or herself of that remedy without valid excuse.

(3) Upon appropriate application by the respondent, the court may, after hearing and for good cause, alter, amend, revise, suspend, or postpone all or part of the commission's order. In any case where the order is not enforced by the court according to its terms, the reasons for the court's actions shall be clearly stated in writing, and the action shall be subject to review by the appellate courts by certiorari or other appropriate proceeding.

(4) The court's order of enforcement, when entered, shall have the same force and effect as a civil judgment.

(5) Notwithstanding RCW 34.05.578 through 34.05.590, this section is the exclusive method for enforcing an order of the commission. [2010 c 204 § 1003; 1989 c 175 § 92; 1982 c 147 § 17; 1975-'76 2nd ex.s. c 112 § 13. Formerly RCW 42.17.397.]

Additional notes found at www.leg.wa.gov

42.17A.765 Enforcement—Attorney general. (1)(a) The attorney general may bring civil actions in the name of the state for any appropriate civil remedy, including but not limited to the special remedies provided in RCW 42.17A.750 upon:

(i) Referral by the commission pursuant to RCW 42.17A.755(4);

(ii) Receipt of a notice provided in accordance with RCW 42.17A.755(5); or

(iii) Receipt of a notice of intent to commence a citizen's action, as provided under RCW 42.17A.775(3).

(b) Within forty-five days of receiving a referral from the commission or notice of the commission's failure to take action provided in accordance with RCW 42.17A.755(5), or within ten days of receiving a citizen's action notice, the attorney general must publish a decision whether to commence an action on the attorney general's office web site.

Publication of the decision within the forty-five day period, or ten-day period, whichever is applicable, shall preclude a citizen's action pursuant to RCW 42.17A.775.

(c) The attorney general should use the enforcement powers in this section in a consistent manner that provides guidance in complying with the provisions of this chapter to candidates, political committees, or other individuals subject to the regulations of this chapter.

(2) The attorney general may investigate or cause to be investigated the activities of any person who there is reason to believe is or has been acting in violation of this chapter, and may require any such person or any other person reasonably believed to have information concerning the activities of such person to appear at a time and place designated in the county in which such person resides or is found, to give such information under oath and to produce all accounts, bills, receipts, books, paper and documents which may be relevant or material to any investigation authorized under this chapter.

(3) When the attorney general requires the attendance of any person to obtain such information or produce the accounts, bills, receipts, books, papers, and documents that may be relevant or material to any investigation authorized under this chapter, the attorney general shall issue an order setting forth the time when and the place where attendance is required and shall cause the same to be delivered to or sent by registered mail to the person at least fourteen days before the date fixed for attendance. The order shall have the same force and effect as a subpoena, shall be effective statewide, and, upon application of the attorney general, obedience to the order may be enforced by any superior court judge in the county where the person receiving it resides or is found, in the same manner as though the order were a subpoena. The court, after hearing, for good cause, and upon application of any person aggrieved by the order, shall have the right to alter, amend, revise, suspend, or postpone all or any part of its provisions. In any case where the order is not enforced by the court according to its terms, the reasons for the court's actions shall be clearly stated in writing, and the action shall be subject to review by the appellate courts by certiorari or other appropriate proceeding. [2019 c 428 § 39; 2018 c 304 § 14; 2010 c 204 § 1004; 2007 c 455 § 1; 1975 1st ex.s. c 294 § 27; 1973 c 1 § 40 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.400.]

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

Finding—Intent—2018 c 304: See note following RCW 42.17A.235.

42.17A.770 Limitation on actions. Except as provided in RCW 42.17A.775(4), any action brought under the provisions of this chapter must be commenced within five years after the date when the violation occurred. [2018 c 304 § 15; 2011 c 60 § 26; 2007 c 455 § 2; 1982 c 147 § 18; 1973 c 1 § 41 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.410.]

Finding—Intent—2018 c 304: See note following RCW 42.17A.235.

42.17A.775 Citizen's action. (1) A person who has reason to believe that a provision of this chapter is being or has been violated may bring a citizen's action in the name of the state, in accordance with the procedures of this section.

(2) A citizen's action may be brought and prosecuted only if the person first has filed a complaint with the commission and:

(a) The commission has not taken action authorized under RCW 42.17A.755(1) within ninety days of the complaint being filed with the commission, and the person who initially filed the complaint with the commission provided written notice to the attorney general in accordance with RCW 42.17A.755(5) and the attorney general has not commenced an action, or published a decision whether to commence action pursuant to RCW 42.17A.765(1)(b), within forty-five days of receiving the notice;

(b) For matters referred to the attorney general within ninety days of the commission receiving the complaint, the attorney general has not commenced an action, or published a decision whether to commence an action pursuant to RCW 42.17A.765(1)(b), within forty-five days of receiving referral from the commission; and

(c) The person who initially filed the complaint with the commission has provided notice of a citizen's action in accordance with subsection (3) of this section and the commission or the attorney general has not commenced action within the ten days provided under subsection (3) of this section.

(3) To initiate the citizen's action, after meeting the requirements under subsection (2) (a) and (b) of this section, a person must notify the attorney general and the commission that the person will commence a citizen's action within ten days if the commission does not take action authorized under RCW 42.17A.755(1), or the attorney general does not commence an action or publish a decision whether to commence an action pursuant to RCW 42.17A.765(1)(b). The attorney general and the commission must notify the other of its decision whether to commence an action.

(4) The citizen's action must be commenced within two years after the date when the alleged violation occurred and may not be commenced against a committee or incidental committee before the end of such period if the committee or incidental committee has received an acknowledgment of dissolution.

(5) If the person who brings the citizen's action prevails, the judgment awarded shall escheat to the state, but he or she shall be entitled to be reimbursed by the state for reasonable costs and reasonable attorneys' fees the person incurred. In the case of a citizen's action that is dismissed and that the court also finds was brought without reasonable cause, the court may order the person commencing the action to pay all trial costs and reasonable attorneys' fees incurred by the defendant. [2019 c 428 § 40; 2018 c 304 § 16.]

Effective date—Finding—Intent—2019 c 428: See notes following RCW 42.17A.160.

Finding—Intent—2018 c 304: See note following RCW 42.17A.235.

42.17A.780 Damages, costs, and attorneys' fees—Joint and several liability. In any action brought under this chapter, the court may award to the commission all reasonable costs of investigation and trial, including reasonable attorneys' fees to be fixed by the court. If the violation is found to have been intentional, the amount of the judgment, which shall for this purpose include the costs, may be trebled as punitive damages. If damages or trebled damages are awarded in such an action brought against a lobbyist, the

judgment may be awarded against the lobbyist, and the lobbyist's employer or employers joined as defendants, jointly, severally, or both. If the defendant prevails, he or she shall be awarded all costs of trial and may be awarded reasonable attorneys' fees to be fixed by the court and paid by the state of Washington. [2018 c 304 § 17.]

Finding—Intent—2018 c 304: See note following RCW 42.17A.235.

42.17A.785 Public disclosure transparency account. The public disclosure transparency account is created in the state treasury. All receipts from penalties collected pursuant to enforcement actions or settlements under this chapter, including any fees or costs, must be deposited into the account. Moneys in the account may be spent only after appropriation. Moneys in the account may be used only for the implementation of chapter 304, Laws of 2018 and duties under this chapter, and may not be used to supplant general fund appropriations to the commission. [2018 c 304 § 18.]

Finding—Intent—2018 c 304: See note following RCW 42.17A.235.

CONSTRUCTION

42.17A.900 Effective date—1973 c 1. The effective date of this act shall be January 1, 1973. [1973 c 1 § 49 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.900.]

42.17A.904 Construction—1973 c 1. The provisions of this act are to be liberally construed to effectuate the policies and purposes of this act. In the event of conflict between the provisions of this act and any other act, the provisions of this act shall govern. [1973 c 1 § 47 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.920.]

42.17A.905 Chapter, section headings not part of law. Chapter and section captions or headings as used in this act do not constitute any part of the law. [1973 c 1 § 48 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.930.]

42.17A.906 Repealer—1973 c 1. Chapter 9, Laws of 1965, as amended by section 9, chapter 150, Laws of 1965 ex. sess., and RCW 29.18.140; and chapter 131, Laws of 1967 ex. sess. and RCW 44.64 [chapter 44.64 RCW]; and chapter 82, Laws of 1972 (42nd Leg. 2nd Ex. Sess.) and Referendum Bill No. 24; and chapter 98, Laws of 1972 (42nd Leg. 2nd Ex. Sess.) and Referendum Bill No. 25 are each hereby repealed. [1973 c 1 § 50 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.940.]

42.17A.907 Construction—1975-'76 2nd ex.s. c 112. The provisions of this 1976 amendatory act are intended to be remedial and shall be liberally construed, and nothing in this 1976 amendatory act shall be construed to limit the power of the commission under any other provision of *chapter 42.17 RCW. [1975-'76 2nd ex.s. c 112 § 15. Formerly RCW 42.17.945.]

***Reviser's note:** Provisions in chapter 42.17 RCW relating to campaign disclosure and contribution were recodified in chapter 42.17A RCW by 2010 c 204, effective January 1, 2012.

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42.17A.908 Captions. Section captions and part headings used in this act do not constitute any part of the law. [1993 c 2 § 34 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.950.]

42.17A.909 Short title—1993 c 2. This act may be known and cited as the Fair Campaign Practices Act. [1993 c 2 § 36 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.955.]

42.17A.910 Effective date—1995 c 397. Sections 1 through 32, 34, and 37 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995. [1995 c 397 § 35. Formerly RCW 42.17.960.]

42.17A.911 Captions—1995 c 397. Captions as used in chapter 397, Laws of 1995 constitute no part of the law. [1995 c 397 § 37. Formerly RCW 42.17.961.]

42.17A.915 Effective dates—2005 c 445. Sections 6 and 12 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2005. The remainder of this act takes effect January 1, 2006. [2005 c 445 § 17. Formerly RCW 42.17.965.]

42.17A.917 Effective date—2010 c 204 §§ 505, 602, and 703. Sections 505, 602, and 703 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [March 25, 2010]. [2010 c 204 § 1104.]

42.17A.918 Effective date—2010 c 204. Sections 101 through 504, 506 through 601, 603 through 702, and 801 through 1103 of chapter 204, Laws of 2010 take effect January 1, 2012. [2010 1st sp.s. c 26 § 10; 2010 c 204 § 1105.]

42.17A.919 Effective date—2011 c 60. This act takes effect January 1, 2012. [2011 c 60 § 53.]

42.17A.920 Local regulations not preempted—2020 c 152. Chapter 152, Laws of 2020 does not affect or modify the power of a local government to adopt an ordinance or regulation on matters governed by chapter 152, Laws of 2020. [2020 c 152 § 11.]

Findings—2020 c 152: See note following RCW 42.17A.417.

Chapter 42.20 RCW MISCONDUCT OF PUBLIC OFFICERS

Sections

42.20.020	Powers may not be delegated for profit.
42.20.030	Intrusion into and refusal to surrender public office.
42.20.040	False report.
42.20.050	Public officer making false certificate.
42.20.060	Falsely auditing and paying claims.
42.20.070	Misappropriation and falsification of accounts by public officer.
42.20.080	Other violations by officers.
42.20.090	Misappropriation, etc., by treasurer.
42.20.100	Failure of duty by public officer a misdemeanor.

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42.20.110 Improper conduct by certain justices.

Bidding offenses: Chapter 9.18 RCW.

Bribery or corrupt solicitation prohibited: State Constitution Art. 2 § 30.

Cities

optional municipal code, council-manager plan, forfeiture of office for misconduct: RCW 35A.13.020.

optional municipal code, mayor-council plan, forfeiture of office for misconduct: RCW 35A.12.060.

Cities and towns, commission form, misconduct of officers and employees: RCW 35.17.150.

County officers, misconduct: RCW 36.18.160, 36.18.170.

County treasurer, suspension for misconduct: RCW 36.29.090.

Election officials, misconduct: Chapter 29A.84 RCW.

Flood control district officers, interest in contracts prohibited: RCW 86.09.286.

Forfeiture of office upon conviction of felony or malfeasance: RCW 9.92.120.

Free transportation for public officers prohibited: State Constitution Art. 2 § 39, Art. 12 § 20.

Impersonating public officer: RCW 9A.60.045.

Juries, misconduct of public officers concerning: Chapter 9.51 RCW.

Militia, misconduct: Chapter 38.32 RCW.

Official misconduct: RCW 9A.80.010.

Penitentiary employees, misconduct: RCW 72.01.060.

Private use of public funds, penalty: State Constitution Art. 11 § 14.

School funds, failure to turn over: RCW 28A.635.070.

School officials

disclosing examination questions: RCW 28A.635.040.

grafting: RCW 28A.635.050.

School teachers

failure to display flag: RCW 28A.230.140.

failure to enforce rules: RCW 28A.405.060.

revocation or suspension of certificate or permit to teach—investigation by superintendent of public instruction—mandatory revocation for crimes against children: RCW 28A.410.090.

State and judicial officers, impeachment: State Constitution Art. 5.

State treasurer, embezzlement: RCW 43.08.140.

Subversive activities, disqualification from holding public office: RCW 9.81.040.

Utilities and transportation commission members and employees, interest in regulated companies prohibited: RCW 80.01.020.

42.20.020 Powers may not be delegated for profit.

Every public officer who, for any reward, consideration, or gratuity paid or agreed to be paid, shall, directly or indirectly, grant to another the right or authority to discharge any function of his or her office, or permit another to perform any of his or her duties, shall be guilty of a gross misdemeanor. [2012 c 117 § 113; 1909 c 249 § 83; RRS § 2335.]

42.20.030 Intrusion into and refusal to surrender public office.

Every person who shall falsely personate or represent any public officer, or who shall willfully intrude himself or herself into a public office to which he or she has not been duly elected or appointed, or who shall willfully exercise any of the functions or perform any of the duties of such officer, without having duly qualified therefor, as required by law, or who, having been an executive or administrative officer, shall willfully exercise any of the functions of his or her office after his or her right to do so has ceased, or wrongfully refuse to surrender the official seal or any books or papers appertaining to such office, upon the demand

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of his or her lawful successor, shall be guilty of a gross misdemeanor. [2012 c 117 § 114; 1909 c 249 § 84; RRS § 2336.]

Impersonating a public officer: RCW 9A.60.045.

Quo warranto: Chapter 7.56 RCW.

42.20.040 False report. Every public officer who shall knowingly make any false or misleading statement in any official report or statement, under circumstances not otherwise prohibited by law, shall be guilty of a gross misdemeanor. [1909 c 249 § 98; RRS § 2350.]

42.20.050 Public officer making false certificate.

Every public officer who, being authorized by law to make or give a certificate or other writing, shall knowingly make and deliver as true such a certificate or writing containing any statement which he or she knows to be false, in a case where the punishment thereof is not expressly prescribed by law, shall be guilty of a gross misdemeanor. [2012 c 117 § 115; 1909 c 249 § 128; RRS § 2380.]

42.20.060 Falsely auditing and paying claims. Every public officer, or person holding or discharging the duties of any public office or place of trust under the state or in any county, town or city, a part of whose duty it is to audit, allow or pay, or take part in auditing, allowing or paying, claims or demands upon the state or such county, town or city, who shall knowingly audit, allow or pay, or, directly or indirectly, consent to or in any way connive at the auditing, allowance or payment of any claim or demand against the state or such county, town or city, which is false or fraudulent or contains any charge, item or claim which is false or fraudulent, shall be guilty of a gross misdemeanor. [1909 c 249 § 129; RRS § 2381.]

42.20.070 Misappropriation and falsification of accounts by public officer.

Every public officer, and every other person receiving money on behalf or for or on account of the people of the state or of any department of the state government or of any bureau or fund created by law in which the people are directly or indirectly interested, or for or on account of any county, city, town, or any school, diking, drainage, or irrigation district, who:

(1) Appropriates to his or her own use or the use of any person not entitled thereto, without authority of law, any money so received by him or her as such officer or otherwise; or

(2) Knowingly keeps any false account, or makes any false entry or erasure in any account, of or relating to any money so received by him or her; or

(3) Fraudulently alters, falsifies, conceals, destroys, or obliterates any such account; or

(4) Willfully omits or refuses to pay over to the state, its officer or agent authorized by law to receive the same, or to such county, city, town, or such school, diking, drainage, or irrigation district or to the proper officer or authority empowered to demand and receive the same, any money received by him or her as such officer when it is a duty imposed upon him or her by law to pay over and account for the same, is guilty of a class B felony and shall be punished by imprisonment in a state correctional facility for not more than fifteen years. [2003 c 53 § 219; 1992 c 7 § 37; 1909 c 249 §

317; RRS § 2569. Prior: Code 1881 § 890; 1873 p 202 § 92; 1854 p 91 § 83.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

42.20.080 Other violations by officers. Every officer or other person mentioned in RCW 42.20.070, who shall willfully disobey any provision of law regulating his or her official conduct in cases other than those specified in said section, shall be guilty of a gross misdemeanor. [2012 c 117 § 116; 1909 c 249 § 318; RRS § 2570.]

42.20.090 Misappropriation, etc., by treasurer. Every state, county, city, or town treasurer who willfully misappropriates any moneys, funds, or securities received by or deposited with him or her as such treasurer, or who shall be guilty of any other malfeasance or willful neglect of duty in his or her office, is guilty of a class C felony and shall be punished by imprisonment in a state correctional facility for not more than five years or by a fine of not more than five thousand dollars. [2003 c 53 § 220; 1992 c 7 § 38; 1909 c 249 § 319; RRS § 2571.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

County treasurer, suspension for misconduct: RCW 36.29.090.

State treasurer, embezzlement: RCW 43.08.140.

42.20.100 Failure of duty by public officer a misdemeanor. Whenever any duty is enjoined by law upon any public officer or other person holding any public trust or employment, their wilful neglect to perform such duty, except where otherwise specially provided for, shall be a misdemeanor. [1909 c 249 § 16; RRS § 2268. Prior: Code 1881 § 889; 1854 p 90 § 82.]

Official misconduct by public servant: RCW 9A.80.010.

42.20.110 Improper conduct by certain justices. It shall be a misdemeanor for any judge or justice of any court not of record, during the hearing of any cause or proceeding therein, to address any person in his or her presence in unfit, unseemly, or improper language. [2012 c 117 § 117; 1911 c 115 § 1; RRS § 2696-1.]

Chapter 42.23 RCW

CODE OF ETHICS FOR MUNICIPAL OFFICERS— CONTRACT INTERESTS

Sections

42.23.010	Declaration of purpose.
42.23.020	Definitions.
42.23.030	Interest in contracts prohibited—Exceptions.
42.23.040	Remote interests.
42.23.050	Prohibited contracts void—Penalties for violation of chapter.
42.23.060	Local charter controls chapter.
42.23.070	Prohibited acts.
42.23.900	Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

Cities, free passes, services prohibited: RCW 35.17.150.

County officers, general provisions: Chapter 36.16 RCW.

Ethics in public service act: Chapter 42.52 RCW.

Public employment, civil service: Title 41 RCW.

State officers, general provisions: Chapter 43.01 RCW.

[Title 42 RCW—page 56]

42.23.010 Declaration of purpose. It is the purpose and intent of this chapter to revise and make uniform the laws of this state concerning the transaction of business by municipal officers, as defined in chapter 268, Laws of 1961, in conflict with the proper performance of their duties in the public interest; and to promote the efficiency of local government by prohibiting certain instances and areas of conflict while at the same time sanctioning, under sufficient controls, certain other instances and areas of conflict wherein the private interest of the municipal officer is deemed to be only remote, to the end that, without sacrificing necessary public responsibility and enforceability in areas of significant and clearly conflicting interests, the selection of municipal officers may be made from a wider group of responsible citizens of the communities which they are called upon to serve. [1961 c 268 § 2.]

42.23.020 Definitions. For the purpose of chapter 268, Laws of 1961:

(1) "Municipality" shall include all counties, cities, towns, districts, and other municipal corporations and quasi municipal corporations organized under the laws of the state of Washington;

(2) "Municipal officer" and "officer" shall each include all elected and appointed officers of a municipality, together with all deputies and assistants of such an officer, and all persons exercising or undertaking to exercise any of the powers or functions of a municipal officer;

(3) "Contract" shall include any contract, sale, lease or purchase;

(4) "Contracting party" shall include any person, partnership, association, cooperative, corporation, or other business entity which is a party to a contract with a municipality. [1961 c 268 § 3.]

42.23.030 Interest in contracts prohibited—Exceptions. No municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his or her office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein. This section shall not apply in the following cases:

(1) The furnishing of electrical, water or other utility services by a municipality engaged in the business of furnishing such services, at the same rates and on the same terms as are available to the public generally;

(2) The designation of public depositaries for municipal funds;

(3) The publication of legal notices required by law to be published by any municipality, upon competitive bidding or at rates not higher than prescribed by law for members of the general public;

(4) The designation of a school director as clerk or as both clerk and purchasing agent of a school district;

(5) The employment of any person by a municipality for unskilled day labor at wages not exceeding one thousand dollars in any calendar month. The exception provided in this subsection does not apply to a county with a population of one hundred twenty-five thousand or more, a city with a pop-

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ulation of more than one thousand five hundred, an irrigation district encompassing more than fifty thousand acres, or a first-class school district;

(6)(a) The letting of any other contract in which the total amount received under the contract or contracts by the municipal officer or the municipal officer's business does not exceed one thousand five hundred dollars in any calendar month.

(b) However, in the case of a particular officer of a second-class city or town, or a noncharter optional code city, or a member of any county fair board in a county which has not established a county purchasing department pursuant to RCW 36.32.240, the total amount of such contract or contracts authorized in this subsection (6) may exceed one thousand five hundred dollars in any calendar month but shall not exceed eighteen thousand dollars in any calendar year.

(c)(i) In the case of a particular officer of a rural public hospital district, as defined in RCW 70.44.460, the total amount of such contract or contracts authorized in this subsection (6) may exceed one thousand five hundred dollars in any calendar month, but shall not exceed twenty-four thousand dollars in any calendar year.

(ii) At the beginning of each calendar year, beginning with the 2006 calendar year, the legislative authority of the rural public hospital district shall increase the calendar year limitation described in this subsection (6)(c) by an amount equal to the dollar amount for the previous calendar year multiplied by the change in the consumer price index as of the close of the twelve-month period ending December 31st of that previous calendar year. If the new dollar amount established under this subsection is not a multiple of ten dollars, the increase shall be rounded to the next lowest multiple of ten dollars. As used in this subsection, "consumer price index" means the consumer price index compiled by the bureau of labor statistics, United States department of labor for the state of Washington. If the bureau of labor statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used.

(d) The exceptions provided in this subsection (6) do not apply to:

(i) A sale or lease by the municipality as the seller or lessor;

(ii) The letting of any contract by a county with a population of one hundred twenty-five thousand or more, a city with a population of ten thousand or more, or an irrigation district encompassing more than fifty thousand acres; or

(iii) Contracts for legal services, except for reimbursement of expenditures.

(e) The municipality shall maintain a list of all contracts that are awarded under this subsection (6). The list must be made available for public inspection and copying;

(7) The leasing by a port district as lessor of port district property to a municipal officer or to a contracting party in which a municipal officer may be beneficially interested, if in addition to all other legal requirements, a board of three disinterested appraisers and the superior court in the county where the property is situated finds that all terms and conditions of such lease are fair to the port district and are in the public interest. The appraisers must be appointed from mem-

bers of the American Institute of Real Estate Appraisers by the presiding judge of the superior court;

(8) The letting of any employment contract for the driving of a school bus in a second-class school district if the terms of such contract are commensurate with the pay plan or collective bargaining agreement operating in the district;

(9) The letting of an employment contract as a substitute teacher or substitute educational aide to an officer of a second-class school district that has three hundred or fewer full-time equivalent students, if the terms of the contract are commensurate with the pay plan or collective bargaining agreement operating in the district and the board of directors has found, consistent with the written policy under RCW 28A.330.240, that there is a shortage of substitute teachers in the school district;

(10) The letting of any employment contract to the spouse of an officer of a school district, when such contract is solely for employment as a substitute teacher for the school district. This exception applies only if the terms of the contract are commensurate with the pay plan or collective bargaining agreement applicable to all district employees and the board of directors has found, consistent with the written policy under RCW 28A.330.240, that there is a shortage of substitute teachers in the school district;

(11) The letting of any employment contract to the spouse of an officer of a school district if the spouse was under contract as a certificated or classified employee with the school district before the date in which the officer assumes office and the terms of the contract are commensurate with the pay plan or collective bargaining agreement operating in the district. However, in a second-class school district that has less than two hundred full-time equivalent students enrolled at the start of the school year as defined in RCW 28A.150.203, the spouse is not required to be under contract as a certificated or classified employee before the date on which the officer assumes office;

(12) The authorization, approval, or ratification of any employment contract with the spouse of a public hospital district commissioner if: (a) The spouse was employed by the public hospital district before the date the commissioner was initially elected; (b) the terms of the contract are commensurate with the pay plan or collective bargaining agreement operating in the district for similar employees; (c) the interest of the commissioner is disclosed to the board of commissioners and noted in the official minutes or similar records of the public hospital district prior to the letting or continuation of the contract; and (d) and the commissioner does not vote on the authorization, approval, or ratification of the contract or any conditions in the contract.

A municipal officer may not vote in the authorization, approval, or ratification of a contract in which he or she is beneficially interested even though one of the exemptions allowing the awarding of such a contract applies. The interest of the municipal officer must be disclosed to the governing body of the municipality and noted in the official minutes or similar records of the municipality before the formation of the contract. [2020 c 69 § 1; 2007 c 298 § 1; 2006 c 121 § 1; 2005 c 114 § 1; 1999 c 261 § 2; 1997 c 98 § 1; 1996 c 246 § 1. Prior: 1994 c 81 § 77; 1994 c 20 § 1; 1993 c 308 § 1; 1991 c 363 § 120; 1990 c 33 § 573; 1989 c 263 § 1; 1983 1st ex.s.

c 44 § 1; prior: 1980 c 39 § 1; 1979 ex.s. c 4 § 1; 1971 ex.s. c 242 § 1; 1961 c 268 § 4.]

Findings—Intent—1999 c 261: "The legislature finds that:

(1) The current statutes pertaining to municipal officers' beneficial interest in contracts are quite confusing and have resulted in some inadvertent violations of the law.

(2) The dollar thresholds for many of the exemptions have not been changed in over thirty-five years, and the restrictions apply to the total amount of the contract instead of the portion of the contract that pertains to the business operated by the municipal officer.

(3) The confusion existing over these current statutes discourages some municipalities from accessing some efficiencies available to them.

Therefore, it is the intent of the legislature to clarify the statutes pertaining to municipal officers and contracts and to enact reasonable protections against inappropriate conflicts of interest." [1999 c 261 § 1.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Additional notes found at www.leg.wa.gov

42.23.040 Remote interests. A municipal officer is not interested in a contract, within the meaning of RCW 42.23.030, if the officer has only a remote interest in the contract and the extent of the interest is disclosed to the governing body of the municipality of which the officer is an officer and noted in the official minutes or similar records of the municipality prior to the formation of the contract, and thereafter the governing body authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer having the remote interest. As used in this section "remote interest" means:

(1) That of a nonsalaried officer of a nonprofit corporation;

(2) That of an employee or agent of a contracting party where the compensation of such employee or agent consists entirely of fixed wages or salary;

(3) That of a landlord or tenant of a contracting party;

(4) That of a holder of less than one percent of the shares of a corporation or cooperative which is a contracting party.

None of the provisions of this section are applicable to any officer interested in a contract, even if the officer's interest is only remote, if the officer influences or attempts to influence any other officer of the municipality of which he or she is an officer to enter into the contract. [1999 c 261 § 3; 1961 c 268 § 5.]

Findings—Intent—1999 c 261: See note following RCW 42.23.030.

42.23.050 Prohibited contracts void—Penalties for violation of chapter. Any contract made in violation of the provisions of this chapter is void and the performance thereof, in full or in part, by a contracting party shall not be the basis of any claim against the municipality. Any officer violating the provisions of this chapter is liable to the municipality of which he or she is an officer for a penalty in the amount of five hundred dollars, in addition to such other civil or criminal liability or penalty as may otherwise be imposed upon the officer by law.

In addition to all other penalties, civil or criminal, the violation by any officer of the provisions of this chapter may be grounds for forfeiture of his or her office. [1999 c 261 § 4; 1961 c 268 § 6.]

Findings—Intent—1999 c 261: See note following RCW 42.23.030.

42.23.060 Local charter controls chapter. If any provision of this chapter conflicts with any provision of a city or county charter, or with any provision of a city-county charter, the charter shall control if it contains stricter requirements than this chapter. The provisions of this chapter shall be considered as minimum standards to be enforced by municipalities. [1999 c 261 § 5; 1961 c 268 § 16.]

Findings—Intent—1999 c 261: See note following RCW 42.23.030.

42.23.070 Prohibited acts. (1) No municipal officer may use his or her position to secure special privileges or exemptions for himself, herself, or others.

(2) No municipal officer may, directly or indirectly, give or receive or agree to receive any compensation, gift, reward, or gratuity from a source except the employing municipality, for a matter connected with or related to the officer's services as such an officer unless otherwise provided for by law.

(3) No municipal officer may accept employment or engage in business or professional activity that the officer might reasonably expect would require or induce him or her by reason of his or her official position to disclose confidential information acquired by reason of his or her official position.

(4) No municipal officer may disclose confidential information gained by reason of the officer's position, nor may the officer otherwise use such information for his or her personal gain or benefit. [1994 c 154 § 121.]

Additional notes found at www.leg.wa.gov

42.23.900 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 104.]

Chapter 42.24 RCW

PAYMENT OF CLAIMS FOR EXPENSES, MATERIAL, PURCHASES—ADVANCEMENTS

Sections

42.24.035	Payment for postage, books, and periodicals.
42.24.080	Municipal corporations and political subdivisions—Claims against for contractual purposes—Auditing and payment—Forms—Authentication and certification.
42.24.090	Municipal corporations and political subdivisions—Reimbursement claims by officers and employees.
42.24.100	Municipal corporations and political subdivisions—Certificates need not be sworn—Penalty for false claim.
42.24.110	Municipal corporations and political subdivisions—Approving or paying false claim—Penalties.

- 42.24.115 Municipal corporations and political subdivisions—Charge cards for officers' and employees' travel expenses.
- 42.24.120 Advancements for travel expenses—Municipal corporation or political subdivision officers and employees.
- 42.24.130 Advancements for travel expenses—Revolving fund.
- 42.24.140 Advancements for travel expenses—Provision to assure repayment.
- 42.24.150 Advancements for travel expenses—Travel expense voucher.
- 42.24.160 Advancements for travel expenses—Purpose—Not personal loan.
- 42.24.170 Expenditures by special purpose districts to recruit job candidates—Reimbursement for travel expenses.
- 42.24.180 Taxing district—Issuance of warrants or checks before approval by legislative body—Conditions.

County auditor: Chapter 36.22 RCW.

State auditor: Chapter 43.09 RCW.

42.24.035 Payment for postage, books, and periodicals. Notwithstanding the provisions of chapter 42.24 RCW or any other existing statute, school districts and other public agencies including but not limited to state agencies and municipal corporations which are expressly or by necessary implication authorized to subscribe to magazines or other periodical publications or books or to purchase postage or publications from the United States government or any other publisher may make payment of the costs of such purchases in a manner as consistent as possible and practicable with normal and usual business methods, and in the case of subscriptions, for periods not in excess of three years. [1975 1st ex.s. c 72 § 1; 1963 c 116 § 1.]

42.24.080 Municipal corporations and political subdivisions—Claims against for contractual purposes—Auditing and payment—Forms—Authentication and certification. (1) All claims presented against any county, city, district or other municipal corporation or political subdivision by persons furnishing materials, rendering services or performing labor, or for any other contractual purpose, shall be audited, before payment, by an auditing officer elected or appointed pursuant to statute or, in the absence of statute, an appropriate charter provision, ordinance or resolution of the municipal corporation or political subdivision. Such claims shall be prepared for audit and payment on a form and in the manner prescribed by the state auditor. The form shall provide for the authentication and certification by such auditing officer that the materials have been furnished, the services rendered, the labor performed as described, or that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim is a just, due and unpaid obligation against the municipal corporation or political subdivision. No claim shall be paid without such authentication and certification.

(2) Certification as to claims of officers and employees of a county, city, district or other municipal corporation or political subdivision, for services rendered, shall be made by the person charged with preparing and submitting vouchers for payment of services. He or she shall certify that the claim is just, true and unpaid, and that certification shall be part of the voucher. [2008 c 198 § 6; 1995 c 301 § 72; 1965 c 116 § 1.]

Finding—2008 c 198: See note following RCW 39.34.030.

42.24.090 Municipal corporations and political subdivisions—Reimbursement claims by officers and

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employees. No claim for reimbursement of any expenditures by officers or employees of any municipal corporation or political subdivision of the state for transportation, lodging, meals or any other purpose shall be allowed by any officer, employee or board charged with auditing accounts unless the same shall be presented in a detailed account: PROVIDED, That, unless otherwise authorized by law, the legislative body of any municipal corporation or political subdivision of the state may prescribe by ordinance or resolution the amounts to be paid officers or employees thereof as reimbursement for the use of their personal automobiles or other transportation equipment in connection with officially assigned duties and other travel for approved public purposes, or as reimbursement to such officers or employees in lieu of actual expenses incurred for lodging, meals or other purposes. The rates for such reimbursements may be computed on a mileage, hourly, per diem, monthly, or other basis as the respective legislative bodies shall determine to be proper in each instance: PROVIDED, That in lieu of such reimbursements, payments for the use of personal automobiles for official travel may be established if the legislative body determines that these payments would be less costly to the municipal corporation or political subdivision of the state than providing automobiles for official travel.

All claims authorized under this section shall be duly certified by the officer or employee submitting such claims on forms and in the manner prescribed by the state auditor. [1995 c 301 § 73; 1981 c 56 § 1; 1965 c 116 § 2.]

42.24.100 Municipal corporations and political subdivisions—Certificates need not be sworn—Penalty for false claim. The certificates required by RCW 42.24.080 through 42.24.110 need not be sworn, but any person certifying a claim or making a claim knowing the same to be false or untrue shall be guilty of perjury in the second degree. [1965 c 116 § 3.]

42.24.110 Municipal corporations and political subdivisions—Approving or paying false claim—Penalties. Any person who knowingly approves or pays or causes to be approved or paid a false or untrue claim shall be guilty of a gross misdemeanor and, in addition, he or she shall be civilly liable on his or her bond to the municipal corporation or political subdivision, as the case may be, for the amount so paid or for three hundred dollars whichever is the greater. [2012 c 117 § 118; 1965 c 116 § 4.]

42.24.115 Municipal corporations and political subdivisions—Charge cards for officers' and employees' travel expenses. (1) Any municipal corporation or political subdivision may provide for the issuance of charge cards to officers and employees for the purpose of covering expenses incident to authorized travel.

(2) If a charge card is issued for the purpose of covering expenses relating to authorized travel, upon billing or no later than thirty days of the billing date, the officer or employee using a charge card issued under this section shall submit a fully itemized travel expense voucher. Any charges against the charge card not properly identified on the travel expense voucher or not allowed following the audit required under

RCW 42.24.080 shall be paid by the official or employee by check, United States currency, or salary deduction.

(3) If, for any reason, disallowed charges are not repaid before the charge card billing is due and payable, the municipal corporation or political subdivision shall have a prior lien against and a right to withhold any and all funds payable or to become payable to the official or employee up to an amount of the disallowed charges and interest at the same rate as charged by the company which issued the charge card. Any official or employee who has been issued a charge card by a municipal corporation or political subdivision shall not use the card if any disallowed charges are outstanding and shall surrender the card upon demand of the auditing officer. The municipal corporation or political subdivision shall have unlimited authority to revoke use of any charge card issued under this section, and, upon such revocation order being delivered to the charge card company, shall not be liable for any costs. [1995 c 30 § 3; 1984 c 203 § 5.]

Findings—1995 c 30: See note following RCW 43.09.2855.

Additional notes found at www.leg.wa.gov

42.24.120 Advancements for travel expenses—Municipal corporation or political subdivision officers and employees. Whenever it becomes necessary for an elected or appointed official or employee of the municipal corporation or political subdivision to travel and incur expenses, the legislative body of such municipal corporation or political subdivision may provide, in the manner that local legislation is officially enacted, reasonable allowances to such officers and employees in advance of expenditure. Such advance shall be made under appropriate rules and regulations to be prescribed by the state auditor. [1969 c 74 § 1.]

42.24.130 Advancements for travel expenses—Revolving fund. The legislative body of a municipal corporation or political subdivision wishing to make advance payments of travel expenses to officials and employees, as provided in RCW 42.24.120 through 42.24.160, will establish, in the manner that local legislation is officially enacted, a revolving fund to be used solely for the purpose of making advance payments of travel expenses. The revolving fund will be maintained in a bank as a checking account and advances to officials or employees will be by check. The fund will be replenished by warrant. [1969 c 74 § 2.]

42.24.140 Advancements for travel expenses—Provision to assure repayment. To protect the municipal corporation or political subdivision from any losses on account of advances made as provided in RCW 42.24.120 through 42.24.160, the municipal corporation or political subdivision shall have a prior lien against and a right to withhold any and all funds payable or to become payable by the municipal corporation or political subdivision to such officer or employee to whom such advance has been given, as provided in RCW 42.24.120 through 42.24.160, up to the amount of such advance and interest at the rate of ten percent per annum, until such time as repayment or justification has been made. No advance of any kind may be made to any officer or employee under RCW 42.24.120 through 42.24.160, at any time when he or she is delinquent in accounting for or repay-

ing a prior advance under RCW 42.24.120 through 42.24.160. [2012 c 117 § 119; 1969 c 74 § 3.]

42.24.150 Advancements for travel expenses—Travel expense voucher. On or before the fifteenth day following the close of the authorized travel period for which expenses have been advanced to any officer or employee, he or she shall submit to the appropriate official a fully itemized travel expense voucher, for all reimbursable items legally expended, accompanied by the unexpended portion of such advance, if any.

Any advance made for this purpose, or any portion thereof, not repaid or accounted for in the time and manner specified herein, shall bear interest at the rate of ten percent per annum from the date of default until paid. [2012 c 117 § 120; 1995 c 194 § 9; 1969 c 74 § 4.]

42.24.160 Advancements for travel expenses—Purpose—Not personal loan. An advance made under RCW 42.24.120 through 42.24.160 shall be considered as having been made to such officer or employee to be expended by him or her as an agent of the municipal corporation or political subdivision for the municipal corporation's or political subdivision's purposes only, and specifically to defray necessary costs while performing his or her official duties.

No such advance shall be considered as a personal loan to such officer or employee and any expenditure thereof, other than for official business purposes, shall be considered a misappropriation of public funds. [2012 c 117 § 121; 1969 c 74 § 5.]

42.24.170 Expenditures by special purpose districts to recruit job candidates—Reimbursement for travel expenses. Special purpose districts may expend funds to recruit job candidates and reimburse candidates for reasonable and necessary travel expenses, including transportation, subsistence, and lodging. [1981 c 190 § 1.]

42.24.180 *Taxing district—Issuance of warrants or checks before approval by legislative body—Conditions. In order to expedite the payment of claims, the legislative body of any *taxing district, as defined in RCW 43.09.260, may authorize the issuance of warrants or checks in payment of claims after the provisions of this chapter have been met and after the officer designated by statute, or, in the absence of statute, an appropriate charter provision, ordinance, or resolution of the *taxing district, has signed the checks or warrants, but before the legislative body has acted to approve the claims. The legislative body may stipulate that certain kinds or amounts of claims shall not be paid before the board has reviewed the supporting documentation and approved the issue of checks or warrants in payment of those claims. However, all of the following conditions shall be met before the payment:

(1) The auditing officer and the officer designated to sign the checks or warrants shall each be required to furnish an official bond for the faithful discharge of his or her duties in an amount determined by the legislative body but not less than fifty thousand dollars;

(2) The legislative body shall adopt contracting, hiring, purchasing, and disbursing policies that implement effective internal control;

(3) The legislative body shall provide for its review of the documentation supporting claims paid and for its approval of all checks or warrants issued in payment of claims at its next regularly scheduled public meeting or, for cities and towns, at a regularly scheduled public meeting within one month of issuance; and

(4) The legislative body shall require that if, upon review, it disapproves some claims, the auditing officer and the officer designated to sign the checks or warrants shall jointly cause the disapproved claims to be recognized as receivables of the *taxing district and to pursue collection diligently until the amounts disapproved are collected or until the legislative body is satisfied and approves the claims. [1994 c 273 § 18; 1984 c 128 § 11.]

*Reviser's note: "Taxing district" redesignated "local government" by 1995 c 301 § 15.

Chapter 42.26 RCW AGENCY VENDOR PAYMENT REVOLVING FUND—PETTY CASH ACCOUNTS

Sections

42.26.020	Disbursements—Deposits to cover.
42.26.030	Regulations.
42.26.040	Petty cash accounts—Authorized—Advancements.
42.26.050	Request for petty cash advancement—Approval.
42.26.060	Restrictions on use of petty cash account—Expenditures—Reimbursement.
42.26.070	Custodian of petty cash account—Bond.
42.26.080	Violation of petty cash account requirements.
42.26.090	Regulations for petty cash and accounts.
42.26.900	Effective date—1969 ex.s. c 60.

42.26.020 Disbursements—Deposits to cover. The amount to be disbursed from the vendor payment revolving fund on behalf of an agency electing to utilize such fund shall be deposited therein by the agency on or before the day prior to scheduled disbursement. The deposit shall be made from funds held by the agency outside the state treasury pursuant to law and which are properly chargeable for the disbursement. Disbursements from the revolving fund created by this chapter shall be by warrant in accordance with the provisions of RCW 43.88.160. [1969 ex.s. c 60 § 2.]

42.26.030 Regulations. The director of financial management shall adopt such regulations as may be necessary or desirable to implement the provisions of this chapter relating to the establishment of an agency vendor payment revolving fund. [1979 c 151 § 74; 1969 ex.s. c 60 § 3.]

42.26.040 Petty cash accounts—Authorized—Advancements. The state treasurer is authorized to advance moneys from treasury funds to state agencies for the purpose of establishing petty cash accounts. Any agency may petition the office of financial management for the establishment of a petty cash account. The maximum amount of such accounts shall be based on the special needs of the petitioning agency and shall be subject to approval by the office of financial management. The amount so advanced shall be reflected in the state treasurer's accounts as an amount due from the

agency to the fund or account from which the advance was made. [1979 c 151 § 75; 1977 c 40 § 1; 1969 ex.s. c 60 § 4.]

42.26.050 Request for petty cash advancement—Approval. The agency requesting a petty cash account or an increase in the amount of petty cash advanced under the provisions of this chapter shall submit its request to the director of financial management in the form and detail prescribed by him or her. The agency's written request and the approval authorized by this chapter shall be the only documentation or certification required as a condition precedent to the issuance of such warrant. A copy of his or her approval shall be forwarded by the director of financial management to the state treasurer. [2012 c 117 § 122; 1979 c 151 § 76; 1969 ex.s. c 60 § 5.]

42.26.060 Restrictions on use of petty cash account—Expenditures—Reimbursement. The use of the petty cash account shall be restricted to miscellaneous petty or emergency expenditures, refunds legally payable by an agency, and for cash change to be used in the transaction of the agency's official business. All expenditures made from petty cash shall be charged to an existing appropriation for such purpose, except expenditures chargeable against funds for which no appropriation is required by law. All expenditures or refunds made from petty cash shall be reimbursed out of and charged to the proper appropriation or fund at the close of each month and such other times as may be necessary. [1969 ex.s. c 60 § 6.]

42.26.070 Custodian of petty cash account—Bond. The head of the agency or an employee designated by him or her shall have full responsibility as custodian for the petty cash account and its proper use under this chapter and applicable regulations of the director of financial management. The custodian of the petty cash account shall be covered by a surety bond in the full amount of the account at all times and all advances to it, conditioned upon the proper accounting for and legal expenditure of all such funds, in addition to other conditions required by law. [2012 c 117 § 123; 1979 c 151 § 77; 1969 ex.s. c 60 § 7.]

42.26.080 Violation of petty cash account requirements. If a post audit by the state auditor discloses the amount of the petty cash account of any agency under this chapter to be excessive or the use of the account to be in violation of requirements governing its operation, the director of financial management may require the return of the account or of the excessive amount to the state treasury for credit to the fund from which the advance was made. [1979 c 151 § 78; 1969 ex.s. c 60 § 8.]

42.26.090 Regulations for petty cash and accounts. The director of financial management shall adopt such regulations as may be necessary or desirable to implement the provisions of this chapter. Such regulation shall include but not be limited to, (1) defining limitations on the use of petty cash, and (2) providing accounting and reporting procedures for operation of the petty cash account. [1979 c 151 § 79; 1969 ex.s. c 60 § 9.]

42.26.900 Effective date—1969 ex.s. c 60. This chapter shall take effect July 1, 1969. [1969 ex.s. c 60 § 12.]

Chapter 42.30 RCW OPEN PUBLIC MEETINGS ACT

Sections

42.30.010	Legislative declaration.
42.30.020	Definitions.
42.30.030	Meetings declared open and public.
42.30.035	Minutes.
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42.30.060	Ordinances, rules, resolutions, regulations, etc., adopted at public meetings—Notice—Secret voting prohibited.
42.30.070	Times and places for meetings—Emergencies—Exception.
42.30.075	Schedule of regular meetings—Publication in state register—Notice of change—"Regular" meetings defined.
42.30.077	Agendas of regular meetings—Online availability.
42.30.080	Special meetings.
42.30.090	Adjournments.
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42.30.120	Violations—Personal liability—Civil penalty—Attorneys' fees and costs.
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42.30.140	Chapter controlling—Application.
42.30.200	Governing body of recognized student association at college or university—Chapter applicability to.
42.30.205	Training.
42.30.210	Assistance by attorney general.
42.30.900	Short title.
42.30.910	Construction—1971 ex.s. c 250.

Drug reimbursement policy recommendations: RCW 74.09.653.

42.30.010 Legislative declaration. The legislature finds and declares that all public commissions, boards, councils, committees, subcommittees, departments, divisions, offices, and all other public agencies of this state and subdivisions thereof exist to aid in the conduct of the people's business. It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. [1971 ex.s. c 250 § 1.]

Reviser's note: Throughout this chapter, the phrases "this act" and "this 1971 amendatory act" have been changed to "this chapter." "This act" [1971 ex.s. c 250] consists of this chapter, the amendment to RCW 34.04.025, and the repeal of RCW 42.32.010 and 42.32.020.

42.30.020 Definitions. As used in this chapter unless the context indicates otherwise:

(1) "Public agency" means:

(a) Any state board, commission, committee, department, educational institution, or other state agency which is created by or pursuant to statute, other than courts and the legislature;

(b) Any county, city, school district, special purpose district, or other municipal corporation or political subdivision of the state of Washington;

(c) Any subagency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act, including but not limited to planning commissions, library or park boards, commissions, and agencies;

(d) Any policy group whose membership includes representatives of publicly owned utilities formed by or pursuant to the laws of this state when meeting together as or on behalf of participants who have contracted for the output of generating plants being planned or built by an operating agency.

(2) "Governing body" means the multimember board, commission, committee, council, or other policy or rule-making body of a public agency, or any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment.

(3) "Action" means the transaction of the official business of a public agency by a governing body including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions. "Final action" means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance.

(4) "Meeting" means meetings at which action is taken. [1985 c 366 § 1; 1983 c 155 § 1; 1982 1st ex.s. c 43 § 10; 1971 ex.s. c 250 § 2.]

Additional notes found at www.leg.wa.gov

42.30.030 Meetings declared open and public. All meetings of the governing body of a public agency shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in this chapter. [1971 ex.s. c 250 § 3.]

42.30.035 Minutes. The minutes of all regular and special meetings except executive sessions of such boards, commissions, agencies or authorities shall be promptly recorded and such records shall be open to public inspection. [1953 c 216 § 3. Formerly RCW 42.32.030.]

42.30.040 Conditions to attendance not to be required. A member of the public shall not be required, as a condition to attendance at a meeting of a governing body, to register his or her name and other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance. [2012 c 117 § 124; 1971 ex.s. c 250 § 4.]

42.30.050 Interruptions—Procedure. In the event that any meeting is interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are interrupting the meeting, the members of the governing body conducting the meeting may order the meeting room cleared and continue in session or may adjourn the meeting and reconvene at another location selected by majority vote of the members. In such a session, final disposition may be taken only on matters appearing on the agenda. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the governing body from establishing a procedure for readmitting an individual or individuals not responsible for disturbing the orderly conduct of the meeting. [1971 ex.s. c 250 § 5.]

42.30.060 Ordinances, rules, resolutions, regulations, etc., adopted at public meetings—Notice—Secret voting prohibited. (1) No governing body of a public agency shall adopt any ordinance, resolution, rule, regulation, order, or directive, except in a meeting open to the public and then only at a meeting, the date of which is fixed by law or rule, or at a meeting of which notice has been given according to the provisions of this chapter. Any action taken at meetings failing to comply with the provisions of this subsection shall be null and void.

(2) No governing body of a public agency at any meeting required to be open to the public shall vote by secret ballot. Any vote taken in violation of this subsection shall be null and void, and shall be considered an "action" under this chapter. [1989 c 42 § 1; 1971 ex.s. c 250 § 6.]

42.30.070 Times and places for meetings—Emergencies—Exception. The governing body of a public agency shall provide the time for holding regular meetings by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body. Unless otherwise provided for in the act under which the public agency was formed, meetings of the governing body need not be held within the boundaries of the territory over which the public agency exercises jurisdiction. If at any time any regular meeting falls on a holiday, such regular meeting shall be held on the next business day. If, by reason of fire, flood, earthquake, or other emergency, there is a need for expedited action by a governing body to meet the emergency, the presiding officer of the governing body may provide for a meeting site other than the regular meeting site and the notice requirements of this chapter shall be suspended during such emergency. It shall not be a violation of the requirements of this chapter for a majority of the members of a governing body to travel together or gather for purposes other than a regular meeting or a special meeting as these terms are used in this chapter: PROVIDED, That they take no action as defined in this chapter. [1983 c 155 § 2; 1973 c 66 § 1; 1971 ex.s. c 250 § 7.]

42.30.075 Schedule of regular meetings—Publication in state register—Notice of change—"Regular" meetings defined. State agencies which hold regular meetings shall file with the code reviser a schedule of the time and place of such meetings on or before January of each year for publication in the Washington state register. Notice of any change from such meeting schedule shall be published in the state register for distribution at least twenty days prior to the rescheduled meeting date.

For the purposes of this section "regular" meetings shall mean recurring meetings held in accordance with a periodic schedule declared by statute or rule. [1977 ex.s. c 240 § 12.]

Public meeting notices in state register: RCW 34.08.020.

Additional notes found at www.leg.wa.gov

42.30.077 Agendas of regular meetings—Online availability. Public agencies with governing bodies must make the agenda of each regular meeting of the governing body available online no later than twenty-four hours in advance of the published start time of the meeting. An agency subject to provisions of this section is not required to post an agenda if it does not have a web site or if it employs fewer

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than ten full-time equivalent employees. Nothing in this section prohibits subsequent modifications to agendas nor invalidates any otherwise legal action taken at a meeting where the agenda was not posted in accordance with this section. Nothing in this section modifies notice requirements or shall be construed as establishing that a public body or agency's online posting of an agenda as required by this section is sufficient notice to satisfy public notice requirements established under other laws. Failure to post an agenda in accordance with this section shall not provide a basis for awarding attorney fees under RCW 42.30.120 or commencing an action for mandamus or injunction under RCW 42.30.130. [2014 c 61 § 2.]

Intent—Finding—2014 c 61: "The legislature intends to promote transparency in government and strengthen the Washington's open public meetings act. The legislature finds that it is in the best interest of citizens for public agencies with governing bodies to post meeting agendas on web sites before meetings. Full public review and inspection of meeting agendas will promote a greater exchange of information so the public can provide meaningful input related to government decisions." [2014 c 61 § 1.]

42.30.080 Special meetings. (1) A special meeting may be called at any time by the presiding officer of the governing body of a public agency or by a majority of the members of the governing body by delivering written notice personally, by mail, by fax, or by electronic mail to each member of the governing body. Written notice shall be deemed waived in the following circumstances:

(a) A member submits a written waiver of notice with the clerk or secretary of the governing body at or prior to the time the meeting convenes. A written waiver may be given by telegram, fax, or electronic mail; or

(b) A member is actually present at the time the meeting convenes.

(2) Notice of a special meeting called under subsection (1) of this section shall be:

(a) Delivered to each local newspaper of general circulation and local radio or television station that has on file with the governing body a written request to be notified of such special meeting or of all special meetings;

(b) Posted on the agency's web site. An agency is not required to post a special meeting notice on its web site if it (i) does not have a web site; (ii) employs fewer than ten full-time equivalent employees; or (iii) does not employ personnel whose duty, as defined by a job description or existing contract, is to maintain or update the web site; and

(c) Prominently displayed at the main entrance of the agency's principal location and the meeting site if it is not held at the agency's principal location.

Such notice must be delivered or posted, as applicable, at least twenty-four hours before the time of such meeting as specified in the notice.

(3) The call and notices required under subsections (1) and (2) of this section shall specify the time and place of the special meeting and the business to be transacted. Final disposition shall not be taken on any other matter at such meetings by the governing body.

(4) The notices provided in this section may be dispensed with in the event a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impracticable.

tical and increase the likelihood of such injury or damage. [2012 c 188 § 1; 2005 c 273 § 1; 1971 ex.s. c 250 § 8.]

42.30.090 Adjournments. The governing body of a public agency may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk or secretary of the governing body may declare the meeting adjourned to a stated time and place. He or she shall cause a written notice of the adjournment to be given in the same manner as provided in RCW 42.30.080 for special meetings, unless such notice is waived as provided for special meetings. Whenever any meeting is adjourned a copy of the order or notice of adjournment shall be conspicuously posted immediately after the time of the adjournment on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule. [2012 c 117 § 125; 1971 ex.s. c 250 § 9.]

42.30.100 Continuances. Any hearing being held, noticed, or ordered to be held by a governing body at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the governing body in the same manner and to the same extent set forth in RCW 42.30.090 for the adjournment of meetings. [1971 ex.s. c 250 § 10.]

42.30.110 Executive sessions. (1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting:

(a)(i) To consider matters affecting national security;

(ii) To consider, if in compliance with any required data security breach disclosure under RCW 19.255.010 and 42.56.590, and with legal counsel available, information regarding the infrastructure and security of computer and telecommunications networks, security and service recovery plans, security risk assessments and security test results to the extent that they identify specific system vulnerabilities, and other information that if made public may increase the risk to the confidentiality, integrity, or availability of agency security or to information technology infrastructure or assets;

(b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;

(c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;

(d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;

(e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;

(f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;

(g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

(h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;

(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

This subsection (1)(i) does not permit a governing body to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection (1)(i), "potential litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a) concerning:

(i) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;

(ii) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or

(iii) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency;

(j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when such discussion would be likely to adversely affect the network's ability to conduct business in a competitive economic climate. However, final action on these matters shall be taken in a meeting open to the public;

(k) To consider, in the case of the state investment board, financial and commercial information when the information relates to the investment of public trust or retirement funds and when public knowledge regarding the discussion would result in loss to such funds or in private loss to the providers of this information;

(l) To consider proprietary or confidential nonpublished information related to the development, acquisition, or implementation of state purchased health care services as provided in RCW 41.05.026;

(m) To consider in the case of the life sciences discovery fund authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(n) To consider in the case of a health sciences and services authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(o) To consider information regarding staff privileges or quality improvement committees under RCW 70.41.205.

(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer. [2019 c 162 § 2; 2017 c 137 § 1; 2014 c 174 § 4; 2011 1st sp.s. c 14 § 14; 2010 1st sp.s. c 33 § 5; 2005 c 424 § 13; 2003 c 277 § 1; 2001 c 216 § 1; 1989 c 238 § 2; 1987 c 389 § 3; 1986 c 276 § 8; 1985 c 366 § 2; 1983 c 155 § 3; 1979 c 42 § 1; 1973 c 66 § 2; 1971 ex.s. c 250 § 11.]

Intent—2014 c 174: See note following RCW 28B.50.902.

Additional notes found at www.leg.wa.gov

42.30.120 Violations—Personal liability—Civil penalty—Attorneys' fees and costs. (1) Each member of the governing body who attends a meeting of such governing body where action is taken in violation of any provision of this chapter applicable to him or her, with knowledge of the fact that the meeting is in violation thereof, shall be subject to personal liability in the form of a civil penalty in the amount of five hundred dollars for the first violation.

(2) Each member of the governing body who attends a meeting of a governing body where action is taken in violation of any provision of this chapter applicable to him or her, with knowledge of the fact that the meeting is in violation thereof, and who was previously assessed a penalty under subsection (1) of this section in a final court judgment, shall be subject to personal liability in the form of a civil penalty in the amount of one thousand dollars for any subsequent violation.

(3) The civil penalty shall be assessed by a judge of the superior court and an action to enforce this penalty may be brought by any person. A violation of this chapter does not constitute a crime and assessment of the civil penalty by a judge shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense.

(4) Any person who prevails against a public agency in any action in the courts for a violation of this chapter shall be awarded all costs, including reasonable attorneys' fees, incurred in connection with such legal action. Pursuant to RCW 4.84.185, any public agency which prevails in any action in the courts for a violation of this chapter may be awarded reasonable expenses and attorney fees upon final judgment and written findings by the trial judge that the

action was frivolous and advanced without reasonable cause. [2016 c 58 § 1; 2012 c 117 § 126; 1985 c 69 § 1; 1973 c 66 § 3; 1971 ex.s. c 250 § 12.]

42.30.130 Violations—Mandamus or injunction.

Any person may commence an action either by mandamus or injunction for the purpose of stopping violations or preventing threatened violations of this chapter by members of a governing body. [1971 ex.s. c 250 § 13.]

42.30.140 Chapter controlling—Application. If any provision of this chapter conflicts with the provisions of any other statute, the provisions of this chapter shall control: PROVIDED, That this chapter shall not apply to:

(1) The proceedings concerned with the formal issuance of an order granting, suspending, revoking, or denying any license, permit, or certificate to engage in any business, occupation, or profession or to any disciplinary proceedings involving a member of such business, occupation, or profession, or to receive a license for a sports activity or to operate any mechanical device or motor vehicle where a license or registration is necessary; or

(2) That portion of a meeting of a quasi-judicial body which relates to a quasi-judicial matter between named parties as distinguished from a matter having general effect on the public or on a class or group; or

(3) Matters governed by chapter 34.05 RCW, the Administrative Procedure Act; or

(4)(a) Collective bargaining sessions with employee organizations, including contract negotiations, grievance meetings, and discussions relating to the interpretation or application of a labor agreement; or (b) that portion of a meeting during which the governing body is planning or adopting the strategy or position to be taken by the governing body during the course of any collective bargaining, professional negotiations, or grievance or mediation proceedings, or reviewing the proposals made in the negotiations or proceedings while in progress. [1990 c 98 § 1; 1989 c 175 § 94; 1973 c 66 § 4; 1971 ex.s. c 250 § 14.]

Drug reimbursement policy recommendations: RCW 74.09.653.

Mediation testimony competency: RCW 5.60.070 and 5.60.072.

Additional notes found at www.leg.wa.gov

42.30.200 Governing body of recognized student association at college or university—Chapter applicability to. The multimember student board which is the governing body of the recognized student association at a given campus of a public institution of higher education is hereby declared to be subject to the provisions of the open public meetings act as contained in this chapter, as now or hereafter amended. For the purposes of this section, "recognized student association" shall mean any body at any of the state's colleges and universities which selects officers through a process approved by the student body and which represents the interests of students. Any such body so selected shall be recognized by and registered with the respective boards of trustees and regents of the state's colleges and universities: PROVIDED, That there be no more than one such association representing undergraduate students, no more than one such association representing graduate students, and no more than one such association representing each group of professional

students so recognized and registered at any of the state's colleges or universities. [1980 c 49 § 1.]

42.30.205 Training. (1) Every member of the governing body of a public agency must complete training on the requirements of this chapter no later than ninety days after the date the member either:

(a) Takes the oath of office, if the member is required to take an oath of office to assume his or her duties as a public official; or

(b) Otherwise assumes his or her duties as a public official.

(2) In addition to the training required under subsection (1) of this section, every member of the governing body of a public agency must complete training at intervals of no more than four years as long as the individual is a member of the governing body or public agency.

(3) Training may be completed remotely with technology including but not limited to internet-based training. [2014 c 66 § 2.]

Findings—Short title—Effective date—2014 c 66: See notes following RCW 42.56.150.

42.30.210 Assistance by attorney general. The attorney general's office may provide information, technical assistance, and training on the provisions of this chapter. [2001 c 216 § 2.]

42.30.900 Short title. This chapter may be cited as the "Open Public Meetings Act of 1971". [1971 ex.s. c 250 § 16.]

42.30.910 Construction—1971 ex.s. c 250. The purposes of this chapter are hereby declared remedial and shall be liberally construed. [1971 ex.s. c 250 § 18.]

Chapter 42.36 RCW

APPEARANCE OF FAIRNESS DOCTRINE—LIMITATIONS

Sections

42.36.010	Local land use decisions.
42.36.020	Members of local decision-making bodies.
42.36.030	Legislative action of local executive or legislative officials.
42.36.040	Public discussion by candidate for public office.
42.36.050	Campaign contributions.
42.36.060	Quasi-judicial proceedings—Ex parte communications prohibited, exceptions.
42.36.070	Quasi-judicial proceedings—Prior advisory proceedings.
42.36.080	Disqualification based on doctrine—Time limitation for raising challenge.
42.36.090	Participation of challenged member of decision-making body.
42.36.100	Judicial restriction of doctrine not prohibited—Construction of chapter.
42.36.110	Right to fair hearing not impaired.

42.36.010 Local land use decisions. Application of the appearance of fairness doctrine to local land use decisions shall be limited to the quasi-judicial actions of local decision-making bodies as defined in this section. Quasi-judicial actions of local decision-making bodies are those actions of the legislative body, planning commission, hearing examiner, zoning adjuster, board of adjustment, or boards which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding. Quasi-judi-

cial actions do not include the legislative actions adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents or the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance. [1982 c 229 § 1.]

42.36.020 Members of local decision-making bodies.

No member of a local decision-making body may be disqualified by the appearance of fairness doctrine for conducting the business of his or her office with any constituent on any matter other than a quasi-judicial action then pending before the local legislative body. [1982 c 229 § 2.]

42.36.030 Legislative action of local executive or legislative officials. No legislative action taken by a local legislative body, its members, or local executive officials shall be invalidated by an application of the appearance of fairness doctrine. [1982 c 229 § 3.]

42.36.040 Public discussion by candidate for public office. Prior to declaring as a candidate for public office or while campaigning for public office as defined by RCW 42.17A.005 no public discussion or expression of an opinion by a person subsequently elected to a public office, on any pending or proposed quasi-judicial actions, shall be a violation of the appearance of fairness doctrine. [2011 c 60 § 27; 1982 c 229 § 4.]

Effective date—2011 c 60: See RCW 42.17A.919.

42.36.050 Campaign contributions. A candidate for public office who complies with all provisions of applicable public disclosure and ethics laws shall not be limited from accepting campaign contributions to finance the campaign, including outstanding debts; nor shall it be a violation of the appearance of fairness doctrine to accept such campaign contributions. [1982 c 229 § 5.]

Public disclosure of campaign finances: Chapter 42.17A RCW.

42.36.060 Quasi-judicial proceedings—Ex parte communications prohibited, exceptions. During the pendency of any quasi-judicial proceeding, no member of a decision-making body may engage in ex parte communications with opponents or proponents with respect to the proposal which is the subject of the proceeding unless that person:

(1) Places on the record the substance of any written or oral ex parte communications concerning the decision of action; and

(2) Provides that a public announcement of the content of the communication and of the parties' rights to rebut the substance of the communication shall be made at each hearing where action is considered or taken on the subject to which the communication related. This prohibition does not preclude a member of a decision-making body from seeking in a public hearing specific information or data from such parties relative to the decision if both the request and the results are a part of the record. Nor does such prohibition preclude correspondence between a citizen and his or her elected official if any such correspondence is made a part of the record when it pertains to the subject matter of a quasi-judicial proceeding. [1984 c 191 § 1; 1982 c 229 § 6.]

42.36.070 Quasi-judicial proceedings—Prior advisory proceedings. Participation by a member of a decision-making body in earlier proceedings that result in an advisory recommendation to a decision-making body shall not disqualify that person from participating in any subsequent quasi-judicial proceeding. [1982 c 229 § 7.]

42.36.080 Disqualification based on doctrine—Time limitation for raising challenge. Anyone seeking to rely on the appearance of fairness doctrine to disqualify a member of a decision-making body from participating in a decision must raise the challenge as soon as the basis for disqualification is made known to the individual. Where the basis is known or should reasonably have been known prior to the issuance of a decision and is not raised, it may not be relied on to invalidate the decision. [1982 c 229 § 8.]

42.36.090 Participation of challenged member of decision-making body. In the event of a challenge to a member or members of a decision-making body which would cause a lack of a quorum or would result in a failure to obtain a majority vote as required by law, any such challenged member(s) shall be permitted to fully participate in the proceeding and vote as though the challenge had not occurred, if the member or members publicly disclose the basis for disqualification prior to rendering a decision. Such participation shall not subject the decision to a challenge by reason of violation of the appearance of fairness doctrine. [1982 c 229 § 9.]

42.36.100 Judicial restriction of doctrine not prohibited—Construction of chapter. Nothing in this chapter prohibits the restriction or elimination of the appearance of fairness doctrine by the appellate courts. Nothing in this chapter may be construed to expand the appearance of fairness doctrine. [1982 c 229 § 10.]

42.36.110 Right to fair hearing not impaired. Nothing in this chapter prohibits challenges to local land use decisions where actual violations of an individual's right to a fair hearing can be demonstrated. [1982 c 229 § 11.]

Chapter 42.40 RCW

STATE EMPLOYEE WHISTLEBLOWER PROTECTION

Sections

42.40.010	Policy.
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42.40.030	Right to disclose improper governmental actions—Interference prohibited.
42.40.035	Duty of correctness—Penalties for false information.
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42.40.090	Administrative costs.
42.40.100	Assertions against auditor.
42.40.110	Performance audit.
42.40.910	Application of chapter.

42.40.010 Policy. It is the policy of the legislature that employees should be encouraged to disclose, to the extent not expressly prohibited by law, improper governmental actions,

and it is the intent of the legislature to protect the rights of state employees making these disclosures, regardless of whether an investigation is initiated under RCW 42.40.040. It is also the policy of the legislature that employees should be encouraged to identify rules warranting review or provide information to the rules review committee, and it is the intent of the legislature to protect the rights of these employees. [2017 c 44 § 1; 1995 c 403 § 508; 1982 c 208 § 1.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

42.40.020 Definitions. As used in this chapter, the terms defined in this section shall have the meanings indicated unless the context clearly requires otherwise.

- (1) "Auditor" means the office of the state auditor.
- (2) "Employee" means any individual employed or holding office in any department or agency of state government.
- (3) "Good faith" means the individual providing the information or report of improper governmental activity has a reasonable basis in fact for reporting or providing the information. An individual who knowingly provides or reports, or who reasonably ought to know he or she is providing or reporting, malicious, false, or frivolous information, or information that is provided with reckless disregard for the truth, or who knowingly omits relevant information is not acting in good faith.
- (4) "Gross mismanagement" means the exercise of management responsibilities in a manner grossly deviating from the standard of care or competence that a reasonable person would observe in the same situation.
- (5) "Gross waste of funds" means to spend or use funds or to allow funds to be used without valuable result in a manner grossly deviating from the standard of care or competence that a reasonable person would observe in the same situation.
- (6)(a) "Improper governmental action" means any action by an employee undertaken in the performance of the employee's official duties:

- (i) Which is a gross waste of public funds or resources as defined in this section;
- (ii) Which is in violation of federal or state law or rule, if the violation is not merely technical or of a minimum nature;
- (iii) Which is of substantial and specific danger to the public health or safety;
- (iv) Which is gross mismanagement;
- (v) Which prevents the dissemination of scientific opinion or alters technical findings without scientifically valid justification, unless state law or a common law privilege prohibits disclosure. This provision is not meant to preclude the discretion of agency management to adopt a particular scientific opinion or technical finding from among differing opinions or technical findings to the exclusion of other scientific opinions or technical findings. Nothing in this subsection prevents or impairs a state agency's or public official's ability to manage its public resources or its employees in the performance of their official job duties. This subsection does not apply to de minimis, technical disagreements that are not relevant for otherwise improper governmental activity. Nothing in this provision requires the auditor to contract or consult with external experts regarding the scientific validity, invalidity, or justification of a finding or opinion; or

(vi) Which violates the administrative procedure act or analogous provisions of law that prohibit ex parte communication regarding cases or matters pending in which an agency is party between the agency's employee and a presiding officer, hearing officer, or an administrative law judge. The availability of other avenues for addressing ex parte communication by agency employees does not bar an investigation by the auditor.

(b) "Improper governmental action" does not include personnel actions, for which other remedies exist, including but not limited to employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of the state civil service law, alleged labor agreement violations, reprimands, claims of discriminatory treatment, or any action which may be taken under chapter 41.06 RCW, or other disciplinary action except as provided in RCW 42.40.030.

(7) "Public official" means the attorney general's designee or designees; the director, or equivalent thereof in the agency where the employee works; an appropriate number of individuals designated to receive whistleblower reports by the head of each agency; or the executive ethics board.

(8) "Substantial and specific danger" means a risk of serious injury, illness, peril, or loss, to which the exposure of the public is a gross deviation from the standard of care or competence which a reasonable person would observe in the same situation.

(9) "Use of official authority or influence" includes threatening, taking, directing others to take, recommending, processing, or approving any personnel action such as an appointment, promotion, transfer, assignment including but not limited to duties and office location, reassignment, reinstatement, restoration, reemployment, performance evaluation, determining any material changes in pay, provision of training or benefits, tolerance of a hostile work environment, or any adverse action under chapter 41.06 RCW, or other disciplinary action.

(10)(a) "Whistleblower" means:

(i) An employee who in good faith reports alleged improper governmental action to the auditor or other public official, as defined in subsection (7) of this section; or

(ii) An employee who is perceived by the employer as reporting, whether they did or not, alleged improper governmental action to the auditor or other public official, as defined in subsection (7) of this section.

(b) For purposes of the provisions of this chapter and chapter 49.60 RCW relating to reprisals and retaliatory action, the term "whistleblower" also means:

(i) An employee who in good faith provides information to the auditor or other public official, as defined in subsection (7) of this section, and an employee who is believed to have reported asserted improper governmental action to the auditor or other public official, as defined in subsection (7) of this section, or to have provided information to the auditor or other public official, as defined in subsection (7) of this section, but who, in fact, has not reported such action or provided such information; or

(ii) An employee who in good faith identifies rules warranting review or provides information to the rules review

committee, and an employee who is believed to have identified rules warranting review or provided information to the rules review committee but who, in fact, has not done so. [2017 c 44 § 2; 2008 c 266 § 2; 1999 c 361 § 1; 1995 c 403 § 509; 1992 c 118 § 1; 1989 c 284 § 1; 1982 c 208 § 2.]

Findings—Intent—2008 c 266: "The legislature finds and declares that government exists to conduct the people's business, and the people remaining informed about the actions of government contributes to the oversight of how the people's business is conducted. The legislature further finds that many public servants who expose actions of their government that are contrary to the law or public interest face the potential loss of their careers and livelihoods.

It is the policy of the legislature that employees should be encouraged to disclose, to the extent not expressly prohibited by law, improper governmental actions, and it is the intent of the legislature to protect the rights of state employees making these disclosures. It is also the policy of the legislature that employees should be encouraged to identify rules warranting review or provide information to the rules review committee, and it is the intent of the legislature to protect the rights of these employees.

This act shall be broadly construed in order to effectuate the purpose of this act." [2008 c 266 § 1.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

42.40.030 Right to disclose improper governmental actions—Interference prohibited. (1) An employee shall not directly or indirectly use or attempt to use the employee's official authority or influence for the purpose of intimidating, threatening, coercing, commanding, influencing, or attempting to intimidate, threaten, coerce, command, or influence any individual for the purpose of interfering with the right of the individual to: (a) Disclose to the auditor (or representative thereof) or other public official, as defined in RCW 42.40.020, information concerning improper governmental action; or (b) identify rules warranting review or provide information to the rules review committee.

(2) Nothing in this section authorizes an individual to disclose information otherwise prohibited by law, except to the extent that information is necessary to substantiate the whistleblower complaint, in which case information may be disclosed to the auditor or public official, as defined in RCW 42.40.020, by the whistleblower for the limited purpose of providing information related to the complaint. Any information provided to the auditor or public official under the authority of this subsection may not be further disclosed. [2008 c 266 § 3; 1995 c 403 § 510; 1989 c 284 § 2; 1982 c 208 § 3.]

Findings—Intent—2008 c 266: See note following RCW 42.40.020.

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

42.40.035 Duty of correctness—Penalties for false information. An employee must make a reasonable attempt to ascertain the correctness of the information furnished and may be subject to disciplinary actions, including, but not limited to, suspension or termination, for knowingly furnishing false information as determined by the employee's appointing authority. [1999 c 361 § 2.]

42.40.040 Report of improper governmental action—Investigations and reports by auditor, agency. (1)(a) In order to be investigated, an assertion of improper governmental action must be provided to the auditor or other public official within one year after the occurrence of the asserted

improper governmental action. The public official, as defined in RCW 42.40.020, receiving an assertion of improper governmental action must report the assertion to the auditor within fifteen calendar days of receipt of the assertion. The auditor retains sole authority to investigate an assertion of improper governmental action including those made to a public official. A failure of the public official to report the assertion to the auditor within fifteen days does not impair the rights of the whistleblower.

(b) Except as provided under RCW 42.40.910 for legislative and judicial branches of government, the auditor has the authority to determine whether to investigate any assertions received. In determining whether to conduct either a preliminary or further investigation, the auditor shall consider factors including, but not limited to: The nature and quality of evidence and the existence of relevant laws and rules; whether the action was isolated or systematic; the history of previous assertions regarding the same subject or subjects or subject matter; whether other avenues are available for addressing the matter; whether the matter has already been investigated or is in litigation; the seriousness or significance of the asserted improper governmental action; and the cost and benefit of the investigation. The auditor has the sole discretion to determine the priority and weight given to these and other relevant factors and to decide whether a matter is to be investigated. The auditor shall document the factors considered and the analysis applied.

(c) The auditor also has the authority to investigate assertions of improper governmental actions as part of an audit conducted under chapter 43.09 RCW. The auditor shall document the reasons for handling the matter as part of such an audit.

(2) Subject to subsection (5)(c) of this section, the identity or identifying characteristics of a whistleblower is confidential at all times unless the whistleblower consents to disclosure by written waiver or by acknowledging his or her identity in a claim against the state for retaliation. In addition, the identity or identifying characteristics of any person who in good faith provides information in an investigation under this section is confidential at all times, unless the person consents to disclosure by written waiver or by acknowledging his or her identity as a witness who provides information in an investigation.

(3) Upon receiving specific information that an employee has engaged in improper governmental action, the auditor shall, within fifteen working days of receipt of the information, mail written acknowledgment to the whistleblower at the address provided stating whether a preliminary investigation will be conducted. For a period not to exceed sixty working days from receipt of the assertion, the auditor shall conduct such preliminary investigation of the matter as the auditor deems appropriate.

(4) In addition to the authority under subsection (3) of this section, the auditor may, on its own initiative, investigate incidents of improper state governmental action.

(5)(a) If it appears to the auditor, upon completion of the preliminary investigation, that the matter is so unsubstantiated that no further investigation, prosecution, or administrative action is warranted, the auditor shall so notify the whistleblower summarizing where the allegations are deficient,

and provide a reasonable opportunity to reply. Such notification may be by electronic means.

(b) The written notification shall contain a summary of the information received and of the results of the preliminary investigation with regard to each assertion of improper governmental action.

(c) In any case to which this section applies, the identity or identifying characteristics of the whistleblower shall be kept confidential unless the auditor determines that the information has been provided other than in good faith. If the auditor makes such a determination, the auditor shall provide reasonable advance notice to the employee.

(d) With the agency's consent, the auditor may forward the assertions to an appropriate agency to investigate and report back to the auditor no later than sixty working days after the assertions are received from the auditor. The auditor is entitled to all investigative records resulting from such a referral. All procedural and confidentiality provisions of this chapter apply to investigations conducted under this subsection. The auditor shall document the reasons the assertions were referred.

(6) During the preliminary investigation, the auditor shall provide written notification of the nature of the assertions to the subject or subjects of the investigation and the agency head. The notification shall include the relevant facts and laws known at the time and the procedure for the subject or subjects of the investigation and the agency head to respond to the assertions and information obtained during the investigation. This notification does not limit the auditor from considering additional facts or laws which become known during further investigation.

(a) If it appears to the auditor after completion of the preliminary investigation that further investigation, prosecution, or administrative action is warranted, the auditor shall so notify the whistleblower, the subject or subjects of the investigation, and the agency head and either conduct a further investigation or issue a report under subsection (9) of this section.

(b) If the preliminary investigation resulted from an anonymous assertion, a decision to conduct further investigation shall be subject to review by a three-person panel convened as necessary by the auditor prior to the commencement of any additional investigation. The panel shall include a state auditor representative knowledgeable of the subject agency operations, a citizen volunteer, and a representative of the attorney general's office. This group shall be briefed on the preliminary investigation and shall recommend whether the auditor should proceed with further investigation.

(c) If further investigation is to occur, the auditor shall provide written notification of the nature of the assertions to the subject or subjects of the investigation and the agency head. The notification shall include the relevant facts known at the time and the procedure to be used by the subject or subjects of the investigation and the agency head to respond to the assertions and information obtained during the investigation.

(7) Within sixty working days after the preliminary investigation period in subsection (3) of this section, the auditor shall complete the investigation and report its findings to the whistleblower unless written justification for the delay is furnished to the whistleblower, agency head, and subject or

subjects of the investigation. In all such cases, the report of the auditor's investigation and findings shall be sent to the whistleblower within one year after the information was filed under subsection (3) of this section.

(8)(a) At any stage of an investigation under this section the auditor may require by subpoena the attendance and testimony of witnesses and the production of documentary or other evidence relating to the investigation at any designated place in the state. The auditor may issue subpoenas, administer oaths, examine witnesses, and receive evidence. In the case of contumacy or failure to obey a subpoena, the superior court for the county in which the person to whom the subpoena is addressed resides or is served may issue an order requiring the person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(b) The auditor may order the taking of depositions at any stage of a proceeding or investigation under this chapter. Depositions shall be taken before an individual designated by the auditor and having the power to administer oaths. Testimony shall be reduced to writing by or under the direction of the individual taking the deposition and shall be subscribed by the deponent.

(c) Agencies shall cooperate fully in the investigation and shall take appropriate action to preclude the destruction of any evidence during the course of the investigation.

(d) During the investigation the auditor shall interview each subject of the investigation. If it is determined there is reasonable cause to believe improper governmental action has occurred, the subject or subjects and the agency head shall be given fifteen working days to respond to the assertions prior to the issuance of the final report.

(9)(a) If the auditor determines there is reasonable cause to believe an employee has engaged in improper governmental action, the auditor shall report, to the extent allowable under existing public disclosure laws, the nature and details of the activity to:

(i) The subject or subjects of the investigation and the head of the employing agency;

(ii) If appropriate, the attorney general or such other authority as the auditor determines appropriate;

(iii) Electronically to the governor, secretary of the senate, and chief clerk of the house of representatives; and

(iv) Except for information whose release is specifically prohibited by statute or executive order, the public through the public file of whistleblower reports maintained by the auditor.

(b) The auditor has no enforcement power except that in any case in which the auditor submits an investigative report containing reasonable cause determinations to the agency, the agency shall send its plan for resolution to the auditor within fifteen working days of having received the report. The agency is encouraged to consult with the subject or subjects of the investigation in establishing the resolution plan. The auditor may require periodic reports of agency action until all resolution has occurred. If the auditor determines that appropriate action has not been taken, the auditor shall report the determination to the governor and to the legislature and may include this determination in the agency audit under chapter 43.09 RCW.

(10) Once the auditor concludes that appropriate action has been taken to resolve the matter, the auditor shall so notify the whistleblower, the agency head, and the subject or subjects of the investigation. If the resolution takes more than one year, the auditor shall provide annual notification of its status to the whistleblower, agency head, and subject or subjects of the investigation.

(11) Failure to cooperate with such audit or investigation, or retaliation against anyone who assists the auditor by engaging in activity protected by this chapter shall be reported as a separate finding with recommendations for corrective action in the associated report whenever it occurs.

(12) This section does not limit any authority conferred upon the attorney general or any other agency of government to investigate any matter. [2008 c 266 § 4; 1999 c 361 § 3; 1992 c 118 § 2; 1989 c 284 § 3; 1982 c 208 § 4.]

Findings—Intent—2008 c 266: See note following RCW 42.40.020.

42.40.050 Retaliatory action against whistleblower—Remedies. (1)(a) Any person who is a whistleblower, as defined in RCW 42.40.020, and who has been subjected to workplace reprisal or retaliatory action is presumed to have established a cause of action for the remedies provided under chapter 49.60 RCW.

(b) For the purpose of this section, "reprisal or retaliatory action" means, but is not limited to, any of the following:

(i) Denial of adequate staff to perform duties;

(ii) Frequent staff changes;

(iii) Frequent and undesirable office changes;

(iv) Refusal to assign meaningful work;

(v) Unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations;

(vi) Demotion;

(vii) Reduction in pay;

(viii) Denial of promotion;

(ix) Suspension;

(x) Dismissal;

(xi) Denial of employment;

(xii) A supervisor or superior behaving in or encouraging coworkers to behave in a hostile manner toward the whistleblower;

(xiii) A change in the physical location of the employee's workplace or a change in the basic nature of the employee's job, if either are in opposition to the employee's expressed wish;

(xiv) Issuance of or attempt to enforce any nondisclosure policy or agreement in a manner inconsistent with prior practice; or

(xv) Any other action that is inconsistent compared to actions taken before the employee engaged in conduct protected by this chapter, or compared to other employees who have not engaged in conduct protected by this chapter.

(2) The agency presumed to have taken retaliatory action under subsection (1) of this section may rebut that presumption by proving by a preponderance of the evidence that there have been a series of documented personnel problems or a single, egregious event, or that the agency action or actions were justified by reasons unrelated to the employee's status as a whistleblower and that improper motive was not a substantial factor.

(3) Nothing in this section prohibits an agency from making any decision exercising its authority to terminate, suspend, or discipline an employee who engages in workplace reprisal or retaliatory action against a whistleblower. However, the agency also shall implement any order under chapter 49.60 RCW (other than an order of suspension if the agency has terminated the retaliator). [2008 c 266 § 6; 1999 c 283 § 1; 1992 c 118 § 3; 1989 c 284 § 4; 1982 c 208 § 5.]

Findings—Intent—2008 c 266: See note following RCW 42.40.020.

42.40.070 Summary of chapter available to employees. A written summary of this chapter and procedures for reporting improper governmental actions established by the auditor's office shall be made available by each department or agency of state government to each employee upon entering public employment. Such notices may be in agency internal newsletters, included with paychecks or stubs, sent via electronic mail to all employees, or sent by other means that are cost-effective and reach all employees of the government level, division, or subdivision. Employees shall be notified by each department or agency of state government each year of the procedures and protections under this chapter. The annual notices shall include a list of public officials, as defined in RCW 42.40.020, authorized to receive whistleblower reports. The list of public officials authorized to receive whistleblower reports shall also be prominently displayed in all agency offices. [2008 c 266 § 5; 1989 c 284 § 5; 1982 c 208 § 7.]

Findings—Intent—2008 c 266: See note following RCW 42.40.020.

42.40.080 Contracting for assistance. The auditor has the authority to contract for any assistance necessary to carry out the provisions of this chapter. [1999 c 361 § 4.]

42.40.090 Administrative costs. The cost of administering this chapter is funded through the auditing services revolving account created in RCW 43.09.410. [1999 c 361 § 5.]

42.40.100 Assertions against auditor. A whistleblower wishing to provide information under this chapter regarding asserted improper governmental action against the state auditor or an employee of that office shall provide the information to the attorney general who shall act in place of the auditor in investigating and reporting the matter. [1999 c 361 § 6.]

42.40.110 Performance audit. The office of financial management shall contract for a performance audit of the state employee whistleblower program on a cycle to be determined by the office of financial management. The audit shall be done in accordance with generally accepted government auditing standards beginning with the fiscal year ending June 30, 2001. The audit shall determine at a minimum: Whether the program is acquiring, protecting, and using its resources such as personnel, property, and space economically and efficiently; the causes of inefficiencies or uneconomical practices; and whether the program has complied with laws and rules on matters of economy and efficiency. The audit shall also at a minimum determine the extent to which the desired results or benefits established by the legislature are being

achieved, the effectiveness of the program, and whether the auditor has complied with significant laws and rules applicable to the program.

The cost of the audit is a cost of operating the program and shall be funded by the auditing services revolving account created by RCW 43.09.410. [1999 c 361 § 8.]

42.40.910 Application of chapter. Chapter 266, Laws of 2008 and chapter 361, Laws of 1999 do not affect the jurisdiction of the legislative ethics board, the executive ethics board, or the commission on judicial conduct, as set forth in chapter 42.52 RCW. The senate, the house of representatives, and the supreme court shall adopt policies regarding the applicability of chapter 42.40 RCW to the senate, house of representatives, and judicial branch. [2008 c 266 § 9; 1999 c 361 § 7.]

Findings—Intent—2008 c 266: See note following RCW 42.40.020.

Chapter 42.41 RCW

LOCAL GOVERNMENT WHISTLEBLOWER PROTECTION

Sections

42.41.010	Policy.
42.41.020	Definitions.
42.41.030	Right to report improper governmental action—Policies and procedures.
42.41.040	Retaliatory action unlawful—Relief by whistleblower—Penalty.
42.41.045	Prohibition on intimidation of whistleblower—Nondisclosure of protected information.
42.41.050	Exemptions.
42.41.060	Local government administrative hearings account.
42.41.900	Construction.
42.41.901	Effective dates—1992 c 44.

42.41.010 Policy. It is the policy of the legislature that local government employees should be encouraged to disclose, to the extent not expressly prohibited by law, improper governmental actions of local government officials and employees. The purpose of this chapter is to protect local government employees who make good-faith reports to appropriate governmental bodies and to provide remedies for such individuals who are subjected to retaliation for having made such reports. [1992 c 44 § 1.]

42.41.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1)(a) "Improper governmental action" means any action by a local government officer or employee:

(i) That is undertaken in the performance of the officer's or employee's official duties, whether or not the action is within the scope of the employee's employment; and

(ii) That is in violation of any federal, state, or local law or rule, is an abuse of authority, is of substantial and specific danger to the public health or safety, or is a gross waste of public funds.

(b) "Improper governmental action" does not include personnel actions including but not limited to employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of the local

government collective bargaining and civil service laws, alleged labor agreement violations, reprimands, or any action that may be taken under chapter 41.08, 41.12, 41.14, 41.56, 41.59, or 53.18 RCW or RCW 54.04.170 and 54.04.180.

(2) "Local government" means any governmental entity other than the state, federal agencies, or an operating system established under chapter 43.52 RCW. It includes, but is not limited to cities, counties, school districts, and special purpose districts.

(3) "Retaliatory action" means: (a) Any adverse change in a local government employee's employment status, or the terms and conditions of employment including denial of adequate staff to perform duties, frequent staff changes, frequent and undesirable office changes, refusal to assign meaningful work, unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations, demotion, transfer, reassignment, reduction in pay, denial of promotion, suspension, dismissal, or any other disciplinary action; or (b) hostile actions by another employee towards a local government employee that were encouraged by a supervisor or senior manager or official.

(4) "Emergency" means a circumstance that if not immediately changed may cause damage to persons or property. [1994 c 210 § 1; 1992 c 44 § 2.]

42.41.030 Right to report improper governmental action—Policies and procedures. (1) Every local government employee has the right to report to the appropriate person or persons information concerning an alleged improper governmental action.

(2) The governing body or chief administrative officer of each local government shall adopt a policy on the appropriate procedures to follow for reporting such information and shall provide information to their employees on the policy. Local governments are encouraged to consult with their employees on the policy.

(3) The policy shall describe the appropriate person or persons within the local government to whom to report information and a list of appropriate person or persons outside the local government to whom to report. The list shall include the county prosecuting attorney.

(4) Each local government shall permanently post a summary of the procedures for reporting information on an alleged improper governmental action and the procedures for protection against retaliatory actions described in RCW 42.41.040 in a place where all employees will have reasonable access to it. A copy of the summary shall be made available to any employee upon request.

(5) A local government may require as part of its policy that, except in the case of an emergency, before an employee provides information of an improper governmental action to a person or an entity who is not a public official or a person listed pursuant to subsection (3) of this section, the employee shall submit a written report to the local government. Where a local government has adopted such a policy under this section, an employee who fails to make a good faith attempt to follow the policy shall not receive the protections of this chapter.

(6) If a local government has failed to adopt a policy as required by subsection (2) of this section, an employee may report alleged improper government action directly to the

county prosecuting attorney or, if the prosecuting attorney or an employee of the prosecuting attorney participated in the alleged improper government action, to the state auditor. The cost incurred by the state auditor in such investigations shall be paid by the local government through the municipal revolving account authorized in RCW 43.09.282.

(7) The identity of a reporting employee shall be kept confidential to the extent possible under law, unless the employee authorizes the disclosure of his or her identity in writing. [1995 c 213 § 1; 1992 c 44 § 3.]

42.41.040 Retaliatory action unlawful—Relief by whistleblower—Penalty. (1) It is unlawful for any local government official or employee to take retaliatory action against a local government employee because the employee provided information in good faith in accordance with the provisions of this chapter that an improper governmental action occurred.

(2) In order to seek relief under this chapter, a local government employee shall provide a written notice of the charge of retaliatory action to the governing body of the local government that:

(a) Specifies the alleged retaliatory action; and

(b) Specifies the relief requested.

(3) The charge shall be delivered to the local government no later than thirty days after the occurrence of the alleged retaliatory action. The local government has thirty days to respond to the charge of retaliatory action and request for relief.

(4) Upon receipt of either the response of the local government or after the last day upon which the local government could respond, the local government employee may request a hearing to establish that a retaliatory action occurred and to obtain appropriate relief as defined in this section. The request for a hearing shall be delivered to the local government within fifteen days of delivery of the response from the local government, or within fifteen days of the last day on which the local government could respond.

(5) Within five working days of receipt of the request for hearing, the local government shall apply to the state office of administrative hearings for an adjudicative proceeding before an administrative law judge. Except as otherwise provided in this section, the proceedings shall comply with RCW 34.05.410 through 34.05.598.

(6) The employee, as the initiating party, must prove his or her claim by a preponderance of the evidence. The administrative law judge shall issue a final decision consisting of findings of fact, conclusions of law, and judgment no later than forty-five days after the date the request for hearing was delivered to the local government. The administrative law judge may grant specific extensions of time beyond this period of time for rendering a decision at the request of either party upon a showing of good cause, or upon his or her own motion.

(7) Relief that may be granted by the administrative law judge consists of reinstatement, with or without back pay, and such injunctive relief as may be found to be necessary in order to return the employee to the position he or she held before the retaliatory action and to prevent any recurrence of retaliatory action. The administrative law judge may award costs and reasonable attorneys' fees to the prevailing party.

(8) If a determination is made that retaliatory action has been taken against the employee, the administrative law judge may, in addition to any other remedy, impose a civil penalty personally upon the retaliator of up to three thousand dollars payable by each person found to have retaliated against the employee and recommend to the local government that any person found to have retaliated against the employee be suspended with or without pay or dismissed. All penalties recovered shall be paid to the local government administrative hearings account created in RCW 42.41.060.

(9) The final decision of the administrative law judge is subject to judicial review under the arbitrary and capricious standard. Relief ordered by the administrative law judge may be enforced by petition to superior court. [1992 c 44 § 4.]

42.41.045 Prohibition on intimidation of whistleblower—Nondisclosure of protected information. (1) A local government official or employee may not use his or her official authority or influence, directly or indirectly, to threaten, intimidate, or coerce an employee for the purpose of interfering with that employee's right to disclose information concerning an improper governmental action in accordance with the provisions of this chapter.

(2) Nothing in this section authorizes an individual to disclose information prohibited by law. [1994 c 210 § 2.]

42.41.050 Exemptions. Any local government that has adopted or adopts a program for reporting alleged improper governmental actions and adjudicating retaliation resulting from such reporting shall be exempt from this chapter if the program meets the intent of this chapter. [1992 c 44 § 6.]

42.41.060 Local government administrative hearings account. The local government administrative hearings account is created in the custody of the state treasurer. All receipts from penalties in RCW 42.41.040 and the surcharges under RCW 43.09.2801 shall be deposited into the account. Expenditures from the account may be used only for administrative hearings under this chapter. Only the chief administrative law judge or his or her designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. [1992 c 44 § 7.]

42.41.900 Construction. This chapter shall not be construed to permit disclosures that would diminish the rights of any person to the continued protection of confidentiality of communications where statute or common law provides such protection. [1992 c 44 § 5.]

42.41.901 Effective dates—1992 c 44. Sections 1 through 10 of this act shall take effect January 1, 1993. Section 11 of this act shall take effect July 1, 1992. [1992 c 44 § 13.]

Chapter 42.45 RCW

REVISED UNIFORM LAW ON NOTARIAL ACTS

Sections

- 42.45.010 Definitions.
- 42.45.020 Authority to perform notarial act.

- 42.45.030 Certain notarial acts—Requirements.
- 42.45.040 Personal appearance.
- 42.45.050 Identification of individual.
- 42.45.060 Refusal to perform notarial act.
- 42.45.070 Individual unable to sign—Signature.
- 42.45.080 Notarial act in this state.
- 42.45.090 Notarial act in another state—Effect in this state.
- 42.45.100 Notarial act under authority of federally recognized Indian tribe.
- 42.45.110 Notarial act under federal authority.
- 42.45.120 Foreign notarial act.
- 42.45.130 Certificate of notarial act.
- 42.45.140 Short form certificates.
- 42.45.150 Official stamp.
- 42.45.160 Stamping device—Security.
- 42.45.170 Fees.
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42.45.010 Definitions. In this chapter:

- (1) "Acknowledgment" means a declaration by an individual in the presence of a notarial officer stating that the individual has signed a record of the individual's free will for the purpose stated in the record and, if the record is signed in a representative capacity, the individual also declares that he or she signed the record with proper authority and signed it as the act of the individual or entity identified in the record.
- (2) "Department" means the department of licensing.
- (3) "Director" means the director of licensing or the director's designee.
- (4) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (5) "Electronic records notary public" means an individual commissioned by the director to perform a notarial act with respect to electronic records. Nothing in chapter 281, Laws of 2017 authorizes an electronic records notary public to provide court reporting services.
- (6) "Electronic signature" means an electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.
- (7) "In a representative capacity" means acting as:
 - (a) An authorized officer, agent, partner, trustee, or other representative for a person other than an individual;
 - (b) A public officer, personal representative, guardian, or other representative, in the capacity stated in a record;
 - (c) An agent or attorney-in-fact for a principal; or
 - (d) An authorized representative of another in any other capacity.

(8) "Notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, certifying the occurrence of an event or the performance of an act, and noting a protest of a negotiable instrument if the protest was prepared under the authority of an attorney licensed to practice law in this state or another state, or was prepared under the authority of a financial institution that is regulated by this state, another state, or the federal government.

(9) "Notarial officer" means a notary public or other individual authorized to perform a notarial act.

(10) "Notary public" means an individual commissioned to perform a notarial act by the director.

(11) "Official stamp" means a physical image affixed to or embossed on a tangible record or an electronic image attached to or logically associated with an electronic record.

(12) "Person" means an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in human perceivable form.

(14) "Sign" means, with present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound, or process.

(15) "Signature" means a tangible symbol or an electronic signature that evidences the signing of a record.

(16) "Stamping device" means:

(a) A physical device capable of affixing to or embossing on a tangible record an official stamp; or

(b) An electronic device or process capable of attaching to or logically associating with an electronic record an official stamp.

(17) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(18) "Verification on oath or affirmation" means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true. [2017 c 281 § 2.]

42.45.020 Authority to perform notarial act. (Effective until October 1, 2020.) (1) A notarial officer may perform a notarial act authorized by this chapter or by law of this state other than this chapter.

(2)(a) A notarial officer may not perform a notarial act with respect to a record to which the officer or the officer's spouse or domestic partner is a party, or in which any of the above have a direct beneficial interest.

(b) A notarial officer may not notarize the notarial officer's own signature.

(c) A notarial act performed in violation of this subsection (2) is voidable. [2017 c 281 § 4.]

42.45.020 Authority to perform notarial act. (Effective October 1, 2020.) (1) A notarial officer may perform a notarial act authorized by this chapter or by law of this state other than this chapter.

(2)(a) A notarial officer may not perform a notarial act with respect to a record to which the officer or the officer's spouse or domestic partner is a party, or in which any of the above have a direct beneficial interest.

(b) A notarial officer may not notarize the notarial officer's own signature.

(c) A notarial act performed in violation of this subsection (2) is voidable.

(3) A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record. [2019 c 154 § 2; 2017 c 281 § 4.]

Effective date—2019 c 154: See note following RCW 42.45.280.

42.45.030 Certain notarial acts—Requirements. (1) A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

(2) A notarial officer who takes a verification of a statement on oath or affirmation shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.

(3) A notarial officer who witnesses or attests to a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and signing the record has the identity claimed.

(4) A notarial officer who certifies or attests a copy of a record or an item that was copied shall compare the copy with the original record or item and determine that the copy is a full, true, and accurate transcription or reproduction of the record or item.

(5) A notarial officer may make or note a protest of a negotiable instrument only if the notarial officer is licensed to practice law in this state, acting under the authority of an attorney who is licensed to practice law in this or another state, or acting under the authority of a financial institution regulated by this state, another state, or the federal government. In making or noting a protest of a negotiable instrument the notarial officer or licensed attorney shall determine the matters set forth in RCW 62A.3-505(b). [2017 c 281 § 5.]

42.45.040 Personal appearance. (Effective until October 1, 2020.) If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notarial officer. [2017 c 281 § 6.]

42.45.040 Personal appearance. (Effective October 1, 2020.) Except as provided in RCW 42.45.280, if a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the

signature shall appear personally before the notarial officer. [2019 c 154 § 3; 2017 c 281 § 6.]

Effective date—2019 c 154: See note following RCW 42.45.280.

42.45.050 Identification of individual. (1) A notarial officer has personal knowledge of the identity of an individual appearing before the officer if the individual is personally known to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

(2) A notarial officer has satisfactory evidence of the identity of an individual appearing before the officer if the officer can identify the individual:

(a) By means of:

(i) A passport, driver's license, or government-issued nondriver identification card, which is current or expired not more than three years before performance of the notarial act; or

(ii) Another form of government identification issued to an individual, which is current or expired not more than three years before performance of the notarial act, contains the signature or a photograph of the individual, and is satisfactory to the officer; or

(b) By a verification on oath or affirmation of a credible witness personally appearing before the officer and personally known to the officer and who provides satisfactory evidence of his or her identity as described in (a) of this subsection.

(3) A notarial officer may require an individual to provide additional information or identification credentials necessary to assure the officer of the identity of the individual. [2017 c 281 § 7.]

42.45.060 Refusal to perform notarial act. (1) A notarial officer has the authority to refuse to perform a notarial act if the officer is not satisfied that:

(a) The individual executing the record is competent or has the capacity to execute the record; or

(b) The individual's signature is knowingly and voluntarily made.

(2) A notarial officer has the authority to refuse to perform a notarial act unless refusal is prohibited by law other than this chapter. [2017 c 281 § 8.]

42.45.070 Individual unable to sign—Signature. Except as otherwise provided in RCW 64.08.100, if an individual is physically unable to sign a record, the individual may direct an individual other than the notarial officer to sign the individual's name on the record. The notarial officer shall insert "signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import. [2017 c 281 § 9.]

42.45.080 Notarial act in this state. (1) A notarial act may be performed in this state by:

(a) A notary public of this state;

(b) A judge, clerk, or deputy clerk of a court of this state; or

(c) Any other individual authorized to perform the specific act by the law of this state.

(2) The signature and title of an individual authorized by chapter 281, Laws of 2017 to perform a notarial act in this state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1)(a) or (b) of this section conclusively establishes the authority of the officer to perform the notarial act. [2017 c 281 § 10.]

42.45.090 Notarial act in another state—Effect in this state. (1) A notarial act performed in another state has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed in that state is performed by:

(a) A notary public of that state;

(b) A judge, clerk, or deputy clerk of a court of that state;

or

(c) Any other individual authorized by the law of that state to perform the notarial act.

(2) The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1)(a) through (c) of this section conclusively establishes the authority of the officer to perform the notarial act. [2017 c 281 § 11.]

42.45.100 Notarial act under authority of federally recognized Indian tribe. (1) A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notarial officer of this state, if the act performed in the jurisdiction of the tribe is performed by:

(a) A notary public of the tribe;

(b) A judge, clerk, or deputy clerk of a court of the tribe;

or

(c) Any other individual authorized by the law of the tribe to perform the notarial act.

(2) The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1)(a) through (c) of this section conclusively establishes the authority of the officer to perform the notarial act. [2017 c 281 § 12.]

42.45.110 Notarial act under federal authority. (1) A notarial act performed under federal law has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed under federal law is performed by:

(a) A judge, clerk, or deputy clerk of a court;

(b) An individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;

(c) An individual designated a notarizing officer by the United States department of state for performing notarial acts overseas; or

(d) Any other individual authorized by federal law to perform the notarial act.

(2) The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of an officer described in subsection (1)(a), (b), or (c) of this section conclusively establishes the authority of the officer to perform the notarial act. [2017 c 281 § 13.]

42.45.120 Foreign notarial act. (1) In this section, "foreign state" means a government other than the United States, a state, or a federally recognized Indian tribe.

(2) If a notarial act is performed under the authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this state as if performed by a notarial officer of this state.

(3) If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

(4) The signature and official stamp of an individual holding an office described in subsection (3) of this section are prima facie evidence that the signature is genuine and the individual holds the designated title.

(5) An apostille in the form prescribed by the Hague Convention of October 5, 1961, and issued by a foreign state party to the Hague Convention conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

(6) A consular authentication issued by an individual designated by the United States department of state as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office. [2017 c 281 § 14.]

42.45.130 Certificate of notarial act. (Effective until October 1, 2020.) (1) A notarial act must be evidenced by a certificate. The certificate must:

(a) Be executed contemporaneously with the performance of the notarial act;

(b) Be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the department;

(c) Identify the jurisdiction in which the notarial act is performed;

(d) Contain the title of office of the notarial officer;

(e) Be written in English or in dual languages, one of which must be English; and

(f) If the notarial officer is a notary public, indicate the date of expiration, if any, of the officer's commission.

(2) Regarding notarial act certificates on a tangible record:

(a) If a notarial act regarding a tangible record is performed by a notary public, an official stamp must be affixed to or embossed on the certificate.

(b) If a notarial act regarding a tangible record is performed by a notarial officer other than a notary public and the certificate contains the information specified in subsection (1)(b), (c), and (d) of this section, an official stamp may be affixed to or embossed on the certificate.

(3) Regarding notarial act certificates on an electronic record:

(a) If a notarial act regarding an electronic record is performed by an electronic records notary public, an official stamp must be attached to or logically associated with the certificate.

(b) If a notarial act regarding an electronic record is performed by a notarial officer other than a notary public and the certificate contains the information specified in subsection (1)(b), (c), and (d) of this section, an official stamp may be attached to or logically associated with the certificate.

(4) A certificate of a notarial act is sufficient if it meets the requirements of subsections (1) through (3) of this section and:

(a) Is in a short form set forth in RCW 42.45.140;

(b) Is in a form otherwise permitted by the law of this state;

(c) Is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or

(d) Sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in RCW 42.45.030, 42.45.040, and 42.45.050 or law of this state other than this chapter.

(5) By executing a certificate of a notarial act, a notarial officer certifies that the officer has complied with the requirements and made the determinations specified in RCW 42.45.030, 42.45.040, and 42.45.050.

(6) A notarial officer may not affix the officer's signature to, or logically associate it with, a certificate until the notarial act has been performed.

(7) If a notarial act is performed regarding a tangible record, a certificate must be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate must be affixed to, or logically associated with, the electronic record. If the director has established standards pursuant to RCW 42.45.250 for attaching, affixing, or logically associating the certificate, the process must conform to the standards. [2017 c 281 § 15.]

42.45.130 Certificate of notarial act. (Effective October 1, 2020.) (1) A notarial act must be evidenced by a certificate. The certificate must:

(a) Be executed contemporaneously with the performance of the notarial act;

(b) Be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the department;

(c) Identify the jurisdiction in which the notarial act is performed;

(d) Contain the title of office of the notarial officer;

(e) Be written in English or in dual languages, one of which must be English;

(f) If the notarial officer is a notary public, indicate the date of expiration, if any, of the officer's commission; and

(g) If the notarial act is performed under RCW 42.45.280, indicate that the notarial act was performed using communication technology.

(2) Regarding notarial act certificates on a tangible record:

(a) If a notarial act regarding a tangible record is performed by a notary public, an official stamp must be affixed to or embossed on the certificate.

(b) If a notarial act regarding a tangible record is performed by a notarial officer other than a notary public and the certificate contains the information specified in subsection (1)(b), (c), and (d) of this section, an official stamp may be affixed to or embossed on the certificate.

(3) Regarding notarial act certificates on an electronic record:

(a) If a notarial act regarding an electronic record is performed by an electronic records notary public, an official stamp must be attached to or logically associated with the certificate.

(b) If a notarial act regarding an electronic record is performed by a notarial officer other than a notary public and the certificate contains the information specified in subsection (1)(b), (c), and (d) of this section, an official stamp may be attached to or logically associated with the certificate.

(4) A certificate of a notarial act is sufficient if it meets the requirements of subsections (1) through (3) of this section and:

- (a) Is in a short form set forth in RCW 42.45.140;
- (b) Is in a form otherwise permitted by the law of this state;

(c) Is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or

(d) Sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in RCW 42.45.030, 42.45.040, and 42.45.050 or law of this state other than this chapter.

(5) By executing a certificate of a notarial act, a notarial officer certifies that the officer has complied with the requirements and made the determinations specified in RCW 42.45.030, 42.45.040, and 42.45.050.

(6) A notarial officer may not affix the officer's signature to, or logically associate it with, a certificate until the notarial act has been performed.

(7) If a notarial act is performed regarding a tangible record, a certificate must be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate must be affixed to, or logically associated with, the electronic record. If the director has established standards pursuant to RCW 42.45.250 for attaching, affixing, or logically associating the certificate, the process must conform to the standards. [2019 c 154 § 4; 2017 c 281 § 15.]

Effective date—2019 c 154: See note following RCW 42.45.280.

42.45.140 Short form certificates. (Effective until October 1, 2020.) The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by RCW 42.45.130 (1) through (4):

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(1) For an acknowledgment in an individual capacity:

State of

County of

This record was acknowledged before me on (date) by (name(s) of individuals).

.....
(Signature of notary public)

(Stamp)

.....
(Title of office)

My commission expires:

.....
(date)

(2) For an acknowledgment in a representative capacity:

State of

County of

This record was acknowledged before me on (date) by (name(s) of individuals) as (type of authority, such as officer or trustee) of (name of party on behalf of whom record was executed).

.....
(Signature of notary public)

(Stamp)

.....
(Title of office)

My commission expires:

.....
(date)

(3) For verification on oath or affirmation:

State of

County of

Signed and sworn to (or affirmed) before me on (date) by (name(s) of individuals making statement).

.....
(Signature of notary public)

(Stamp)

.....
(Title of office)

My commission expires:

.....
(date)

(4) For witnessing or attesting a signature:

State of

County of

Signed or attested before me on (date) by (name(s) of individuals).

.....
(Signature of notary public)

(Stamp)

.....
 (Title of office)
 My commission expires:

 (date)

(5) For certifying or attesting a copy of a record:
 State of
 County of
 I certify that this is a true and correct copy of a record in
 the possession of

Dated:

.....
 (Signature of notary public)

(Stamp)

.....
 (Title of office)
 My commission expires:

 (date)

(6) For certifying the occurrence of an event or the per-
 formance of any act:
 State of
 County of
 I certify that the event described in this document has
 occurred or been performed.

Dated:

.....
 (Signature of notary public)

(Stamp)

.....
 (Title of office)
 My commission expires:

 (date)

[2017 c 281 § 16.]

42.45.140 Short form certificates. (Effective October 1, 2020.) The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by RCW 42.45.130 (1) through (4) and 42.45.280:

(1) For an acknowledgment in an individual capacity:
 State of
 County of
 This record was acknowledged before me on (date) by
(name(s) of individuals).

.....

(Signature of notary public)

(Stamp)

.....
 (Title of office)
 My commission expires:

 (date)

(2) For an acknowledgment in a representative capacity:
 State of
 County of

This record was acknowledged before me on (date) by
(name(s) of individuals) as (type of authority, such as officer
 or trustee) of (name of party on behalf of whom record was
 executed).

.....
 (Signature of notary public)

(Stamp)

.....
 (Title of office)
 My commission expires:

 (date)

(3) For verification on oath or affirmation:
 State of
 County of

Signed and sworn to (or affirmed) before me on (date) by
(name(s) of individuals making statement).

.....
 (Signature of notary public)

(Stamp)

.....
 (Title of office)
 My commission expires:

 (date)

(4) For witnessing or attesting a signature:
 State of
 County of

Signed or attested before me on (date) by (name(s) of
 individuals).

.....
 (Signature of notary public)

(Stamp)

.....
 (Title of office)
 My commission expires:

(date)

(5) For certifying or attesting a copy of a record:

State of
County of

I certify that this is a true and correct copy of a record in the possession of

Dated:

.....
(Signature of notary public)

(Stamp)

.....
(Title of office)
My commission expires:
.....
(date)

(6) For certifying the occurrence of an event or the performance of any act:

State of
County of

I certify that the event described in this document has occurred or been performed.

Dated:

.....
(Signature of notary public)

(Stamp)

.....
(Title of office)
My commission expires:
.....
(date)

[2019 c 154 § 5; 2017 c 281 § 16.]

Effective date—2019 c 154: See note following RCW 42.45.280.

42.45.150 Official stamp. (1) It is unlawful for any person intentionally to manufacture, give, sell, procure, or possess a seal or stamp evidencing the current appointment of a person as a notary public until the director has issued a notary commission. The official seal or stamp of a notary public must include:

- (a) The words "notary public";
- (b) The words "state of Washington";
- (c) The notary public's name as commissioned;
- (d) The notary public's commission expiration date; and
- (e) Any other information required by the director.

(2) The size and form or forms of the seal or stamp shall be prescribed by the director in rule.

(3) The seal or stamp must be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

(4) The seal or stamp used at the time that a notarial act is performed must be the seal or stamp evidencing the notary

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public's commission in effect as of such time, even if the notary public has received the seal or stamp evidencing his or her next commission. [2017 c 281 § 17.]

42.45.160 Stamping device—Security. (1) A notary public is responsible for the security of the notary public's stamping device and may not allow another individual to use the device to perform a notarial act. On resignation from, or the revocation or expiration of, the notary public's commission, or on the expiration of the date set forth in the stamping device, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing, or securing it against use in a manner that renders it unusable. On the death or adjudication of incompetency of a notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the stamping device shall render it unusable by destroying, defacing, damaging, erasing, or securing it against use in a manner that renders it unusable.

(2) The seal or stamp should be kept in a locked and secured area, under the direct and exclusive control of the notary public. If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian shall notify promptly the department on discovering that the device is lost or stolen. Any replacement device must contain a variance from the lost or stolen seal or stamp. [2017 c 281 § 18.]

42.45.170 Fees. (1) The director may establish by rule the maximum fees that may be charged by notaries public for various notarial services.

(2) A notary public need not charge fees for notarial acts. [2017 c 281 § 19.]

42.45.180 Journal. (1) A notary public shall maintain a journal in which the notary public chronicles all notarial acts that the notary public performs. The notary public shall retain the journal for ten years after the performance of the last notarial act chronicled in the journal. The journal is to be destroyed as required by the director in rule upon completion of the ten-year period.

(2) Notwithstanding any other provision of this chapter requiring a notary public to maintain a journal, a notary public who is an attorney licensed to practice law in this state is not required to chronicle a notarial act in a journal if documentation of the notarial act is otherwise maintained by professional practice.

(3) A notary public shall maintain only one tangible journal at a time to chronicle notarial acts, whether those notarial acts are performed regarding tangible or electronic records. The journal must be a permanent, bound register with numbered pages. An electronic records notary public may also maintain an electronic format journal, which can be kept concurrently with the tangible journal. The electronic journal must be in a permanent, tamper-evident electronic format complying with the rules of the director.

(4) An entry in a journal must be made contemporaneously with performance of the notarial act and contain the following information:

- (a) The date and time of the notarial act;

(b) A description of the record, if any, and type of notarial act;

(c) The full name and address of each individual for whom the notarial act is performed; and

(d) Any additional information as required by the director in rule.

(5) The journal shall be kept in a locked and secured area, under the direct and exclusive control of the notary public. Failure to secure the journal may be cause for the director to take administrative action against the commission held by the notary public. If a notary public's journal is lost or stolen, the notary public promptly shall notify the department on discovering that the journal is lost or stolen.

(6) On resignation from, or the revocation or suspension of, a notary public's commission, the notary public shall retain the notary public's journal in accordance with subsection (1) of this section and inform the department where the journal is located. [2017 c 281 § 20.]

42.45.190 Notarial acts on electronic records—Technology—Notification—Standards. (1) A notary public may not perform notarial acts with respect to electronic records unless the notary public holds a commission as an electronic records notary public.

(2) An electronic records notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records that meet the standards provided in subsection (4) of this section. A person cannot require an electronic records notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.

(3) Before an electronic records notary public performs the notary public's initial notarial act with respect to an electronic record, an electronic records notary public shall notify the department that he or she will be performing notarial acts with respect to electronic records and identify the technology the electronic records notary public intends to use.

(4) The director shall establish standards for approval of technology in rule. If the technology conforms to the standards, the director shall approve the use of the technology. [2017 c 281 § 21.]

42.45.200 Commission—Qualifications—Oath—Surety bond—Commission term—Electronic records notary public. (1) An individual qualified under subsection (2) of this section may apply to the director for a commission as a notary public. The applicant shall comply with and provide the information required by rules established by the director and pay any application fee.

(2) An applicant for a commission as a notary public must:

(a) Be at least eighteen years of age;

(b) Be a citizen or permanent legal resident of the United States;

(c) Be a resident of or have a place of employment or practice in this state;

(d) Be able to read and write English; and

(e) Not be disqualified to receive a commission under RCW 42.45.210.

(3) Before issuance of a commission as a notary public, an applicant for the commission shall execute an oath of

office and submit it to the department in the format prescribed by the director in rule.

(4) Before issuance of a commission as a notary public, the applicant for a commission shall submit to the director an assurance in the form of a surety bond in the amount established by the director in rule. The assurance must be issued by a surety or other entity licensed or authorized to write surety bonds in this state. The assurance must be effective for a four-year term or for a term that expires on the date the notary public's commission expires. The assurance must cover acts performed during the term of the notary public's commission and must be in the form prescribed by the director. If a notary public violates law with respect to notaries public in this state, the surety or issuing entity is liable under the assurance. The surety or issuing entity shall give at least thirty days' notice to the department before canceling the assurance. The surety or issuing entity shall notify the department not later than thirty days after making a payment to a claimant under the assurance. A notary public may perform notarial acts in this state only during the period that a valid assurance is on file with the department.

(5) On compliance with this section, the director shall issue a commission as a notary public to an applicant for a term of four years or for a term that expires on the date of expiration of the assurance, whichever comes first.

(6) A commission to act as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by law of this state on public officials or employees.

(7) An individual qualified under (a) of this subsection may apply to the director for a commission as an electronic records notary public. The applicant shall comply with and provide the information required by rules established by the director and pay the relevant application fee.

(a) An applicant for a commission as an electronic records notary public must hold a commission as notary public.

(b) An electronic records notary public commission may take the form of an endorsement to the notary public commission if deemed appropriate by the director. [2017 c 281 § 22.]

42.45.210 Grounds to deny, refuse to renew, revoke, suspend, or condition commission of notary public. (1) In addition to conduct defined as unprofessional under RCW 18.235.130, the director may take action as provided for in RCW 18.235.110 against a commission as notary public for any act or omission that demonstrates the individual lacks the honesty, integrity, competence, or reliability to act as a notary public, including:

(a) Failure to comply with this chapter;

(b) A fraudulent, dishonest, or deceitful misstatement or omission in the application for a commission as a notary public submitted to the department;

(c) A conviction of the applicant or notary public of any felony or crime involving fraud, dishonesty, or deceit;

(d) A finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty, or deceit;

(e) Failure by the notary public to discharge any duty required of a notary public, whether by this chapter, rules of the director, or any federal or state law;

(f) Use of false or misleading advertising or representation by the notary public representing that the notary public has a duty, right, or privilege that the notary public does not have;

(g) Violation by the notary public of a rule of the director regarding a notary public;

(h) Denial, refusal to renew, revocation, suspension, or conditioning of a notary public commission in another state;

(i) Failure of the notary public to maintain an assurance as provided in RCW 42.45.200(4); or

(j) Making or noting a protest of a negotiable instrument without being a person authorized by RCW 42.45.030(5).

(2) If the director denies, refuses to renew, revokes, suspends, imposes conditions, or otherwise sanctions, a commission as a notary public, the applicant or notary public is entitled to timely notice and hearing in accordance with chapter 34.05 RCW.

(3) The authority of the director to take disciplinary action on a commission as a notary public does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law. [2017 c 281 § 23.]

42.45.220 Database of notaries public. The director shall maintain an electronic database of notaries public:

(1) Through which a person may verify the authority of a notary public to perform notarial acts; and

(2) Which indicates whether a notary public has notified the director that the notary public will be performing notarial acts on electronic records. [2017 c 281 § 24.]

42.45.230 Prohibited acts. (1) A commission as a notary public does not authorize an individual to:

(a) Assist persons in drafting legal records, give legal advice, or otherwise practice law;

(b) Act as an immigration consultant or an expert on immigration matters;

(c) Represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship, or related matters;

(d) Receive compensation for performing any of the activities listed in this subsection; or

(e) Provide court reporting services.

(2) A notary public may not engage in false or deceptive advertising.

(3) A notary public, other than an attorney licensed to practice law in this state, or a Washington-licensed limited license legal technician acting within the scope of his or her license, may not use the term "notario" or "notario publico."

(4) A notary public, other than an attorney licensed to practice law in this state or a limited license legal technician acting within the scope of his or her license, may not assist another person in selecting the appropriate certificate required by RCW 42.45.130.

(5) A notary public, other than an attorney licensed to practice law in this state, or a Washington-licensed limited license legal technician acting within the scope of his or her license, may not advertise or represent that the notary public may assist persons in drafting legal records, give legal

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advice, or otherwise practice law. If a notary public who is not an attorney licensed to practice law in this state, or a Washington-licensed limited license legal technician acting within the scope of his or her license, in any manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media, and the internet, the notary public shall include the following statement, or an alternate statement authorized or required by the director, in the advertisement or representation, prominently and in each language used in the advertisement or representation: "I am not an attorney licensed to practice law in this state. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities." If the form of advertisement or representation is not broadcast media, print media, or the internet and does not permit inclusion of the statement required by this subsection because of size, it must be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

(6) Except as otherwise allowed by law, a notary public may not withhold access to or possession of an original record provided by a person that seeks performance of a notarial act by the notary public. A notary public may not maintain copies or electronic images of documents notarized unless the copies or images are maintained by an attorney or Washington-licensed limited license legal technician acting within his or her scope of practice for the performance of legal services or for other services performed for the client and the copies or images are not maintained solely as part of the notary transaction. [2017 c 281 § 25.]

42.45.240 Validity of notarial acts. Except as otherwise provided in RCW 42.45.020(2), the failure of a notarial officer to perform a duty or meet a requirement specified in this chapter does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under this chapter does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on law of this state other than this chapter or law of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts. Nothing in chapter 281, Laws of 2017 gives the director authority to invalidate a notarial act. [2017 c 281 § 26.]

42.45.250 Rules. (1) The director may adopt rules necessary to implement this chapter.

(2) In adopting, amending, or repealing rules about notarial acts with respect to electronic records, the director shall consider standards, practices, and customs of other jurisdictions that substantially enact this chapter. [2017 c 281 § 27.]

42.45.260 Commissions in effect July 1, 2018—Continuation. A commission as a notary public in effect on July 1, 2018, continues until its date of expiration. A notary public who applies to renew a commission as a notary public on or after July 1, 2018, is subject to and shall comply with this chapter. A notary public, in performing notarial acts after

July 1, 2018, shall comply with this chapter. [2017 c 281 § 28.]

42.45.270 Uniform regulation of business and professions act—Application. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter. [2017 c 281 § 32.]

42.45.280 Electronic records notary public. (Effective October 1, 2020.) (1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Communication technology" means an electronic device or process that:

(i) Allows an electronic records notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and

(ii) When necessary under and consistent with other applicable law, facilitates communication with a remotely located individual with a vision, hearing, or speech impairment.

(b) "Foreign state" means a jurisdiction other than the United States, a state, or a federally recognized Indian tribe.

(c) "Identity proofing" means a process or service by which a third person provides an electronic records notary public with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources.

(d) "Outside the United States" means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory, insular possession, or other location subject to the jurisdiction of the United States.

(e) "Remotely located individual" means an individual who is not in the physical presence of the electronic records notary public who performs a notarial act under subsection (3) of this section.

(2) A remotely located individual complies with RCW 42.45.040 by using communication technology to appear before an electronic records notary public.

(3) An electronic records notary public located in this state may perform a notarial act using communication technology for a remotely located individual if:

(a) The electronic records notary public:

(i) Has personal knowledge under RCW 42.45.050(1) of the identity of the remotely located individual;

(ii) Has satisfactory evidence of the identity of the remotely located individual by a verification on oath or affirmation of a credible witness appearing before and identified by the electronic records notary public under RCW 42.45.050(2); or

(iii) Has obtained satisfactory evidence of the identity of the remotely located individual by using at least two different types of identity proofing;

(b) The electronic records notary public is reasonably able to confirm that a record before the electronic records notary public is the same record in which the remotely located individual made a statement or on which the individual executed a signature;

(c) The electronic records notary public, or a person acting on behalf of the electronic records notary public, creates an audio-visual recording of the performance of the notarial act; and

(d) For a remotely located individual located outside the United States:

(i) The record:

(A) Is to be filed with or relates to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of the United States; or

(B) Involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States; and

(ii) The act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.

(4) If a notarial act is performed under this section, the certificate of notarial act required by RCW 42.45.130 and the short form certificate provided in RCW 42.45.140 must indicate that the notarial act was performed using communication technology.

(5) A short form certificate provided in RCW 42.45.140 for a notarial act subject to this section is sufficient if it:

(a) Complies with rules adopted under subsection (8)(a) of this section; or

(b) Is in the form provided by RCW 42.45.140 and contains a statement substantially as follows: "This notarial act involved the use of communication technology."

(6) An electronic records notary public, a guardian, conservator, or agent of an electronic records notary public, or a personal representative of a deceased electronic records notary public shall retain the audio-visual recording created under subsection (3)(c) of this section or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by rule adopted under subsection (8)(d) of this section, the recording must be retained for a period of at least ten years after the recording is made.

(7) Before an electronic records notary public performs the electronic records notary public's initial notarial act under this section, the electronic records notary public must notify the director that the electronic records notary public will be performing notarial acts and identify the technologies the electronic records notary public intends to use. If the director has established standards under subsection (8) of this section and RCW 42.45.250 for approval of communication technology or identity proofing, the communication technology and identity proofing must conform to the standards.

(8) In addition to adopting rules under RCW 42.45.250, the director may adopt rules under this section regarding performance of a notarial act. The rules may:

(a) Prescribe the means of performing a notarial act involving a remotely located individual using communication technology;

(b) Establish standards for communication technology and identity proofing;

(c) Establish requirements or procedures to approve providers of communication technology and the process of identity proofing; and

(d) Establish standards and a period for the retention of an audio-visual recording created under subsection (3)(c) of this section.

(9) Before adopting, amending, or repealing a rule governing performance of a notarial act with respect to a remotely located individual, the director must consider:

(a) The most recent standards regarding the performance of a notarial act with respect to a remotely located individual adopted by national standard-setting organizations and the recommendations of the national association of secretaries of state;

(b) Standards, practices, and customs of other jurisdictions that have laws substantially similar to this section; and

(c) The views of governmental officials and entities and other interested persons. [2019 c 154 § 1.]

Effective date—2019 c 154: "This act takes effect October 1, 2020." [2019 c 154 § 10.]

42.45.900 Short title. (Effective until October 1, 2020.) This chapter may be known and cited as the revised uniform law on notarial acts. [2017 c 281 § 1.]

42.45.900 Short title. (Effective October 1, 2020.) This chapter may be known and cited as the 2018 revised uniform law on notarial acts. [2019 c 154 § 6; 2017 c 281 § 1.]

Effective date—2019 c 154: See note following RCW 42.45.280.

42.45.901 Application. This chapter applies to a notarial act performed on or after July 1, 2018. [2017 c 281 § 3.]

42.45.902 Savings. This chapter does not affect the validity or effect of a notarial act performed before July 1, 2018. [2017 c 281 § 29.]

42.45.903 Application—Construction. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it. [2017 c 281 § 30.]

42.45.904 Relation to electronic signatures in global and national commerce act. This chapter modifies, limits, and supersedes the electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. Sec. 7003(b). [2017 c 281 § 31.]

42.45.905 Effective date—2017 c 281. This act takes effect July 1, 2018. [2017 c 281 § 44.]

Chapter 42.48 RCW

RELEASE OF RECORDS FOR RESEARCH

Sections

42.48.010	Definitions.
42.48.020	Access to personal records.
42.48.030	Charge for costs of assistance.
42.48.040	Disclosure by research professional.
42.48.050	Unauthorized disclosure—Penalties.

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42.48.060 Exclusions from chapter.

42.48.010 Definitions. For the purposes of this chapter, the following definitions apply:

(1) "Individually identifiable" means that a record contains information which reveals or can likely be associated with the identity of the person or persons to whom the record pertains.

(2) "Legally authorized representative" means a person legally authorized to give consent for the disclosure of personal records on behalf of a minor or a legally incompetent adult.

(3) "Personal record" means any information obtained or maintained by a state agency which refers to a person and which is declared exempt from public disclosure, confidential, or privileged under state or federal law.

(4) "Research" means a planned and systematic sociological, psychological, epidemiological, biomedical, or other scientific investigation carried out by a state agency, by a scientific research professional associated with a bona fide scientific research organization, or by a graduate student currently enrolled in an advanced academic degree curriculum, with an objective to contribute to scientific knowledge, the solution of social and health problems, or the evaluation of public benefit and service programs. This definition excludes methods of record analysis and data collection that are subjective, do not permit replication, and are not designed to yield reliable and valid results.

(5) "Research record" means an item or grouping of information obtained for the purpose of research from or about a person or extracted for the purpose of research from a personal record.

(6) "State agency" means: (a) The department of social and health services; (b) the department of corrections; (c) the department of health; or (d) the department of children, youth, and families. [2019 c 88 § 1; 2018 c 58 § 20; 2007 c 17 § 6; 1989 1st ex.s. c 9 § 207; 1985 c 334 § 1.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

Additional notes found at www.leg.wa.gov

42.48.020 Access to personal records. (1) A state agency may authorize or provide access to or provide copies of an individually identifiable personal record for research purposes if informed written consent for the disclosure has been given to the appropriate department secretary, or the president of the institution, as applicable, or his or her designee, by the person to whom the record pertains or, in the case of minors and legally incompetent adults, the person's legally authorized representative.

(2) A state agency may authorize or provide access to or provide copies of an individually identifiable personal record for research purposes without the informed consent of the person to whom the record pertains or the person's legally authorized representative, only if:

(a) The state agency adopts research review and approval rules including, but not limited to, the requirement that the appropriate department secretary, or the president of the institution, as applicable, appoint a standing human research review board competent to review research proposals as to ethical and scientific soundness; and the review board determines that the disclosure request has scientific merit and is of

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importance in terms of the agency's program concerns, that the research purposes cannot be reasonably accomplished without disclosure of the information in individually identifiable form and without waiver of the informed consent of the person to whom the record pertains or the person's legally authorized representative, that disclosure risks have been minimized, and that remaining risks are outweighed by anticipated health, safety, or scientific benefits; and

(b) The disclosure does not violate federal law or regulations; and

(c) The state agency negotiates with the research professional receiving the records or record information a written and legally binding confidentiality agreement prior to disclosure. The agreement shall:

(i) Establish specific safeguards to assure the continued confidentiality and security of individually identifiable records or record information;

(ii) Ensure that the research professional will report or publish research findings and conclusions in a manner that does not permit identification of the person whose record was used for the research. Final research reports or publications shall not include photographs or other visual representations contained in personal records;

(iii) Establish that the research professional will destroy the individual identifiers associated with the records or record information as soon as the purposes of the research project have been accomplished and notify the agency to this effect in writing;

(iv) Prohibit any subsequent disclosure of the records or record information in individually identifiable form except as provided in RCW 42.48.040; and

(v) Provide for the signature of the research professional, of any of the research professional's team members who require access to the information in identified form, and of the agency official authorized to approve disclosure of identifiable records or record information for research purposes. [1985 c 334 § 2.]

42.48.030 Charge for costs of assistance. In addition to the copying charges provided in RCW 42.56.120, a state agency may impose a reasonable charge for costs incurred in providing assistance in the following research activities involving personal records:

(1) Manual or computer screening of personal records for scientific sampling purposes according to specifications provided by the research professional;

(2) Manual or computer extraction of information from a universe or sample of personal records according to specifications provided by the research professional;

(3) Statistical manipulation or analysis of personal record information, whether manually or by computer, according to specifications provided by the research professional.

The charges imposed by the agency may not exceed the amount necessary to reimburse the agency for its actual costs in providing requested research assistance. [2005 c 274 § 291; 1985 c 334 § 3.]

42.48.040 Disclosure by research professional. No research professional who has established an individually identifiable research record from personal record information

pursuant to RCW 42.48.020(2), or who has established a research record from data or information voluntarily provided by an agency client or employee under a written confidentiality assurance for the explicit purpose of research, may disclose such a record in individually identifiable form unless:

(1) The person to whom the research record pertains or the person's legally authorized representative has given prior informed written consent for the disclosure; or

(2) The research professional reasonably believes that disclosure will prevent or minimize injury to a person and the disclosure is limited to information necessary to protect the person who has been or may be injured, and the research professional reports the disclosure only to the person involved or the person's guardian, the person's physician, and the agency; or

(3)(a) The research record is disclosed in individually identifiable form for the purposes of auditing or evaluating a research program; and

(b) The audit or evaluation is authorized or required by federal or state law or regulation or is based upon an explicit provision in a research contract, grant, or other written research agreement; and

(c) No subsequent disclosure of the research record in individually identifiable form will be made by the auditor or evaluator except as provided in this section; or

(4) The research record is furnished in compliance with a search warrant or court order: PROVIDED, That:

(a) The court issues the search warrant or judicial subpoena concerning the research record solely for the purpose of facilitating inquiry into an alleged violation of law by the research professional using the record for a research purpose or by the agency; and

(b) Any research record obtained pursuant to (a) of this subsection and any information directly or indirectly derived from the research record shall remain confidential to the extent possible and shall not be used as evidence in an administrative, judicial, or legislative proceeding except against the research professional using the record for a research purpose or against the state agency. [1985 c 334 § 4.]

42.48.050 Unauthorized disclosure—Penalties.

Unauthorized disclosure, whether wilful or negligent, by a research professional who has obtained an individually identifiable personal record or record information from a state agency pursuant to RCW 42.48.020(2) is a gross misdemeanor. In addition, violation of any provision of this chapter by the research professional or the state agency may subject the research professional or the agency to a civil penalty of not more than ten thousand dollars for each such violation. [1985 c 334 § 5.]

42.48.060 Exclusions from chapter. Nothing in this chapter is applicable to, or in any way affects, the powers and duties of the state auditor or the joint legislative audit and review committee. [1996 c 288 § 34; 1985 c 334 § 6.]

Chapter 42.52 RCW
ETHICS IN PUBLIC SERVICE

Sections

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42.52.040	Assisting in transactions.
42.52.050	Confidential information—Improperly concealed records.
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42.52.901	Liberal construction.
42.52.903	Serving on board, committee, or commission not prevented.
42.52.904	Effective date—1994 c 154.
42.52.906	Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

42.52.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means any state board, commission, bureau, committee, department, institution, division, or tribunal in the legislative, executive, or judicial branch of state government. "Agency" includes all elective offices, the state legislature, those institutions of higher education created and supported by the state government, and those courts that are parts of state government.

(2) "Assist" means to act, or offer or agree to act, in such a way as to help, aid, advise, furnish information to, or otherwise provide assistance to another person, believing that the action is of help, aid, advice, or assistance to the person and with intent so to assist such person.

(3) "Beneficial interest" has the meaning ascribed to it under the Washington case law. However, an ownership interest in a mutual fund or similar investment pooling fund in which the owner has no management powers does not constitute a beneficial interest in the entities in which the fund or pool invests.

(4) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, or transferred, or to be paid, loaned, granted, or transferred for, or in consideration of, personal services to any person.

(5) "Confidential information" means (a) specific information, rather than generalized knowledge, that is not available to the general public on request or (b) information made confidential by law.

(6) "Contract" or "grant" means an agreement between two or more persons that creates an obligation to do or not to do a particular thing. "Contract" or "grant" includes, but is not limited to, an employment contract, a lease, a license, a purchase agreement, or a sales agreement.

(7) "Ethics boards" means the commission on judicial conduct, the legislative ethics board, and the executive ethics board.

(8) "Family" has the same meaning as "immediate family" in RCW 42.17A.005.

(9) "Gift" means anything of economic value for which no consideration is given. "Gift" does not include:

(a) Items from family members or friends where it is clear beyond a reasonable doubt that the gift was not made as part of any design to gain or maintain influence in the agency of which the recipient is an officer or employee;

(b) Items related to the outside business of the recipient that are customary and not related to the recipient's performance of official duties;

(c) Items exchanged among officials and employees or a social event hosted or sponsored by a state officer or state employee for coworkers;

(d) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence

expenses incurred the day before through the day after the event;

(e) Items a state officer or state employee is authorized by law to accept;

(f) Payment of enrollment and course fees and reasonable travel expenses attributable to attending seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;

(g) Items returned by the recipient to the donor within thirty days of receipt or donated to a charitable organization within thirty days of receipt;

(h) Campaign contributions reported under chapter 42.17A RCW;

(i) Discounts available to an individual as a member of an employee group, occupation, or similar broad-based group; and

(j) Awards, prizes, scholarships, or other items provided in recognition of academic or scientific achievement.

(10) "Head of agency" means the chief executive officer of an agency. In the case of an agency headed by a commission, board, committee, or other body consisting of more than one natural person, agency head means the person or board authorized to appoint agency employees and regulate their conduct.

(11) "Honorarium" means money or thing of value offered to a state officer or state employee for a speech, appearance, article, or similar item or activity in connection with the state officer's or state employee's official role.

(12) "Official duty" means those duties within the specific scope of employment of the state officer or state employee as defined by the officer's or employee's agency or by statute or the state Constitution.

(13) "Participate" means to participate in state action or a proceeding personally and substantially as a state officer or state employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation, or otherwise but does not include preparation, consideration, or enactment of legislation or the performance of legislative duties.

(14) "Person" means any individual, partnership, association, corporation, firm, institution, or other entity, whether or not operated for profit.

(15) "Regulatory agency" means any state board, commission, department, or officer, except those in the legislative or judicial branches, authorized by law to conduct adjudicative proceedings, issue permits or licenses, or to control or affect interests of identified persons.

(16) "Responsibility" in connection with a transaction involving the state, means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or through subordinates, effectively to approve, disapprove, or otherwise direct state action in respect of such transaction.

(17) "State action" means any action on the part of an agency, including, but not limited to:

(a) A decision, determination, finding, ruling, or order; and

(b) A grant, payment, award, license, contract, transaction, sanction, or approval, or the denial thereof, or failure to act with respect to a decision, determination, finding, ruling, or order.

(18) "State employee" means an individual who is employed by an agency in any branch of state government. For purposes of this chapter, employees of the superior courts are not state officers or state employees.

(19) "State officer" means every person holding a position of public trust in or under an executive, legislative, or judicial office of the state. "State officer" includes judges of the superior court, judges of the court of appeals, justices of the supreme court, members of the legislature together with the secretary of the senate and the chief clerk of the house of representatives, holders of elective offices in the executive branch of state government, chief executive officers of state agencies, members of boards, commissions, or committees with authority over one or more state agencies or institutions, and employees of the state who are engaged in supervisory, policy-making, or policy-enforcing work. For the purposes of this chapter, "state officer" also includes any person exercising or undertaking to exercise the powers or functions of a state officer.

(20) "Thing of economic value," in addition to its ordinary meaning, includes:

(a) A loan, property interest, interest in a contract or other chose in action, and employment or another arrangement involving a right to compensation;

(b) An option, irrespective of the conditions to the exercise of the option; and

(c) A promise or undertaking for the present or future delivery or procurement.

(21)(a) "Transaction involving the state" means a proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other similar matter that the state officer, state employee, or former state officer or state employee in question believes, or has reason to believe:

(i) Is, or will be, the subject of state action; or

(ii) Is one to which the state is or will be a party; or

(iii) Is one in which the state has a direct and substantial proprietary interest.

(b) "Transaction involving the state" does not include the following: Preparation, consideration, or enactment of legislation, including appropriation of moneys in a budget, or the performance of legislative duties by an officer or employee; or a claim, case, lawsuit, or similar matter if the officer or employee did not participate in the underlying transaction involving the state that is the basis for the claim, case, or lawsuit.

(22) "University" includes "state universities" and "regional universities" as defined in RCW 28B.10.016 and also includes any research or technology institute affiliated with a university, including without limitation, the *Spokane intercollegiate research and technology institute and the *Washington technology center.

(23) "University research employee" means a state officer or state employee employed by a university, but only to the extent the state officer or state employee is engaged in research, technology transfer, approved consulting activities related to research and technology transfer, or other incident-

tal activities. [2011 c 60 § 28; 2005 c 106 § 1; 1998 c 7 § 1; 1996 c 213 § 1; 1994 c 154 § 101.]

Reviser's note: *(1) The Spokane intercollegiate research and technology institute and the Washington technology center were abolished by 2011 1st sp.s. c 14 § 17.

(2) The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Effective date—2011 c 60: See RCW 42.17A.919.

42.52.020 Activities incompatible with public duties.

No state officer or state employee may have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that is in conflict with the proper discharge of the state officer's or state employee's official duties. [1996 c 213 § 2; 1994 c 154 § 102.]

42.52.030 Financial interests in transactions. (1) No state officer or state employee, except as provided in subsection (2) of this section, may be beneficially interested, directly or indirectly, in a contract, sale, lease, purchase, or grant that may be made by, through, or is under the supervision of the officer or employee, in whole or in part, or accept, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in the contract, sale, lease, purchase, or grant.

(2) No state officer or state employee may participate in a transaction involving the state in his or her official capacity with a person of which the officer or employee is an officer, agent, employee, or member, or in which the officer or employee owns a beneficial interest, except that an officer or employee of an institution of higher education or the *Spokane intercollegiate research and technology institute may serve as an officer, agent, employee, or member, or on the board of directors, board of trustees, advisory board, or committee or review panel for any nonprofit institute, foundation, or fund-raising entity; and may serve as a member of an advisory board, committee, or review panel for a governmental or other nonprofit entity. [2005 c 106 § 2; 1996 c 213 § 3; 1994 c 154 § 103.]

***Reviser's note:** The Spokane intercollegiate research and technology institute was abolished by 2011 1st sp.s. c 14 § 17.

42.52.040 Assisting in transactions. (1) Except in the course of official duties or incident to official duties, no state officer or state employee may assist another person, directly or indirectly, whether or not for compensation, in a transaction involving the state:

(a) In which the state officer or state employee has at any time participated; or

(b) If the transaction involving the state is or has been under the official responsibility of the state officer or state employee within a period of two years preceding such assistance.

(2) No state officer or state employee may share in compensation received by another for assistance that the officer or employee is prohibited from providing under subsection (1) or (3) of this section.

(3) A business entity of which a state officer or state employee is a partner, managing officer, or employee shall not assist another person in a transaction involving the state if

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the state officer or state employee is prohibited from doing so by subsection (1) of this section.

(4) This chapter does not prevent a state officer or state employee from assisting, in a transaction involving the state:

(a) The state officer's or state employee's parent, spouse or domestic partner, or child, or a child thereof for whom the officer or employee is serving as guardian, executor, administrator, trustee, or other personal fiduciary, if the state officer or state employee did not participate in the transaction; or

(b) Another state employee involved in disciplinary or other personnel administration proceedings. [2008 c 6 § 203; 1994 c 154 § 104.]

Additional notes found at www.leg.wa.gov

42.52.050 Confidential information—Improperly concealed records. (1) No state officer or state employee may accept employment or engage in any business or professional activity that the officer or employee might reasonably expect would require or induce him or her to make an unauthorized disclosure of confidential information acquired by the official or employee by reason of the official's or employee's official position.

(2) No state officer or state employee may make a disclosure of confidential information gained by reason of the officer's or employee's official position or otherwise use the information for his or her personal gain or benefit or the gain or benefit of another, unless the disclosure has been authorized by statute or by the terms of a contract involving (a) the state officer's or state employee's agency and (b) the person or persons who have authority to waive the confidentiality of the information.

(3) No state officer or state employee may disclose confidential information to any person not entitled or authorized to receive the information.

(4) No state officer or state employee may intentionally conceal a record if the officer or employee knew the record was required to be released under chapter 42.56 RCW, was under a personal obligation to release the record, and failed to do so. This subsection does not apply where the decision to withhold the record was made in good faith. [2005 c 274 § 292; 1996 c 213 § 4; 1994 c 154 § 105.]

42.52.060 Testimony of state officers and state employees. This chapter does not prevent a state officer or state employee from giving testimony under oath or from making statements required to be made under penalty of perjury or contempt. [1994 c 154 § 106.]

42.52.070 Special privileges. (1) Except as required to perform duties within the scope of employment, no state officer or state employee may use his or her position to secure special privileges or exemptions for himself or herself, or his or her spouse, child, parents, or other persons.

(2) For purposes of this section, and only as applied to legislators and employees of the legislative branch, "special privileges" includes, but is not limited to, engaging in behavior that constitutes harassment. As used in this section:

(a) "Harassment" means engaging in physical, verbal, visual, or psychological conduct that:

(i) Has the purpose or effect of interfering with the person's work performance;

(ii) Creates a hostile, intimidating, or offensive work environment; or

(iii) Constitutes sexual harassment.

(b) "Sexual harassment" means unwelcome or unwanted sexual advances, requests for sexual or romantic favors, sexually motivated bullying, or other verbal, visual, physical, or psychological conduct or communication of a sexual or romantic nature, when:

(i) Submission to the conduct or communication is either explicitly or implicitly a term or condition of current or future employment;

(ii) Submission to or rejection of the conduct or communication is used as the basis of an employment decision affecting the person; or

(iii) The conduct or communication unreasonably interferes with the person's job performance or creates a work environment that is hostile, intimidating, or offensive. [2019 c 383 § 1; 1994 c 154 § 107.]

42.52.080 Employment after public service. (1) No former state officer or state employee may, within a period of one year from the date of termination of state employment, accept employment or receive compensation from an employer if:

(a) The officer or employee, during the two years immediately preceding termination of state employment, was engaged in the negotiation or administration on behalf of the state or agency of one or more contracts with that employer and was in a position to make discretionary decisions affecting the outcome of such negotiation or the nature of such administration;

(b) Such a contract or contracts have a total value of more than ten thousand dollars; and

(c) The duties of the employment with the employer or the activities for which the compensation would be received include fulfilling or implementing, in whole or in part, the provisions of such a contract or contracts or include the supervision or control of actions taken to fulfill or implement, in whole or in part, the provisions of such a contract or contracts. This subsection shall not be construed to prohibit a state officer or state employee from accepting employment with a state employee organization.

(2) No person who has served as a state officer or state employee may, within a period of two years following the termination of state employment, have a direct or indirect beneficial interest in a contract or grant that was expressly authorized or funded by specific legislative or executive action in which the former state officer or state employee participated.

(3) No former state officer or state employee may accept an offer of employment or receive compensation from an employer if the officer or employee knows or has reason to believe that the offer of employment or compensation was intended, in whole or in part, directly or indirectly, to influence the officer or employee or as compensation or reward for the performance or nonperformance of a duty by the officer or employee during the course of state employment.

(4) No former state officer or state employee may accept an offer of employment or receive compensation from an employer if the circumstances would lead a reasonable person to believe the offer has been made, or compensation

given, for the purpose of influencing the performance or non-performance of duties by the officer or employee during the course of state employment.

(5) No former state officer or state employee may at any time subsequent to his or her state employment assist another person, whether or not for compensation, in any transaction involving the state in which the former state officer or state employee at any time participated during state employment. This subsection shall not be construed to prohibit any employee or officer of a state employee organization from rendering assistance to state officers or state employees in the course of employee organization business.

(6) As used in this section, "employer" means a person as defined in RCW 42.52.010 or any other entity or business that the person owns or in which the person has a controlling interest. For purposes of subsection (1) of this section, the term "employer" does not include a successor organization to the rural development council under chapter 43.31 RCW. [1999 c 299 § 3; 1994 c 154 § 108.]

42.52.090 Limited assistance by former state officers and employees. This chapter shall not be construed to prevent a former state officer or state employee from rendering assistance to others if the assistance is provided without compensation in any form and is limited to one or more of the following:

(1) Providing the names, addresses, and telephone numbers of state agencies or state employees;

(2) Providing free transportation to another for the purpose of conducting business with a state agency;

(3) Assisting a natural person or nonprofit corporation in obtaining or completing application forms or other forms required by a state agency for the conduct of a state business; or

(4) Providing assistance to the poor and infirm. [1994 c 154 § 109.]

42.52.100 Conditions on appearance before state agencies or doing business with the state—Hearing—Judicial review. (1) The head of an agency, upon finding that any former state officer or state employee of such agency or any other person has violated any provision of this chapter or rules adopted under it, may, in addition to any other powers the head of such agency may have, bar or impose reasonable conditions upon:

(a) The appearance before such agency of such former state officer or state employee or other person; and

(b) The conduct of, or negotiation or competition for, business with such agency by such former state officer or state employee or other person, such period of time as may reasonably be necessary or appropriate to effectuate the purposes of this chapter.

(2) Findings of violations referred to in subsection (1)(b) of this section shall be made on record after notice and hearing, conducted in accordance with the Washington Administrative Procedure Act, chapter 34.05 RCW. Such findings and orders are subject to judicial review.

(3) This section does not apply to the legislative or judicial branches of government. [1994 c 154 § 110; 1969 ex.s. c 234 § 27. Formerly RCW 42.18.270.]

42.52.110 Compensation for official duties or non-performance. No state officer or state employee may, directly or indirectly, ask for or give or receive or agree to receive any compensation, gift, reward, or gratuity from a source for performing or omitting or deferring the performance of any official duty, unless otherwise authorized by law except: (1) The state of Washington; or (2) in the case of officers or employees of institutions of higher education or of the *Spokane intercollegiate research and technology institute, a governmental entity, an agency or instrumentality of a governmental entity, or a nonprofit corporation organized for the benefit and support of the state employee's agency or other state agencies pursuant to an agreement with the state employee's agency. [1996 c 213 § 5; 1994 c 154 § 111.]

***Reviser's note:** The Spokane intercollegiate research and technology institute was abolished by 2011 1st sp.s. c 14 § 17.

42.52.120 Compensation for outside activities. (1) No state officer or state employee may receive any thing of economic value under any contract or grant outside of his or her official duties. The prohibition in this subsection does not apply where the state officer or state employee has complied with *RCW 42.52.030(2) or each of the following conditions are met:

(a) The contract or grant is bona fide and actually performed;

(b) The performance or administration of the contract or grant is not within the course of the officer's or employee's official duties, or is not under the officer's or employee's official supervision;

(c) The performance of the contract or grant is not prohibited by RCW 42.52.040 or by applicable laws or rules governing outside employment for the officer or employee;

(d) The contract or grant is neither performed for nor compensated by any person from whom such officer or employee would be prohibited by RCW 42.52.150(4) from receiving a gift;

(e) The contract or grant is not one expressly created or authorized by the officer or employee in his or her official capacity;

(f) The contract or grant would not require unauthorized disclosure of confidential information.

(2) In addition to satisfying the requirements of subsection (1) of this section, a state officer or state employee may have a beneficial interest in a grant or contract or a series of substantially identical contracts or grants with a state agency only if:

(a) The contract or grant is awarded or issued as a result of an open and competitive bidding process in which more than one bid or grant application was received; or

(b) The contract or grant is awarded or issued as a result of an open and competitive bidding or selection process in which the officer's or employee's bid or proposal was the only bid or proposal received and the officer or employee has been advised by the appropriate ethics board, before execution of the contract or grant, that the contract or grant would not be in conflict with the proper discharge of the officer's or employee's official duties; or

(c) The process for awarding the contract or issuing the grant is not open and competitive, but the officer or employee has been advised by the appropriate ethics board that the con-

tract or grant would not be in conflict with the proper discharge of the officer's or employee's official duties.

(3) A state officer or state employee awarded a contract or issued a grant in compliance with subsection (2) of this section shall file the contract or grant with the appropriate ethics board within thirty days after the date of execution; however, if proprietary formulae, designs, drawings, or research are included in the contract or grant, the proprietary formulae, designs, drawings, or research may be deleted from the contract or grant filed with the appropriate ethics board.

(4) This section does not prevent a state officer or state employee from receiving compensation contributed from the treasury of the United States, another state, county, or municipality if the compensation is received pursuant to arrangements entered into between such state, county, municipality, or the United States and the officer's or employee's agency. This section does not prohibit a state officer or state employee from serving or performing any duties under an employment contract with a governmental entity.

(5) As used in this section, "officer" and "employee" do not include officers and employees who, in accordance with the terms of their employment or appointment, are serving without compensation from the state of Washington or are receiving from the state only reimbursement of expenses incurred or a predetermined allowance for such expenses. [1997 c 318 § 1; 1996 c 213 § 6; 1994 c 154 § 112.]

***Reviser's note:** RCW 42.52.030 was amended by 2005 c 106 § 2, deleting subsection (2).

42.52.130 Honoraria. (1) No state officer or state employee may receive honoraria unless specifically authorized by the agency where they serve as state officer or state employee.

(2) An agency may not permit honoraria under the following circumstances:

(a) The person offering the honorarium is seeking or is reasonably expected to seek contractual relations with or a grant from the employer of the state officer or state employee, and the officer or employee is in a position to participate in the terms or the award of the contract or grant;

(b) The person offering the honorarium is regulated by the employer of the state officer or state employee and the officer or employee is in a position to participate in the regulation; or

(c) The person offering the honorarium (i) is seeking or opposing or is reasonably likely to seek or oppose enactment of legislation or adoption of administrative rules or actions, or policy changes by the state officer's or state employee's agency; and (ii) the officer or employee may participate in the enactment or adoption. [1994 c 154 § 113.]

42.52.140 Gifts. No state officer or state employee may receive, accept, take, seek, or solicit, directly or indirectly, any thing of economic value as a gift, gratuity, or favor from a person if it could be reasonably expected that the gift, gratuity, or favor would influence the vote, action, or judgment of the officer or employee, or be considered as part of a reward for action or inaction. [1994 c 154 § 114.]

42.52.150 Limitations on gifts. (1) No state officer or state employee may accept gifts, other than those specified in

subsections (2) and (5) of this section, with an aggregate value in excess of fifty dollars from a single source in a calendar year or a single gift from multiple sources with a value in excess of fifty dollars. For purposes of this section, "single source" means any person, as defined in RCW 42.52.010, whether acting directly or through any agent or other intermediary, and "single gift" includes any event, item, or group of items used in conjunction with each other or any trip including transportation, lodging, and attendant costs, not excluded from the definition of gift under RCW 42.52.010. The value of gifts given to an officer's or employee's family member or guest shall be attributed to the official or employee for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member or guest.

(2) Except as provided in subsection (4) of this section, the following items are presumed not to influence under RCW 42.52.140, and may be accepted without regard to the limit established by subsection (1) of this section:

- (a) Unsolicited flowers, plants, and floral arrangements;
- (b) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;
- (c) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;
- (d) Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;
- (e) Informational material, publications, or subscriptions related to the recipient's performance of official duties;
- (f) Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;
- (g) Gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise accepted and solicited for deposit in the legislative international trade account created in RCW 43.15.050;
- (h) Gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise accepted and solicited for the purpose of promoting the expansion of tourism as provided for in *RCW 43.330.090;
- (i) Gifts, grants, conveyances, bequests, and devises of real or personal property, or both, solicited on behalf of a national legislative association, 2006 official conference of the national lieutenant governors' association, the annual conference of the national association of state treasurers[,], or host committee for the purpose of hosting an official conference under the circumstances specified in RCW 42.52.820, section 2, chapter 5, Laws of 2006, or RCW 42.52.821. Anything solicited or accepted may only be received by the national association or host committee and may not be commingled with any funds or accounts that are the property of any person;
- (j) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization;

(k) Unsolicited gifts from dignitaries from another state or a foreign country that are intended to be personal in nature; and

(l) Gifts, grants, donations, sponsorships, or contributions from any agency or federal or local government agency or program or private source for the purposes of chapter 28B.156 RCW.

(3) The presumption in subsection (2) of this section is rebuttable and may be overcome based on the circumstances surrounding the giving and acceptance of the item.

(4) Notwithstanding subsections (2) and (5) of this section, a state officer or state employee of a regulatory agency or of an agency that seeks to acquire goods or services who participates in those regulatory or contractual matters may receive, accept, take, or seek, directly or indirectly, only the following items from a person regulated by the agency or from a person who seeks to provide goods or services to the agency:

- (a) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;
- (b) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;
- (c) Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;
- (d) Informational material, publications, or subscriptions related to the recipient's performance of official duties;
- (e) Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;
- (f) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization; and
- (g) Those items excluded from the definition of gift in RCW 42.52.010 except:
 - (i) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity;
 - (ii) Payments for seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution; and
 - (iii) Flowers, plants, and floral arrangements.

(5) A state officer or state employee may accept gifts in the form of food and beverage on infrequent occasions in the ordinary course of meals where attendance by the officer or employee is related to the performance of official duties. Gifts in the form of food and beverage that exceed fifty dollars on a single occasion shall be reported as provided in chapter 42.17A RCW. [2015 3rd sp.s. c 20 § 7; 2015 c 45 § 2; 2011 c 60 § 29; 2006 c 5 § 3; 2003 1st sp.s. c 23 § 2. Prior: 2003 c 265 § 3; 2003 c 153 § 6; 1998 c 7 § 2; 1994 c 154 § 115.]

Reviser's note: *(1) RCW 43.330.090 was amended by 2007 c 228 § 201, deleting subsection (2) which directly related to "expansion of tourism."

(2) This section was amended by 2015 c 45 § 2 and by 2015 3rd sp.s. c 20 § 7, each without reference to the other. Both amendments are incorpo-

rated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Finding—Intent—Short title—2015 3rd sp.s. c 20: See RCW 28B.156.005 and 28B.156.900.

Effective date—2011 c 60: See RCW 42.17A.919.

Findings—2006 c 5: "The legislature finds that due to the massive devastation inflicted on the city of New Orleans by hurricane Katrina on August 29, 2005, the city of New Orleans will not be able to meet its obligation to host the national lieutenant governors' association's annual conference scheduled for July 17 through July 19, 2006. As a result of this unfortunate situation, the members of the national lieutenant governors' association officially pressed to have Washington state host the next annual conference in Seattle, Washington, and lieutenant governor Brad Owen has agreed to do so. The legislature further finds, in recognition of the unprecedented situation created by this natural disaster, the high national visibility of this important event, and due to the limited amount of time remaining for planning and fund-raising, it is necessary to initiate fund-raising activities for this national conference as soon as possible." [2006 c 5 § 1.]

Findings—2003 c 153: See note following RCW 43.330.090.

Additional notes found at www.leg.wa.gov

42.52.160 Use of persons, money, or property for private gain. (1) No state officer or state employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another.

(2) This section does not prohibit the use of public resources to benefit others as part of a state officer's or state employee's official duties.

(3) This section does not prohibit de minimis use of state facilities to provide employees with information about (a) medical, surgical, and hospital care; (b) life insurance or accident and health disability insurance; or (c) individual retirement accounts, by any person, firm, or corporation administering such program as part of authorized payroll deductions pursuant to RCW 41.04.020.

(4) The appropriate ethics boards may adopt rules providing exceptions to this section for occasional use of the state officer or state employee, of de minimis cost and value, if the activity does not result in interference with the proper performance of public duties. [2014 c 28 § 1; 1996 c 213 § 7; 1994 c 154 § 116; 1987 c 426 § 3. Formerly RCW 42.18.217.]

42.52.170 Giving, paying, loaning, etc., any thing of economic value to state employee. No person shall give, pay, loan, transfer, or deliver, directly or indirectly, to any other person any thing of economic value believing or having reason to believe that there exist circumstances making the receipt thereof a violation of RCW 42.52.040, 42.52.110, 42.52.120, 42.52.140, or 42.52.150. [1994 c 154 § 117; 1987 c 426 § 5; 1969 ex.s. c 234 § 23. Formerly RCW 42.18.230.]

42.52.180 Use of public resources for political campaigns. (1) No state officer or state employee may use or authorize the use of facilities of an agency, directly or indirectly, for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition. Knowing acquiescence by a person with authority to direct, control, or influence the actions of the state officer or state employee using public resources in violation of this section constitutes a violation of this section.

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Facilities of an agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of state employees of the agency during working hours, vehicles, office space, publications of the agency, and clientele lists of persons served by the agency.

(2) This section shall not apply to the following activities:

(a) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition as long as (i) required notice of the meeting includes the title and number of the ballot proposition, and (ii) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(b) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry. For the purposes of this subsection, it is not a violation of this section for an elected official to respond to an inquiry regarding a ballot proposition, to make incidental remarks concerning a ballot proposition in an official communication, or otherwise comment on a ballot proposition without an actual, measurable expenditure of public funds. The ethics boards shall adopt by rule a definition of measurable expenditure;

(c) The maintenance of official legislative web sites throughout the year, regardless of pending elections. The web sites may contain any discretionary material which was also specifically prepared for the legislator in the course of his or her duties as a legislator, including newsletters and press releases. The official legislative web sites of legislators seeking reelection or election to any office shall not be altered, other than during a special legislative session, beginning on the first day of the declaration of candidacy filing period specified in RCW 29A.24.050 through the date of certification of the general election of the election year. The web site shall not be used for campaign purposes;

(d) Activities that are part of the normal and regular conduct of the office or agency; and

(e) De minimis use of public facilities by statewide elected officials and legislators incidental to the preparation or delivery of permissible communications, including written and verbal communications initiated by them of their views on ballot propositions that foreseeably may affect a matter that falls within their constitutional or statutory responsibilities.

(3) As to state officers and employees, this section operates to the exclusion of RCW 42.17A.555. [2017 c 7 § 2; 2011 c 60 § 30; 2010 c 185 § 1; 1995 c 397 § 30; 1994 c 154 § 118.]

Finding—Intent—2017 c 7: "The legislature finds that the prohibition on the use of public resources for campaign purposes serves an important purpose, but that the period prohibiting state legislators from communicating with constituents at public expense is unnecessary once the election, and the campaign itself, has ended. Furthermore, the delay in constituent outreach after the election only hinders a legislator's ability to quickly and effectively respond to requests and keep the public informed about current state issues, and the various deadlines relating to mailed, emailed, and web site communications are confusing and need to be harmonized. For these reasons, the legislature intends to change mailed, emailed, and web site communication deadlines to the same time periods, in order to allow legislators to actively

engage with the public on official legislative business in a timely and effective manner." [2017 c 7 § 1.]

Effective date—2017 c 7: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 31, 2017]." [2017 c 7 § 4.]

Effective date—2011 c 60: See RCW 42.17A.919.

Additional notes found at www.leg.wa.gov

42.52.185 Restrictions on mailings by legislators. (1) During the period beginning on December 1st of the year before a general election for a state legislator's election to office and continuing through the date of certification of the general election, the legislator may not mail, either by regular mail or email, to a constituent at public expense a letter, newsletter, brochure, or other piece of literature, except for routine legislative correspondence, such as scheduling, and as follows:

(a) The legislator may mail two mailings of newsletters to constituents. All newsletters within each mailing of newsletters must be identical as to their content but not as to the constituent name or address. Both mailings must be mailed before the first day of the declaration of candidacy filing period specified in RCW 29A.24.050.

(b) The legislator may mail an individual letter to (i) an individual constituent who has contacted the legislator regarding the subject matter of the letter during the legislator's current term of office; (ii) an individual constituent who holds a governmental office with jurisdiction over the subject matter of the letter; or (iii) an individual constituent who has received an award or honor of extraordinary distinction of a type that is sufficiently infrequent to be noteworthy to a reasonable person, including, but not limited to: (A) An international or national award such as the Nobel prize or the Pulitzer prize; (B) a state award such as Washington scholar; (C) an Eagle Scout award; and (D) a Medal of Honor.

(c) In those cases where constituents have specifically indicated that they would like to be contacted to receive regular or periodic updates on legislative matters or been added to a distribution list and provided regular opportunities to unsubscribe from that mailing list, legislators may provide such updates by email throughout the legislative session and up until the first day of the declaration of candidacy filing period specified in RCW 29A.24.050. Legislators may also provide these updates by email during any special legislative session.

(2) A violation of this section constitutes use of the facilities of a public office for the purpose of assisting a campaign under RCW 42.52.180.

(3) The house of representatives and senate shall specifically limit expenditures per member for the total cost of mailings. Those costs include, but are not limited to, production costs, printing costs, and postage costs. The limits imposed under this subsection apply only to the total expenditures on mailings per member and not to any categorical cost within the total.

(4) For purposes of this section:

(a) "Legislator" means a legislator who is a "candidate," as defined in RCW 42.17A.005, for any public office; and

(b) Persons residing outside the legislative district represented by the legislator are not considered to be constituents, but students, military personnel, or others temporarily

employed outside of the district who normally reside in the district are considered to be constituents. [2017 c 7 § 3; 2011 c 60 § 31; 2008 c 39 § 2; 1997 c 320 § 1; 1995 c 397 § 5; 1993 c 2 § 25 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.132.]

Finding—Intent—Effective date—2017 c 7: See notes following RCW 42.52.180.

Effective date—2011 c 60: See RCW 42.17A.919.

Findings—Intent—2008 c 39: "The legislature finds that the legislature's ability to communicate with its constituency is of the utmost importance in having a healthy representative democracy. It is the intent of the legislature to provide important information to constituents on an ongoing basis in order to truly be a government of the people and for the people. The legislature finds that this communication will only increase citizen access to legislative issues." [2008 c 39 § 1.]

42.52.190 Investments. (1) Except for permissible investments as defined in this section, no state officer or state employee of any agency responsible for the investment of funds, who acts in a decision-making, advisory, or policy-influencing capacity with respect to investments, may have a direct or indirect interest in any property, security, equity, or debt instrument of a person, without prior written approval of the agency.

(2) Agencies responsible for the investment of funds shall adopt policies governing approval of investments and establishing criteria to be considered in the approval process. Criteria shall include the relationship between the proposed investment and investments held or under consideration by the state, the size and timing of the proposed investment, access by the state officer or state employee to nonpublic information relative to the proposed investment, and the availability of the investment in the public market. Agencies responsible for the investment of funds also shall adopt policies consistent with this chapter governing use by their officers and employees of financial information acquired by virtue of their state positions. A violation of such policies adopted to implement this subsection shall constitute a violation of this chapter.

(3) As used in this section, "permissible investments" means any mutual fund, deposit account, certificate of deposit, or money market fund maintained with a bank, broker, or other financial institution, a security publicly traded in an organized market if the interest in the security at acquisition is ten thousand dollars or less, or an interest in real estate, except if the real estate interest is in or with a party in whom the agency holds an investment. [1994 c 154 § 119.]

42.52.200 Agency rules. (1) Each agency may adopt rules consistent with law, for use within the agency to protect against violations of this chapter.

(2) Each agency proposing to adopt rules under this section shall forward the rules to the appropriate ethics board before they may take effect. The board may submit comments to the agency regarding the proposed rules.

(3) This section applies to universities only to the extent their activities are not subject to RCW 42.52.220. [2005 c 106 § 3; 1994 c 154 § 120.]

42.52.220 Universities—Administrative processes. (1) Consistent with the state policy to encourage basic and applied scientific research by the state's research universities

as stated in RCW 28B.140.005, each university may develop, adopt, and implement one or more written administrative processes that shall, upon approval by the governor, apply in place of the obligations imposed on universities and university research employees under RCW 42.52.030, 42.52.040, 42.52.080, 42.52.110, 42.52.120, 42.52.130, 42.52.140, 42.52.150, and 42.52.160. The universities shall coordinate on the development of administrative processes to ensure the processes are comparable. A university research employee in compliance with the processes authorized in this section shall be deemed to be in compliance with RCW 42.52.030, 42.52.040, 42.52.080, 42.52.110, 42.52.120, 42.52.130, 42.52.140, 42.52.150, and 42.52.160.

(2) The executive ethics board shall enforce activity subject to the written approval processes under this section, as provided in RCW 42.52.360. [2005 c 106 § 4.]

42.52.310 Legislative ethics board. (1) The legislative ethics board is created, composed of nine members, selected as follows:

(a) Two senators, one from each of the two largest caucuses, appointed by the president of the senate;

(b) Two members of the house of representatives, one from each of the two largest caucuses, appointed by the speaker of the house of representatives;

(c) Five citizen members:

(i) One citizen member chosen by the governor from a list of three individuals submitted by each of the four legislative caucuses; and

(ii) One citizen member selected by three of the four other citizen members of the legislative ethics board.

(2) Except for initial members and members completing partial terms, nonlegislative members shall serve a single five-year term.

(3) No more than three of the public members may be identified with the same political party.

(4) Terms of initial nonlegislative board members shall be staggered as follows: One member shall be appointed to a one-year term; one member shall be appointed to a two-year term; one member shall be appointed to a three-year term; one member shall be appointed to a four-year term; and one member shall be appointed for a five-year term.

(5) A vacancy on the board shall be filled in the same manner as the original appointment.

(6) Legislative members shall serve two-year terms, from January 31st of an odd-numbered year until January 31st of the next odd-numbered year.

(7) Each member shall serve for the term of his or her appointment and until his or her successor is appointed.

(8) The citizen members shall annually select a chair from among themselves. [1994 c 154 § 201.]

42.52.320 Authority of legislative ethics board. (1) The legislative ethics board shall enforce this chapter and rules adopted under it with respect to members and employees of the legislature.

(2) The legislative ethics board shall:

(a) Develop educational materials and training with regard to legislative ethics for legislators and legislative employees;

(b) Issue advisory opinions;

(c) Adopt rules or policies governing the conduct of business by the board, and adopt rules defining working hours for purposes of RCW 42.52.180 and where otherwise authorized under chapter 154, Laws of 1994;

(d) Investigate, hear, and determine complaints by any person or on its own motion;

(e) Impose sanctions including reprimands and monetary penalties;

(f) Recommend suspension or removal to the appropriate legislative entity, or recommend prosecution to the appropriate authority; and

(g) Establish criteria regarding the levels of civil penalties appropriate for different types of violations of this chapter and rules adopted under it.

(3) The board may:

(a) Issue subpoenas for the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under examination by the board or involved in any hearing;

(b) Administer oaths and affirmations;

(c) Examine witnesses; and

(d) Receive evidence.

(4) Subject to RCW 42.52.540, the board has jurisdiction over any alleged violation that occurred before January 1, 1995, and that was within the jurisdiction of any of the boards established under *chapter 44.60 RCW. The board's jurisdiction with respect to any such alleged violation shall be based on the statutes and rules in effect at [the] time of the violation. [1994 c 154 § 202.]

**Reviser's note:* Chapter 44.60 RCW was repealed by 1994 c 154 § 304, effective January 1, 1995.

42.52.330 Interpretation. By constitutional design, the legislature consists of citizen-legislators who bring to bear on the legislative process their individual experience and expertise. The provisions of this chapter shall be interpreted in light of this constitutional principle. [1994 c 154 § 203.]

42.52.340 Transfer of jurisdiction. On January 1, 1995, any complaints or other matters under investigation or consideration by the boards of legislative ethics in the house of representatives and the senate operating pursuant to *chapter 44.60 RCW shall be transferred to the legislative ethics board created by RCW 42.52.310. All files, including but not limited to minutes of meetings, investigative files, records of proceedings, exhibits, and expense records, shall be transferred to the legislative ethics board created in RCW 42.52.310 pursuant to their direction and the legislative ethics board created in RCW 42.52.310 shall assume full jurisdiction over all pending complaints, investigations, and proceedings. [1994 c 154 § 204.]

**Reviser's note:* Chapter 44.60 RCW was repealed by 1994 c 154 § 304, effective January 1, 1995.

42.52.350 Executive ethics board. (1) The executive ethics board is created, composed of five members, appointed by the governor as follows:

(a) One member shall be a classified service employee as defined in chapter 41.06 RCW;

(b) One member shall be a state officer or state employee in an exempt position;

(c) One member shall be a citizen selected from a list of three names submitted by the attorney general;

(d) One member shall be a citizen selected from a list of three names submitted by the state auditor; and

(e) One member shall be a citizen selected at large by the governor.

(2) Except for initial members and members completing partial terms, members shall serve a single five-year term.

(3) No more than three members may be identified with the same political party.

(4) Terms of initial board members shall be staggered as follows: One member shall be appointed to a one-year term; one member shall be appointed to a two-year term; one member shall be appointed to a three-year term; one member shall be appointed to a four-year term; and one member shall be appointed to a five-year term.

(5) A vacancy on the board shall be filled in the same manner as the original appointment.

(6) Each member shall serve for the term of his or her appointment and until his or her successor is appointed.

(7) The members shall annually select a chair from among themselves.

(8) Staff shall be provided by the office of the attorney general. [1994 c 154 § 205.]

42.52.360 Authority of executive ethics board. (1) The executive ethics board shall enforce this chapter and rules adopted under it with respect to statewide elected officers and all other officers and employees in the executive branch, boards and commissions, and institutions of higher education.

(2) The executive ethics board shall enforce this chapter with regard to the activities of university research employees as provided in this subsection.

(a) With respect to compliance with RCW 42.52.030, 42.52.110, 42.52.130, 42.52.140, and 42.52.150, the administrative process shall be consistent with and adhere to no less than the current standards in regulations of the United States public health service and the office of the secretary of the department of health and human services in Title 42 C.F.R. Part 50, Subpart F relating to promotion of objectivity in research.

(b) With respect to compliance with RCW 42.52.040, 42.52.080, and 42.52.120, the administrative process shall include a comprehensive system for the disclosure, review, and approval of outside work activities by university research employees while assuring that such employees are fulfilling their employment obligations to the university.

(c) With respect to compliance with RCW 42.52.160, the administrative process shall include a reasonable determination by the university of acceptable private uses having de minimis costs to the university and a method for establishing fair and reasonable reimbursement charges for private uses the costs of which are in excess of de minimis.

(3) The executive ethics board shall:

(a) Develop educational materials and training;

(b) Adopt rules and policies governing the conduct of business by the board, and adopt rules defining working hours for purposes of RCW 42.52.180 and where otherwise authorized under chapter 154, Laws of 1994;

(c) Issue advisory opinions;

(d) Investigate, hear, and determine complaints by any person or on its own motion;

(e) Impose sanctions including reprimands and monetary penalties;

(f) Recommend to the appropriate authorities suspension, removal from position, prosecution, or other appropriate remedy; and

(g) Establish criteria regarding the levels of civil penalties appropriate for violations of this chapter and rules adopted under it.

(4) The board may:

(a) Issue subpoenas for the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under examination by the board or involved in any hearing;

(b) Administer oaths and affirmations;

(c) Examine witnesses; and

(d) Receive evidence.

(5) The board shall not delegate to the board's executive director its authority to issue advisories, advisory letters, or opinions.

(6) Except as provided in RCW 42.52.220, the executive ethics board may review and approve agency policies as provided for in this chapter.

(7) This section does not apply to state officers and state employees of the judicial branch. [2013 c 190 § 3; 2005 c 106 § 5; 1994 c 154 § 206.]

Finding—2013 c 190: See note following RCW 42.52.410.

42.52.365 Executive branch agencies—Ethics advisors—Ethics training. (1) Each executive branch agency shall designate an ethics advisor or advisors to assist the agency's employees in understanding their obligations under the ethics in public service act. Agencies shall inform the executive ethics board of their designated advisors. As funding permits and as determined by the executive ethics board and the agency head, the advisors shall receive regular ethics training.

(2) Executive branch officers and employees are encouraged to attend ethics training offered by the executive ethics board at least once every thirty-six months. [2013 c 190 § 6.]

Finding—2013 c 190: See note following RCW 42.52.410.

42.52.370 Authority of commission on judicial conduct. The commission on judicial conduct shall enforce this chapter and rules adopted under it with respect to state officers and employees of the judicial branch and may do so according to procedures prescribed in Article IV, section 31 of the state Constitution. In addition to the sanctions authorized in Article IV, section 31 of the state Constitution, the commission may impose sanctions authorized by this chapter. [1994 c 154 § 207.]

42.52.380 Political activities of board members. (1) No member of the executive ethics board may (a) hold or campaign for partisan elective office other than the position of precinct committeeperson, or any full-time nonpartisan office; (b) be an officer of any political party or political committee as defined in chapter 42.17A RCW other than the position of precinct committeeperson; (c) permit his or her name to be used, or make contributions, in support of or in opposi-

tion to any state candidate or state ballot measure; or (d) lobby or control, direct, or assist a lobbyist except that such member may appear before any committee of the legislature on matters pertaining to this chapter.

(2) No citizen member of the legislative ethics board may (a) hold or campaign for partisan elective office other than the position of precinct committeeperson, or any full-time nonpartisan office; (b) be an officer of any political party or political committee as defined in chapter 42.17A RCW, other than the position of precinct committeeperson; (c) permit his or her name to be used, or make contributions, in support of or in opposition to any legislative candidate, any legislative caucus campaign committee that supports or opposes legislative candidates, or any political action committee that supports or opposes legislative candidates; or (d) engage in lobbying in the legislative branch under circumstances not exempt, under RCW 42.17A.610, from lobbyist registration and reporting.

(3) No citizen member of the legislative ethics board may hold or campaign for a seat in the state house of representatives or the state senate within two years of serving on the board if the citizen member opposes an incumbent who has been the respondent in a complaint before the board. [2011 c 60 § 32; 1997 c 11 § 1; 1994 c 154 § 208.]

Effective date—2011 c 60: See RCW 42.17A.919.

42.52.390 Hearing and subpoena authority. Except as otherwise provided by law, the ethics boards may hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of a person under oath, and in connection therewith, to require the production for examination of any books or papers relating to any matter under investigation or in question before the ethics board. The ethics board may make rules as to the issuance of subpoenas by individual members, as to service of complaints, decisions, orders, recommendations, and other process or papers of the ethics board. [1994 c 154 § 209.]

42.52.400 Enforcement of subpoena authority. In case of refusal to obey a subpoena issued to a person, the superior court of a county within the jurisdiction of which the investigation, proceeding, or hearing under this chapter is carried on or within the jurisdiction of which the person refusing to obey is found or resides or transacts business, upon application by the appropriate ethics board shall have jurisdiction to issue to the person an order requiring the person to appear before the ethics board or its member to produce evidence if so ordered, or to give testimony touching the matter under investigation or in question. Failure to obey such order of the court may be punished by the court as contempt. [1994 c 154 § 210.]

42.52.410 Filing complaint—Whistleblower protection—Penalty for reprisal or retaliation. (1) A person may, personally or by his or her attorney, make, sign, and file with the appropriate ethics board a complaint on a form provided by the appropriate ethics board. The complaint shall state the name of the person alleged to have violated this chapter or rules adopted under it and the particulars thereof, and contain such other information as may be required by the appropriate ethics board.

(2020 Ed.)

(2) If it has reason to believe that any person has been engaged or is engaging in a violation of this chapter or rules adopted under it, an ethics board may issue a complaint.

(3)(a) A state employee who files a complaint with the appropriate ethics board shall be afforded the protection afforded to a whistleblower under RCW 42.40.050 and 49.60.210(2), subject to the limitations of RCW 42.40.035 and 42.40.910. An agency, manager, or supervisor may not retaliate against a state employee who, after making a reasonable attempt to ascertain the correctness of the information furnished, files a complaint with the appropriate ethics board.

(b) A state employee may not be denied the protections in chapter 42.40 RCW even if the ethics board denies an investigation of the complaint.

(4) If a determination is made that a reprisal or retaliatory action has been taken against the state employee, the retaliator may be subject to a civil penalty of up to five thousand dollars. [2013 c 190 § 2; 1994 c 154 § 211.]

Finding—2013 c 190: "The legislature finds that ensuring public trust in government is a priority. The public expects its elected officials and state employees to adhere to the highest ethical standards during their service, and this includes a commitment to full and independent investigations, with proper penalties, in cases where the ethics in public service act is violated." [2013 c 190 § 1.]

42.52.420 Investigation. (1) After the filing of any complaint, except as provided in RCW 42.52.450, the staff of the appropriate ethics board shall investigate the complaint. The ethics board may request the assistance of the office of the attorney general or a contract investigator in conducting its investigation.

(2) The results of the investigation shall be reduced to writing and the staff shall either make a determination that the complaint should be dismissed pursuant to RCW 42.52.425, or recommend to the board that there is or that there is not reasonable cause to believe that a violation of this chapter or rules adopted under it has been or is being committed.

(3) The board's determination on reasonable cause shall be provided to the complainant and to the person named in such complaint.

(4) The identity of a person filing a complaint under RCW 42.52.410(1) is exempt from public disclosure, as provided in RCW 42.56.240. [2013 c 190 § 4; 2000 c 211 § 1; 1994 c 154 § 212.]

Finding—2013 c 190: See note following RCW 42.52.410.

42.52.425 Dismissal of complaint. (1) Based on the investigation conducted under RCW 42.52.420 or 42.52.450, and subject to rules issued by each board, the board or the staff of the appropriate ethics board may issue an order of dismissal based on any of the following findings:

(a) Any violation that may have occurred is not within the jurisdiction of the board;

(b) The complaint is obviously unfounded or frivolous; or

(c) Any violation that may have occurred does not constitute a material violation because it was inadvertent and minor, or has been cured, and, after consideration of all of the circumstances, further proceedings would not serve the purposes of this chapter.

(2) Written notice of the determination under subsection (1) of this section shall be provided to the complainant, respondent, and the board. The written notice to the complainant shall include a statement of the complainant's right to appeal to the board under subsection (3) of this section if the dismissal order was issued by staff.

(3) In the event that a complaint is dismissed by staff under this section, the complainant may request that the board review the action. Following review, the board shall:

- (a) Affirm the staff dismissal;
- (b) Direct the staff to conduct further investigation; or
- (c) Issue a determination that there is reasonable cause to believe that a violation has been or is being committed.

(4) The board's decision under subsection (3) of this section shall be reduced to writing and provided to the complainant and the respondent. [2005 c 116 § 1; 2000 c 211 § 2.]

42.52.430 Public hearing—Findings. (1) If the ethics board determines there is reasonable cause under RCW 42.52.420 that a violation of this chapter or rules adopted under it occurred, a public hearing on the merits of the complaint shall be held.

(2) The ethics board shall designate the location of the hearing. The case in support of the complaint shall be presented at the hearing by staff of the ethics board.

(3) The respondent shall file a written answer to the complaint and appear at the hearing in person or otherwise, with or without counsel, and submit testimony and be fully heard. The respondent has the right to cross-examine witnesses.

(4) Testimony taken at the hearing shall be under oath and recorded.

(5) If, based upon a preponderance of the evidence, the ethics board finds that the respondent has violated this chapter or rules adopted under it, the board shall file an order stating findings of fact and enforcement action as authorized under this chapter.

(6) If, upon all the evidence, the ethics board finds that the respondent has not engaged in an alleged violation of this chapter or rules adopted under it, the ethics board shall state findings of fact and shall similarly issue and file an order dismissing the complaint.

(7) If the board makes a determination that there is not reasonable cause to believe that a violation has been or is being committed or has made a finding under subsection (6) of this section, the attorney general shall represent the officer or employee in any action subsequently commenced based on the alleged facts in the complaint. [1994 c 154 § 213.]

42.52.440 Review of order. Except as otherwise provided by law, reconsideration or judicial review of an ethics board's order that a violation of this chapter or rules adopted under it has occurred shall be governed by the provisions of chapter 34.05 RCW applicable to review of adjudicative proceedings. [1994 c 154 § 214.]

42.52.450 Complaint against legislator or statewide elected official. (1) If a complaint alleges a violation of RCW 42.52.180 by a legislator or statewide elected official other than the attorney general, the attorney general shall, if

requested by the appropriate ethics board, conduct the investigation under RCW 42.52.420 and recommend action.

(2) If a complaint alleges a violation of RCW 42.52.180 by the attorney general, the state auditor shall conduct the investigation under RCW 42.52.420 and recommend action to the appropriate ethics board. [2005 c 116 § 2; 1994 c 154 § 215.]

42.52.460 Citizen actions. Any person who has notified the appropriate ethics board and the attorney general in writing that there is reason to believe that RCW 42.52.180 is being or has been violated may, in the name of the state, bring a citizen action for any of the actions authorized under this chapter. A citizen action may be brought only if the appropriate ethics board or the attorney general have failed to commence an action under this chapter within forty-five days after notice from the person, the person has thereafter notified the appropriate ethics board and the attorney general that the person will commence a citizen's action within ten days upon their failure to commence an action, and the appropriate ethics board and the attorney general have in fact failed to bring an action within ten days of receipt of the second notice. An action is deemed to have been commenced when the appropriate ethics board or the board's executive director accepts a complaint for filing and initiates a preliminary investigation.

If the person who brings the citizen's action prevails, the judgment awarded shall escheat to the state, but the person shall be entitled to be reimbursed by the state of Washington for costs and attorneys' fees incurred. If a citizen's action that the court finds was brought without reasonable cause is dismissed, the court may order the person commencing the action to pay all costs of trial and reasonable attorneys' fees incurred by the defendant.

Upon commencement of a citizen action under this section, at the request of a state officer or state employee who is a defendant, the office of the attorney general shall represent the defendant if the attorney general finds that the defendant's conduct complied with this chapter and was within the scope of employment. [2013 c 190 § 5; 1994 c 154 § 216.]

Finding—2013 c 190: See note following RCW 42.52.410.

42.52.470 Referral for enforcement. As appropriate, an ethics board may refer a complaint:

(1) To an agency for initial investigation and proposed resolution which shall be referred back to the appropriate ethics board for action; or

(2) To the attorney general's office or prosecutor for appropriate action. [1994 c 154 § 217.]

42.52.480 Action by boards. (1) Except as otherwise provided by law, an ethics board may order payment of the following amounts if it finds a violation of this chapter or rules adopted under it after a hearing under RCW 42.52.370 or other applicable law:

(a) Any damages sustained by the state that are caused by the conduct constituting the violation;

(b) From each such person, a civil penalty of up to five thousand dollars per violation or three times the economic value of any thing received or sought in violation of this chapter or rules adopted under it, whichever is greater; and

(c) Costs, including reasonable investigative costs, which shall be included as part of the limit under (b) of this subsection. The costs may not exceed the penalty imposed. The payment owed on the penalty shall be reduced by the amount of the costs paid.

(2) Damages under this section may be enforced in the same manner as a judgment in a civil case. [1994 c 154 § 218.]

42.52.490 Action by attorney general. (1) Upon a written determination by the attorney general that the action of an ethics board was clearly erroneous or if requested by an ethics board, the attorney general may bring a civil action in the superior court of the county in which the violation is alleged to have occurred against a state officer, state employee, former state officer, former state employee, or other person who has violated or knowingly assisted another person in violating any of the provisions of this chapter or the rules adopted under it. In such action the attorney general may recover the following amounts on behalf of the state of Washington:

(a) Any damages sustained by the state that are caused by the conduct constituting the violation;

(b) From each such person, a civil penalty of up to five thousand dollars per violation or three times the economic value of any thing received or sought in violation of this chapter or the rules adopted under it, whichever is greater; and

(c) Costs, including reasonable investigative costs, which shall be included as part of the limit under (b) of this subsection. The costs may not exceed the penalty imposed. The payment owed on the penalty shall be reduced by the amount of the costs paid.

(2) In any civil action brought by the attorney general upon the basis that the attorney general has determined that the board's action was clearly erroneous, the court shall not proceed with the action unless the attorney general has first shown, and the court has found, that the action of the board was clearly erroneous. [1994 c 154 § 219.]

42.52.500 Optional hearings by administrative law judge. If an ethics board finds that there is reasonable cause to believe that a violation has occurred, the board shall consider the possibility of the alleged violator having to pay a total amount of penalty and costs of more than five hundred dollars. Based on such consideration, the board may give the person who is the subject of the complaint the option to have an administrative law judge conduct the hearing and rule on procedural and evidentiary matters. The board may also, on its own initiative, provide for retaining an administrative law judge. An ethics board may not require total payment of more than five hundred dollars in penalty and costs in any case where an administrative law judge is not used and the board did not give such option to the person who is the subject of the complaint. [1994 c 154 § 220.]

42.52.510 Rescission of state action. (1) The attorney general may, on request of the governor or the appropriate agency, and in addition to other available rights of rescission, bring an action in the superior court of Thurston county to cancel or rescind state action taken by a state officer or state

employee, without liability to the state of Washington, contractual or otherwise, if the governor or ethics board has reason to believe that: (a) A violation of this chapter or rules adopted under it has substantially influenced the state action, and (b) the interest of the state requires the cancellation or rescission. The governor may suspend state action pending the determination of the merits of the controversy under this section. The court may permit persons affected by the governor's actions to post an adequate bond pending such resolution to ensure compliance by the defendant with the final judgment, decree, or other order of the court.

(2) This section does not limit other available remedies. [1994 c 154 § 221.]

42.52.520 Disciplinary action. (1) A violation of this chapter or rules adopted under it is grounds for disciplinary action.

(2) The procedures for any such action shall correspond to those applicable for disciplinary action for employee misconduct generally; for those state officers and state employees not specifically exempted in chapter 41.06 RCW, the rules set forth in chapter 41.06 RCW shall apply. Any action against the state officer or state employee shall be subject to judicial review to the extent provided by law for disciplinary action for misconduct of state officers and state employees of the same category and grade. [1994 c 154 § 222; 1969 ex.s. c 234 § 26. Formerly RCW 42.18.260.]

42.52.530 Additional investigative authority. In addition to other authority under this chapter, the attorney general may investigate persons not under the jurisdiction of an ethics board whom the attorney general has reason to believe were involved in transactions in violation of this chapter or rules adopted under it. [1994 c 154 § 223.]

42.52.540 Limitations period. Any action taken under this chapter must be commenced within five years from the date of the violation. However, if it is shown that the violation was not discovered because of concealment by the person charged, then the action must be commenced within two years from the date the violation was discovered or reasonably should have been discovered: (1) By any person with direct or indirect supervisory responsibilities over the person who allegedly committed the violation; or (2) if no person has direct or indirect supervisory authority over the person who committed the violation, by the appropriate ethics board. [1994 c 154 § 224.]

42.52.550 Compensation of ethics boards. The citizen members of the legislative ethics board and the members of the executive ethics board shall be compensated as provided in RCW 43.03.250 and reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Legislator members of the legislative ethics board shall be reimbursed as provided in RCW 44.04.120. [1994 c 154 § 227.]

42.52.560 Communications from an employee organization or charitable organization—Distribution by state employee. (1) Nothing in this chapter prohibits a state employee from distributing communications from an employee organization or charitable organization to other

state employees if the communications do not support or oppose a ballot proposition or candidate for federal, state, or local public office. Nothing in this section shall be construed to authorize any lobbying activity with public funds beyond the activity permitted by RCW 42.17A.635.

(2) "Employee organization," for purposes of this section, means any organization, union, or association in which employees participate and that exists for the purpose of collective bargaining with employers or for the purpose of opposing collective bargaining or certification of a union. [2011 c 60 § 33; 2006 c 217 § 1.]

Effective date—2011 c 60: See RCW 42.17A.919.

42.52.570 Private business activity policy—Department of fish and wildlife—Parks and recreation commission. (1) The department of fish and wildlife and the parks and recreation commission may approve private business activity in state-owned housing provided under Title 77 RCW or chapter 79A.05 RCW.

(2) Prior to granting approval of private business activity in state-owned housing, the department of fish and wildlife and the parks and recreation commission must adopt a private business activity policy that is approved by the executive ethics board.

(a) The private business activity policy may only authorize private business activity by the resident state employee while the employee is off duty or the employee's spouse who is approved for residency in the agency housing or the employee's children.

(b) The private business activity policy may not allow private business activity that negatively impacts the agency's operations. For the purposes of this section, "negatively impacts" includes but is not limited to: (i) Negative impacts to visitors' services or access; (ii) in-person visits to state-owned housing for the purpose of transacting business that negatively impacts agency operations; (iii) the incurrence of additional expenses by the state; (iv) the use of signage in the state-owned residence; (v) advertising on state-owned property; or (vi) an appearance of state endorsement of the private business activity.

(3) The private business activity must comply with all other local, state, and federal laws.

(4) All approvals of a private business activity in state-owned housing must be by the agency director or designee in writing.

(5) A state employee is presumed not to be in violation of RCW 42.52.070 or 42.52.160 if the employee or the employee's spouse or child complies with this section. [2008 c 247 § 1.]

42.52.575 Information about scholarship opportunities. This chapter does not prohibit the department of labor and industries from providing information about scholarship opportunities offered by nonprofit organizations and available to children and spouses of workers who suffered an injury in the course of employment resulting in death or permanent total disability. The department of labor and industries may, in its sole discretion, provide information about one or more scholarship opportunities. The cost of printing and inserting materials, any additional mailing costs, and any

other related costs must be borne by the scholarship organization. [2013 c 134 § 1.]

42.52.800 Exemptions—Solicitation for state capitol historic furnishings and preservation and restoration of state legislative building. (1) When soliciting charitable gifts, grants, or donations solely for the limited purposes of RCW 27.48.040, members of the capitol furnishings preservation committee are exempt from the laws of this chapter.

(2) When soliciting charitable gifts, grants, or donations solely for the limited purposes of RCW 27.48.050 or when assisting a nonprofit foundation established for the purposes of RCW 27.48.050, state officers and state employees are exempt from the laws of this chapter. [2002 c 167 § 3; 1999 c 343 § 4.]

Findings—Effective date—2002 c 167: See notes following RCW 27.48.050.

Findings—Purpose—1999 c 343: See note following RCW 27.48.040.

42.52.801 Exemption—Solicitation to promote tourism. When soliciting charitable gifts, grants, or donations solely for the purposes of promoting the *expansion of tourism as provided for in RCW 43.330.090, state officers and state employees are presumed not to be in violation of the solicitation and receipt of gift provisions in RCW 42.52.140. [2003 c 153 § 5.]

***Reviser's note:** RCW 43.330.090 was amended by 2007 c 228 § 201, deleting subsection (2) which directly related to "expansion of tourism."

Findings—2003 c 153: See note following RCW 43.330.090.

42.52.802 Exemption—Solicitation for Washington state legacy project, state library, and archives account. This chapter does not prohibit the secretary of state or a designee from soliciting and accepting contributions to the Washington state legacy project, state library, and archives account created in RCW 43.07.380. [2008 c 222 § 14; 2003 c 164 § 4.]

Purpose—2008 c 222: See note following RCW 44.04.320.

42.52.8021 Exemption—Solicitation for Washington state flag account. This chapter does not prohibit the secretary of state or the secretary of state's designee from soliciting and accepting contributions to the Washington state flag account created in RCW 43.07.388. [2009 c 71 § 3.]

42.52.8022 Exemption—Informational or educational meetings regarding legislative issues. This chapter does not prohibit state employees from attending informational or educational meetings regarding legislative issues with a legislator or other elected official. It is not a violation of this chapter to hold such meetings in public facilities, including state-owned or leased buildings. This section is not intended to allow the use of state facilities for a political campaign or for the promotion of or opposition to a ballot proposition. [2011 c 63 § 1.]

42.52.8023 Exemption—Gina Grant Bull memorial legislative page scholarship account. This chapter does not prohibit the secretary of the senate, the chief clerk of the house of representatives, or their designee from soliciting and accepting contributions to the Gina Grant Bull memorial leg-

islative page scholarship account created in RCW 44.04.380. Furthermore, this chapter does not prohibit any legislative member or legislative employee from soliciting gifts for the Gina Grant Bull memorial legislative page scholarship account. [2017 c 322 § 4.]

42.52.803 Exemption—Solicitation for legislative oral history account. This chapter does not prohibit the secretary of the senate, the chief clerk of the house of representatives, or their designee from soliciting and accepting contributions to the legislative oral history account created in RCW 44.04.345. [2008 c 222 § 2.]

Purpose—2008 c 222: See note following RCW 44.04.320.

42.52.804 Exemption—Health profession board or commission—Professional opinions. Members of a health profession board or commission as identified in RCW 18.130.040(2)(b) may express their professional opinions to an elected official about the work of the board or commission on which the member serves, even if those opinions differ from the department of health's official position. Such communication shall be to inform the elected official and not to lobby in support or opposition to any initiative to the legislature. [2008 c 134 § 15.]

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

42.52.805 Solicitation for charitable activities of executive branch state employees—Limitations—Definitions. (1) When soliciting gifts, grants, or donations solely to support the charitable activities of executive branch state employees conducted pursuant to RCW 9.46.0209, the executive branch state officers and executive branch state employees are presumed not to be in violation of the solicitation and receipt of gift provisions in RCW 42.52.140. However, the gifts, grants, or donations must only be solicited from state employees or businesses and organizations that have no business dealings with the soliciting employee's agency. For the purposes of this subsection, "business dealings" includes being subject to regulation by the agency, having a contractual relationship with the agency, and purchasing goods or services from the agency.

(2) For purposes of this section, activities are deemed to be charitable if the activities are devoted to the purposes authorized under RCW 9.46.0209 for charitable and nonprofit organizations listed in that section, or are in support of the activities of those charitable or nonprofit organizations. [2007 c 452 § 2.]

42.52.810 Solicitation for the legislative international trade account—Report. (1) When soliciting charitable gifts, grants, or donations solely for the legislative international trade account created in *RCW 44.04.270, the president of the senate is presumed not to be in violation of the solicitation and receipt of gift provisions in RCW 42.52.140.

(2) When soliciting charitable gifts, grants, or donations solely for the legislative international trade account created in *RCW 44.04.270, state officers and state employees are presumed not to be in violation of the solicitation and receipt of gift provisions in RCW 42.52.140.

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(3) An annual report of the legislative international trade account activities, including a list of receipts and expenditures, shall be published by the president of the senate and submitted to the house of representatives and the senate and be a public record for the purposes of RCW 42.56.070. [2005 c 274 § 293; 2003 c 265 § 2.]

*Reviser's note: RCW 44.04.270 was recodified as RCW 43.15.050 pursuant to 2006 c 317 § 5.

42.52.820 Solicitation for hosting national legislative association conference. When soliciting gifts, grants, or donations to host an official conference within the state of Washington of a national legislative association as approved by both the chief clerk and the secretary of the senate, designated legislative officials and designated legislative employees are presumed not to be in violation of the solicitation and receipt of gift provisions in this chapter. For the purposes of this section, any legislative association must include among its membership the Washington state legislature or individual legislators or legislative staff. [2003 1st sp.s. c 23 § 1.]

42.52.821 Exemption—Solicitation to host conference of a national association. When soliciting gifts, grants, or donations to host an official conference within the state of Washington of a national association as approved by the state treasurer, the treasurer and designated employees are presumed not to be in violation of the solicitation and receipt of gift provisions in this chapter. [2015 c 45 § 1.]

42.52.900 Legislative declaration. Government derives its powers from the people. Ethics in government are the foundation on which the structure of government rests. State officials and employees of government hold a public trust that obligates them, in a special way, to honesty and integrity in fulfilling the responsibilities to which they are elected and appointed. Paramount in that trust is the principle that public office, whether elected or appointed, may not be used for personal gain or private advantage.

The citizens of the state expect all state officials and employees to perform their public responsibilities in accordance with the highest ethical and moral standards and to conduct the business of the state only in a manner that advances the public's interest. State officials and employees are subject to the sanctions of law and scrutiny of the media; ultimately, however, they are accountable to the people and must consider this public accountability as a particular obligation of the public service. Only when affairs of government are conducted, at all levels, with openness as provided by law and an unswerving commitment to the public good does government work as it should.

The obligations of government rest equally on the state's citizenry. The effectiveness of government depends, fundamentally, on the confidence citizens can have in the judgments and decisions of their elected representatives. Citizens, therefore, should honor and respect the principles and the spirit of representative democracy, recognizing that both elected and appointed officials, together with state employees, seek to carry out their public duties with professional skill and dedication to the public interest. Such service merits public recognition and support.

All who have the privilege of working for the people of Washington state can have but one aim: To give the highest public service to its citizens. [1994 c 154 § 1.]

42.52.901 Liberal construction. This chapter shall be construed liberally to effectuate its purposes and policy and to supplement existing laws as may relate to the same subject. [1994 c 154 § 301.]

42.52.903 Serving on board, committee, or commission not prevented. Nothing in this chapter shall be interpreted to prevent a member of a board, committee, advisory commission, or other body required or permitted by statute to be appointed from any identifiable group or interest, from serving on such body in accordance with the intent of the legislature in establishing such body. [1969 ex.s. c 234 § 33. Formerly RCW 42.18.330.]

42.52.904 Effective date—1994 c 154. Sections 101 through 121, 203, 204, 207 through 224, and 301 through 317 of this act shall take effect January 1, 1995. [1994 c 154 § 319.]

42.52.906 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 105.]

Chapter 42.56 RCW PUBLIC RECORDS ACT

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42.56.900	Purpose—2005 c 274 §§ 402-429.
42.56.904	Intent—2007 c 391.

Criminal records privacy: Chapter 10.97 RCW.

Restrictions on dissemination of child forensic interview recordings: RCW 26.44.187 and 26.44.188.

42.56.001 Finding, purpose. The legislature finds that *chapter 42.17 RCW contains laws relating to several discrete subjects. Therefore, the purpose of chapter 274, Laws of 2005 is to recodify some of those laws and create a new chap-

ter in the Revised Code of Washington that contains laws pertaining to public records. [2005 c 274 § 1.]

***Reviser's note:** Provisions in chapter 42.17 RCW relating to public records were recodified in chapter 42.56 RCW by 2005 c 274, effective July 1, 2006. Provisions in chapter 42.17 RCW relating to campaign disclosure and contribution were recodified in chapter 42.17A RCW by 2010 c 204, effective January 1, 2012.

42.56.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

(2) "Person in interest" means the person who is the subject of a record or any representative designated by that person, except that if that person is under a legal disability, "person in interest" means and includes the parent or duly appointed legal representative.

(3) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. For the office of the secretary of the senate and the office of the chief clerk of the house of representatives, public records means legislative records as defined in RCW 40.14.100 and also means the following: All budget and financial records; personnel leave, travel, and payroll records; records of legislative sessions; reports submitted to the legislature; and any other record designated a public record by any official action of the senate or the house of representatives. This definition does not include records that are not otherwise required to be retained by the agency and are held by volunteers who:

- (a) Do not serve in an administrative capacity;
- (b) Have not been appointed by the agency to an agency board, commission, or internship; and
- (c) Do not have a supervisory role or delegated agency authority.

(4) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated. [2017 c 303 § 1; 2010 c 204 § 1005; 2007 c 197 § 1; 2005 c 274 § 101.]

42.56.020 Short title. This chapter may be known and cited as the public records act. [2005 c 274 § 102.]

42.56.030 Construction. The people of this state do not yield their sovereignty to the agencies that serve them. The

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people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created. This chapter shall be liberally construed and its exemptions narrowly construed to promote this public policy and to assure that the public interest will be fully protected. In the event of conflict between the provisions of this chapter and any other act, the provisions of this chapter shall govern. [2007 c 197 § 2; 2005 c 274 § 283; 1992 c 139 § 2. Formerly RCW 42.17.251.]

42.56.040 Duty to publish procedures. (1) Each state agency shall separately state and currently publish in the Washington Administrative Code and each local agency shall prominently display and make available for inspection and copying at the central office of such local agency, for guidance of the public:

(a) Descriptions of its central and field organization and the established places at which, the employees from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain copies of agency decisions;

(b) Statements of the general course and method by which its operations are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(c) Rules of procedure;

(d) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(e) Each amendment or revision to, or repeal of any of the foregoing.

(2) Except to the extent that he or she has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published or displayed and not so published or displayed. [2012 c 117 § 127; 1973 c 1 § 25 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.250.]

42.56.050 Invasion of privacy, when. A person's "right to privacy," "right of privacy," "privacy," or "personal privacy," as these terms are used in this chapter, is invaded or violated only if disclosure of information about the person: (1) Would be highly offensive to a reasonable person, and (2) is not of legitimate concern to the public. The provisions of this chapter dealing with the right to privacy in certain public records do not create any right of privacy beyond those rights that are specified in this chapter as express exemptions from the public's right to inspect, examine, or copy public records. [1987 c 403 § 2. Formerly RCW 42.17.255.]

Intent—1987 c 403: "The legislature intends to restore the law relating to the release of public records largely to that which existed prior to the Washington Supreme Court decision in *In Re Rosier*," 105 Wn.2d 606 (1986). The intent of this legislation is to make clear that: (1) Absent statutory provisions to the contrary, agencies possessing records should in responding to requests for disclosure not make any distinctions in releasing or not releasing records based upon the identity of the person or agency which requested the records, and (2) agencies having public records should rely only upon statutory exemptions or prohibitions for refusal to provide public records. Further, to avoid unnecessary confusion, "privacy" as used in

RCW 42.17.255 is intended to have the same meaning as the definition given that word by the Supreme Court in "*Hearst v. Hoppe*," 90 Wn.2d 123, 135 (1978)." [1987 c 403 § 1.]

Additional notes found at www.leg.wa.gov

42.56.060 Disclaimer of public liability. No public agency, public official, public employee, or custodian shall be liable, nor shall a cause of action exist, for any loss or damage based upon the release of a public record if the public agency, public official, public employee, or custodian acted in good faith in attempting to comply with the provisions of this chapter. [1992 c 139 § 11. Formerly RCW 42.17.258.]

42.56.070 Documents and indexes to be made public—Statement of costs. (1) Each agency, in accordance with published rules, shall make available for public inspection and copying all public records, unless the record falls within the specific exemptions of subsection (8) of this section, this chapter, or other statute which exempts or prohibits disclosure of specific information or records. To the extent required to prevent an unreasonable invasion of personal privacy interests protected by this chapter, an agency shall delete identifying details in a manner consistent with this chapter when it makes available or publishes any public record; however, in each case, the justification for the deletion shall be explained fully in writing.

(2) For informational purposes, each agency shall publish and maintain a current list containing every law, other than those listed in this chapter, that the agency believes exempts or prohibits disclosure of specific information or records of the agency. An agency's failure to list an exemption shall not affect the efficacy of any exemption.

(3) Each local agency shall maintain and make available for public inspection and copying a current index providing identifying information as to the following records issued, adopted, or promulgated after January 1, 1973:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) Those statements of policy and interpretations of policy, statute, and the Constitution which have been adopted by the agency;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, and interim and final planning decisions;

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports, or surveys, whether conducted by public employees or others; and

(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory, or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.

(4) A local agency need not maintain such an index, if to do so would be unduly burdensome, but it shall in that event:

(a) Issue and publish a formal order specifying the reasons why and the extent to which compliance would unduly burden or interfere with agency operations; and

(b) Make available for public inspection and copying all indexes maintained for agency use.

(5) Each state agency shall, by rule, establish and implement a system of indexing for the identification and location of the following records:

(a) All records issued before July 1, 1990, for which the agency has maintained an index;

(b) Final orders entered after June 30, 1990, that are issued in adjudicative proceedings as defined in RCW 34.05.010 and that contain an analysis or decision of substantial importance to the agency in carrying out its duties;

(c) Declaratory orders entered after June 30, 1990, that are issued pursuant to RCW 34.05.240 and that contain an analysis or decision of substantial importance to the agency in carrying out its duties;

(d) Interpretive statements as defined in RCW 34.05.010 that were entered after June 30, 1990; and

(e) Policy statements as defined in RCW 34.05.010 that were entered after June 30, 1990.

Rules establishing systems of indexing shall include, but not be limited to, requirements for the form and content of the index, its location and availability to the public, and the schedule for revising or updating the index. State agencies that have maintained indexes for records issued before July 1, 1990, shall continue to make such indexes available for public inspection and copying. Information in such indexes may be incorporated into indexes prepared pursuant to this subsection. State agencies may satisfy the requirements of this subsection by making available to the public indexes prepared by other parties but actually used by the agency in its operations. State agencies shall make indexes available for public inspection and copying. State agencies may charge a fee to cover the actual costs of providing individual mailed copies of indexes.

(6) A public record may be relied on, used, or cited as precedent by an agency against a party other than an agency and it may be invoked by the agency for any other purpose only if:

(a) It has been indexed in an index available to the public; or

(b) Parties affected have timely notice (actual or constructive) of the terms thereof.

(7) Each agency may establish, maintain, and make available for public inspection and copying a statement of the actual costs that it charges for providing photocopies or electronically produced copies, of public records and a statement of the factors and manner used to determine the actual costs. Any statement of costs may be adopted by an agency only after providing notice and public hearing.

(a)(i) In determining the actual cost for providing copies of public records, an agency may include all costs directly incident to copying such public records including:

(A) The actual cost of the paper and the per page cost for use of agency copying equipment; and

(B) The actual cost of the electronic production or file transfer of the record and the use of any cloud-based data storage and processing service.

(ii) In determining other actual costs for providing copies of public records, an agency may include all costs directly incident to:

(A) Shipping such public records, including the cost of postage or delivery charges and the cost of any container or envelope used; and

(B) Transmitting such records in an electronic format, including the cost of any transmission charge and use of any physical media device provided by the agency.

(b) In determining the actual costs for providing copies of public records, an agency may not include staff salaries, benefits, or other general administrative or overhead charges, unless those costs are directly related to the actual cost of copying the public records. Staff time to copy and send the requested public records may be included in an agency's costs.

(8) This chapter shall not be construed as giving authority to any agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives to give, sell or provide access to lists of individuals requested for commercial purposes, and agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives shall not do so unless specifically authorized or directed by law: PROVIDED, HOWEVER, That lists of applicants for professional licenses and of professional licensees shall be made available to those professional associations or educational organizations recognized by their professional licensing or examination board, upon payment of a reasonable charge therefor: PROVIDED FURTHER, That such recognition may be refused only for a good cause pursuant to a hearing under the provisions of chapter 34.05 RCW, the administrative procedure act. [2017 c 304 § 1; 2005 c 274 § 284; 1997 c 409 § 601. Prior: 1995 c 397 § 11; 1995 c 341 § 1; 1992 c 139 § 3; 1989 c 175 § 36; 1987 c 403 § 3; 1975 1st ex.s. c 294 § 14; 1973 c 1 § 26 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.260.]

Intent—Severability—1987 c 403: See notes following RCW 42.56.050.

Exemption for registered trade names: RCW 19.80.065.

Paid family and medical leave information: RCW 50A.05.020(4).

Additional notes found at www.leg.wa.gov

42.56.080 Identifiable records—Facilities for copying—Availability of public records. (1) A public records request must be for identifiable records. A request for all or substantially all records prepared, owned, used, or retained by an agency is not a valid request for identifiable records under this chapter, provided that a request for all records regarding a particular topic or containing a particular keyword or name shall not be considered a request for all of an agency's records.

(2) Public records shall be available for inspection and copying, and agencies shall, upon request for identifiable public records, make them promptly available to any person including, if applicable, on a partial or installment basis as records that are part of a larger set of requested records are assembled or made ready for inspection or disclosure. Agencies shall not deny a request for identifiable public records solely on the basis that the request is overbroad. Agencies shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose for the request except to establish whether inspection and copying would violate RCW 42.56.070(8) or

42.56.240(14), or other statute which exempts or prohibits disclosure of specific information or records to certain persons. Agency facilities shall be made available to any person for the copying of public records except when and to the extent that this would unreasonably disrupt the operations of the agency. Agencies shall honor requests received in person during an agency's normal office hours, or by mail or email, for identifiable public records unless exempted by provisions of this chapter. No official format is required for making a records request; however, agencies may recommend that requestors submit requests using an agency provided form or web page.

(3) An agency may deny a bot request that is one of multiple requests from the requestor to the agency within a twenty-four hour period, if the agency establishes that responding to the multiple requests would cause excessive interference with other essential functions of the agency. For purposes of this subsection, "bot request" means a request for public records that an agency reasonably believes was automatically generated by a computer program or script. [2017 c 304 § 2; 2016 c 163 § 3. Prior: 2005 c 483 § 1; 2005 c 274 § 285; 1987 c 403 § 4; 1975 1st ex.s. c 294 § 15; 1973 c 1 § 27 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.270.]

Finding—Intent—2016 c 163: See note following RCW 42.56.240.

Intent—Severability—1987 c 403: See notes following RCW 42.56.050.

42.56.090 Times for inspection and copying—Posting on web site. Public records shall be available for inspection and copying during the customary office hours of the agency, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives for a minimum of thirty hours per week, except weeks that include state legal holidays, unless the person making the request and the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives or its representative agree on a different time. Customary business hours must be posted on the agency or office's web site and made known by other means designed to provide the public with notice. [2009 c 428 § 2; 1995 c 397 § 12; 1973 c 1 § 28 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.280.]

42.56.100 Protection of public records—Public access. Agencies shall adopt and enforce reasonable rules and regulations, and the office of the secretary of the senate and the office of the chief clerk of the house of representatives shall adopt reasonable procedures allowing for the time, resource, and personnel constraints associated with legislative sessions, consonant with the intent of this chapter to provide full public access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with other essential functions of the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives. Such rules and regulations shall provide for the fullest assistance to inquirers and the most timely possible action on requests for information. Nothing in this section shall relieve agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives from honoring

requests received by mail for copies of identifiable public records.

If a public record request is made at a time when such record exists but is scheduled for destruction in the near future, the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives shall retain possession of the record, and may not destroy or erase the record until the request is resolved. [1995 c 397 § 13; 1992 c 139 § 4; 1975 1st ex.s. c 294 § 16; 1973 c 1 § 29 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.290.]

42.56.110 Destruction of information relating to employee misconduct. Nothing in this chapter prevents an agency from destroying information relating to employee misconduct or alleged misconduct, in accordance with RCW 41.06.450, to the extent necessary to ensure fairness to the employee. [1982 c 208 § 13. Formerly RCW 42.17.295.]

42.56.120 Charges for copying. (1) No fee shall be charged for the inspection of public records or locating public documents and making them available for copying, except as provided in RCW 42.56.240(14) and subsection (3) of this section. A reasonable charge may be imposed for providing copies of public records and for the use by any person of agency equipment or equipment of the office of the secretary of the senate or the office of the chief clerk of the house of representatives to copy public records, which charges shall not exceed the amount necessary to reimburse the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives for its actual costs directly incident to such copying. When calculating any fees authorized under this section, an agency shall use the most reasonable cost-efficient method available to the agency as part of its normal operations. If any agency translates a record into an alternative electronic format at the request of a requestor, the copy created does not constitute a new public record for purposes of this chapter. Scanning paper records to make electronic copies of such records is a method of copying paper records and does not amount to the creation of a new public record.

(2)(a) Agency charges for actual costs may only be imposed in accordance with the costs established and published by the agency pursuant to RCW 42.56.070(7), and in accordance with the statement of factors and manner used to determine the actual costs. In no event may an agency charge a per page cost greater than the actual cost as established and published by the agency.

(b) An agency need not calculate the actual costs it charges for providing public records if it has rules or regulations declaring the reasons doing so would be unduly burdensome. To the extent the agency has not determined the actual costs of copying public records, the agency may not charge in excess of:

(i) Fifteen cents per page for photocopies of public records, printed copies of electronic public records when requested by the person requesting records, or for the use of agency equipment to photocopy public records;

(ii) Ten cents per page for public records scanned into an electronic format or for the use of agency equipment to scan the records;

(iii) Five cents per each four electronic files or attachment uploaded to email, cloud-based data storage service, or other means of electronic delivery; and

(iv) Ten cents per gigabyte for the transmission of public records in an electronic format or for the use of agency equipment to send the records electronically. The agency shall take reasonable steps to provide the records in the most efficient manner available to the agency in its normal operations; and

(v) The actual cost of any digital storage media or device provided by the agency, the actual cost of any container or envelope used to mail the copies to the requestor, and the actual postage or delivery charge.

(c) The charges in (b) of this subsection may be combined to the extent that more than one type of charge applies to copies produced in response to a particular request.

(d) An agency may charge a flat fee of up to two dollars for any request as an alternative to fees authorized under (a) or (b) of this subsection when the agency reasonably estimates and documents that the costs allowed under this subsection are clearly equal to or more than two dollars. An additional flat fee shall not be charged for any installment after the first installment of a request produced in installments. An agency that has elected to charge the flat fee in this subsection for an initial installment may not charge the fees authorized under (a) or (b) of this subsection on subsequent installments.

(e) An agency shall not impose copying charges under this section for access to or downloading of records that the agency routinely posts on its public internet web site prior to receipt of a request unless the requestor has specifically requested that the agency provide copies of such records through other means.

(f) A requestor may ask an agency to provide, and if requested an agency shall provide, a summary of the applicable charges before any copies are made and the requestor may revise the request to reduce the number of copies to be made and reduce the applicable charges.

(3)(a)(i) In addition to the charge imposed for providing copies of public records and for the use by any person of agency equipment copying costs, an agency may include a customized service charge. A customized service charge may only be imposed if the agency estimates that the request would require the use of information technology expertise to prepare data compilations, or provide customized electronic access services when such compilations and customized access services are not used by the agency for other agency purposes.

(ii) The customized service charge may reimburse the agency up to the actual cost of providing the services in this subsection.

(b) An agency may not assess a customized service charge unless the agency has notified the requestor of the customized service charge to be applied to the request, including an explanation of why the customized service charge applies, a description of the specific expertise, and a reasonable estimate cost of the charge. The notice also must provide the requestor the opportunity to amend his or her request in order to avoid or reduce the cost of a customized service charge.

(4) An agency may require a deposit in an amount not to exceed ten percent of the estimated cost of providing copies for a request, including a customized service charge. If an

agency makes a request available on a partial or installment basis, the agency may charge for each part of the request as it is provided. If an installment of a records request is not claimed or reviewed, the agency is not obligated to fulfill the balance of the request. An agency may waive any charge assessed for a request pursuant to agency rules and regulations. An agency may enter into any contract, memorandum of understanding, or other agreement with a requestor that provides an alternative fee arrangement to the charges authorized in this section, or in response to a voluminous or frequently occurring request. [2017 c 304 § 3; 2016 c 163 § 4; 2005 c 483 § 2. Prior: 1995 c 397 § 14; 1995 c 341 § 2; 1973 c 1 § 30 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.300.]

Finding—Intent—2016 c 163: See note following RCW 42.56.240.

42.56.130 Other provisions not superseded. The provisions of RCW *42.56.070 (7) and (8) and 42.56.120 that establish or allow agencies to establish the costs charged for photocopies or electronically produced copies of public records do not supersede other statutory provisions, other than in this chapter, authorizing or governing fees for copying public records. [2017 c 304 § 4; 2005 c 274 § 286; 1995 c 341 § 3. Formerly RCW 42.17.305.]

***Reviser's note:** RCW 42.56.070 was amended by 2017 c 304 § 1, deleting subsection (8).

42.56.140 Public records exemptions accountability committee. (1)(a) The public records exemptions accountability committee is created to review exemptions from public disclosure, with thirteen members as provided in this subsection.

(i) The governor shall appoint two members, one of whom represents the governor and one of whom represents local government.

(ii) The attorney general shall appoint two members, one of whom represents the attorney general and one of whom represents a statewide media association.

(iii) The state auditor shall appoint one member.

(iv) The president of the senate shall appoint one member from each of the two largest caucuses of the senate.

(v) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives.

(vi) The governor shall appoint four members of the public, with consideration given to diversity of viewpoint and geography.

(b) The governor shall select the chair of the committee from among its membership.

(c) Terms of the members shall be four years and shall be staggered, beginning August 1, 2007.

(2) The purpose of the public records exemptions accountability committee is to review public disclosure exemptions and provide recommendations pursuant to subsection (7)(d) of this section. The committee shall develop and publish criteria for review of public exemptions.

(3) All meetings of the committee shall be open to the public.

(4) The committee must consider input from interested parties.

(2020 Ed.)

(5) The office of the attorney general and the office of financial management shall provide staff support to the committee.

(6) Legislative members of the committee shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7)(a) Beginning August 1, 2007, the code reviser shall provide the committee by August 1st of each year with a list of all public disclosure exemptions in the Revised Code of Washington.

(b) The committee shall develop a schedule to accomplish a review of each public disclosure exemption. The committee shall publish the schedule and publish any revisions made to the schedule.

(c) The chair shall convene an initial meeting of the committee by September 1, 2007. The committee shall meet at least once a quarter and may hold additional meetings at the call of the chair or by a majority vote of the members of the committee.

(d) For each public disclosure exemption, the committee shall provide a recommendation as to whether the exemption should be continued without modification, modified, scheduled for sunset review at a future date, or terminated. By November 15th of each year, the committee shall transmit its recommendations to the governor, the attorney general, and the appropriate committees of the house of representatives and the senate. [2007 c 198 § 2.]

Finding—2007 c 198: "The legislature recognizes that public disclosure exemptions are enacted to meet objectives that are determined to be in the public interest. Given the changing nature of information technology and management, recordkeeping, and the increasing number of public disclosure exemptions, the legislature finds that periodic reviews of public disclosure exemptions are needed to determine if each exemption serves the public interest." [2007 c 198 § 1.]

42.56.141 Public records exemptions accountability committee—Wolf depredation information exemption. (Expires June 30, 2022.) By December 1, 2021, the public records exemptions accountability committee, in addition to its duties in RCW 42.56.140, must prepare and submit a report to the legislature that includes recommendations on whether the exemptions created in section 1, chapter 246, Laws of 2017 should be continued or allowed to expire. The report should focus on whether the exemption continues to serve the intent of the legislature in section 1, chapter 246, Laws of 2017 to provide protections of personal information during the period the state establishes and implements new policies regarding wolf management. The committee must consider whether the development of wolf management policy, by the time of the report, has diminished risks of threats to personal safety so that the protection of personal information in section 1, chapter 246, Laws of 2017 is no longer an ongoing necessity. [2017 c 246 § 3.]

Expiration date—2017 c 246: See note following RCW 42.56.430.

42.56.150 Training—Local elected and statewide elected officials. (1) Each local elected official and statewide elected official, and each person appointed to fill a vacancy in a local or statewide office, must complete a train-

ing course regarding the provisions of this chapter, and also chapter 40.14 RCW for records retention.

(2) Officials required to complete training under this section may complete their training before assuming office but must:

(a) Complete training no later than ninety days after the date the official either:

(i) Takes the oath of office, if the official is required to take an oath of office to assume his or her duties as a public official; or

(ii) Otherwise assumes his or her duties as a public official; and

(b) Complete refresher training at intervals of no more than four years for as long as he or she holds the office.

(3) Training must be consistent with the attorney general's model rules for compliance with the public records act.

(4) Training may be completed remotely with technology including but not limited to internet-based training. [2014 c 66 § 3.]

Findings—2014 c 66: "The legislature finds that the rights of citizens to observe the actions of their public officials and to have timely access to public records are the underpinnings of democracy and are essential for meaningful citizen participation in the democratic process. All too often, however, violations of the requirements of the public records act and the open public meetings act by public officials and agencies result in citizens being denied this important information and materials to which they are legally entitled. Such violations are often the result of inadvertent error or a lack of knowledge on the part of officials and agencies regarding their legal duties to the public pursuant to these acts. Also, whether due to error or ignorance, violations of the public records act and open public meetings act are very costly for state and local governments, both in terms of litigation expenses and administrative costs. The legislature also finds that the implementation of simple, cost-effective training programs will greatly increase the likelihood that public officials and agencies will better serve the public by improving citizen access to public records and encouraging public participation in governmental deliberations. Such improvements in public service will, in turn, enhance the public's trust in its government and result in significant cost savings by reducing the number of violations of the public records act and open public meetings act." [2014 c 66 § 1.]

Short title—2014 c 66: "This act may be known and cited as the open government trainings act." [2014 c 66 § 6.]

Effective date—2014 c 66: "This act takes effect July 1, 2014." [2014 c 66 § 7.]

42.56.152 Training—Public records officers. (1) Public records officers designated under RCW 42.56.580 and records officers designated under RCW 40.14.040 must complete a training course regarding the provisions of this chapter, and also chapter 40.14 RCW for records retention.

(2) Public records officers must:

(a) Complete training no later than ninety days after assuming responsibilities as a public records officer or records manager; and

(b) Complete refresher training at intervals of no more than four years as long as they maintain the designation.

(3) Training must be consistent with the attorney general's model rules for compliance with the public records act.

(4) Training may be completed remotely with technology including but not limited to internet-based training.

(5) Training must address particular issues related to the retention, production, and disclosure of electronic documents, including updating and improving technology information services. [2017 c 303 § 2; 2014 c 66 § 4.]

Findings—Short title—Effective date—2014 c 66: See notes following RCW 42.56.150.

42.56.155 Assistance by attorney general. The attorney general's office may provide information, technical assistance, and training on the provisions of this chapter. [2014 c 66 § 5.]

Findings—Short title—Effective date—2014 c 66: See notes following RCW 42.56.150.

42.56.210 Certain personal and other records exempt. (1) Except for information described in *RCW 42.56.230(3)(a) and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this chapter are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(2) Inspection or copying of any specific records exempt under the provisions of this chapter may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(3) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld. [2005 c 274 § 402. Prior: (2006 c 302 § 11 expired July 1, 2006); (2006 c 75 § 2 expired July 1, 2006); (2006 c 8 § 111 expired July 1, 2006); (2003 1st sp.s. c 26 § 926 expired June 30, 2005); 2003 c 277 § 3; 2003 c 124 § 1; prior: 2002 c 335 § 1; 2002 c 224 § 2; 2002 c 205 § 4; 2002 c 172 § 1; prior: 2001 c 278 § 1; 2001 c 98 § 2; 2001 c 70 § 1; prior: 2000 c 134 § 3; 2000 c 56 § 1; 2000 c 6 § 5; prior: 1999 c 326 § 3; 1999 c 290 § 1; 1999 c 215 § 1; 1998 c 69 § 1; prior: 1997 c 310 § 2; 1997 c 274 § 8; 1997 c 250 § 7; 1997 c 239 § 4; 1997 c 220 § 120 (Referendum Bill No. 48, approved June 17, 1997); 1997 c 58 § 900; prior: 1996 c 305 § 2; 1996 c 253 § 302; 1996 c 191 § 88; 1996 c 80 § 1; 1995 c 267 § 6; prior: 1994 c 233 § 2; 1994 c 182 § 1; prior: 1993 c 360 § 2; 1993 c 320 § 9; 1993 c 280 § 35; prior: 1992 c 139 § 5; 1992 c 71 § 12; 1991 c 301 § 13; 1991 c 87 § 13; 1991 c 23 § 10; 1991 c 1 § 1; 1990 2nd ex.s. c 1 § 1103; 1990 c 256 § 1; prior: 1989 1st ex.s. c 9 § 407; 1989 c 352 § 7; 1989 c 279 § 23; 1989 c 238 § 1; 1989 c 205 § 20; 1989 c 189 § 3; 1989 c 11 § 12; prior: 1987 c 411 § 10; 1987 c 404 § 1; 1987 c 370 § 16; 1987 c 337 § 1; 1987 c 107 § 2; prior: 1986 c 299 § 25; 1986 c 276 § 7; 1985 c 414 § 8; 1984 c 143 § 21; 1983 c 133 § 10; 1982 c 64 § 1; 1977 ex.s. c 314 § 13; 1975-'76 2nd ex.s. c 82 § 5; 1975 1st ex.s. c 294 § 17; 1973 c 1 § 31 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.310.]

***Reviser's note:** RCW 42.56.230 was amended by 2011 c 173 § 1, changing subsection (3)(a) to subsection (4)(a).

Working group on veterans' records: "The protection from identity theft for veterans who choose to file their discharge papers with the county auditor is a matter of gravest concern. At the same time, the integrity of the public record of each county is a matter of utmost importance to the economic life of this state and to the right of each citizen to be secure in his or her ownership of real property and other rights and obligations of our citizens that rely upon the public record for their proof. Likewise the integrity of the public record is essential for the establishment of ancestral ties that may

be of interest to this and future generations. While the public record as now kept by the county auditors is sufficient by itself for the accomplishment of these and many other public and private purposes, the proposed use of the public record for purposes that in their nature and intent are not public, so as to keep the veterans' discharge papers from disclosure to those of ill intent, causes concern among many segments of the population of this state.

In order to voice these concerns effectively and thoroughly, a working group may be convened by the joint committee on veterans' and military affairs to develop a means to preserve the integrity of the public record while protecting those veterans from identity theft." [2002 c 224 § 1.]

Findings—Severability—Effective dates—2002 c 205 §§ 2, 3, and 4: See notes following RCW 28A.320.125.

Finding—2001 c 98: "The legislature finds that public health and safety is promoted when the public has knowledge that enables them to make informed choices about their health and safety. Therefore, the legislature declares, as a matter of public policy, that the public has a right to information necessary to protect members of the public from harm caused by alleged hazards or threats to the public.

The legislature also recognizes that the public disclosure of those portions of records containing specific and unique vulnerability assessments or specific and unique response plans, either of which is intended to prevent or mitigate criminal terrorist acts as defined in RCW 70.74.285, could have a substantial likelihood of threatening public safety. Therefore, the legislature declares, as a matter of public policy, that such specific and unique information should be protected from unnecessary disclosure." [2001 c 98 § 1.]

Findings—Conflict with federal requirements—Severability—2000 c 134: See notes following RCW 50.13.060.

Referendum—Other legislation limited—Legislators' personal interest not indicated—Reimbursements for election—Voters' pamphlet, election requirements—1997 c 220: See RCW 36.102.800 through 36.102.803.

Findings—Purpose—Severability—Part headings not law—1996 c 253: See notes following RCW 28B.109.010.

Finding—1991 c 301: See note following RCW 10.99.020.

Exemptions from public inspection

basic health plan records: RCW 70.47.150.

bill drafting service of code reviser's office: RCW 1.08.027, 44.68.060.

certificate submitted by individual with physical or mental disability seeking a driver's license: RCW 46.20.041.

commercial fertilizers, sales reports: RCW 15.54.362.

criminal records: Chapter 10.97 RCW.

employer information: RCW 50.13.060.

family and children's ombuds: RCW 43.06A.050.

legislative service center, information: RCW 44.68.060.

medical quality assurance commission, reports required to be filed with: RCW 18.71.0195.

organized crime investigative information: RCW 43.43.856.

public transportation information: RCW 47.04.240.

salary and fringe benefit survey information: RCW 41.06.160.

Additional notes found at www.leg.wa.gov

42.56.230 Personal information. The following personal information is exempt from public inspection and copying under this chapter:

(1) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients;

(2)(a) Personal information:

(i) For a child enrolled in licensed child care in any files maintained by the department of children, youth, and families;

(ii) For a child enrolled in a public or nonprofit program serving or pertaining to children, adolescents, or students, including but not limited to early learning or child care services, parks and recreation programs, youth development programs, and after-school programs;

(iii) For the family members or guardians of a child who is subject to the exemption under this subsection (2) if the family member or guardian has the same last name as the

child or if the family member or guardian resides at the same address as the child and disclosure of the family member's or guardian's information would result in disclosure of the personal information exempted under (a)(i) and (ii) of this subsection; or

(iv) For substitute caregivers who are licensed or approved to provide overnight care of children by the department of children, youth, and families.

(b) Emergency contact information under this subsection (2) may be provided to appropriate authorities and medical personnel for the purpose of treating the individual during an emergency situation;

(3) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy;

(4) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would: (a) Be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, 84.40.340, or any ordinance authorized under RCW 35.102.145; or (b) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer;

(5) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial information as defined in RCW 9.35.005 including social security numbers, except when disclosure is expressly required by or governed by other law;

(6) Personal and financial information related to a small loan or any system of authorizing a small loan in RCW 31.45.093;

(7)(a) Any record used to prove identity, age, residential address, social security number, or other personal information required to apply for a driver's license or identicard.

(b) Information provided under RCW 46.20.111 that indicates that an applicant declined to register with the selective service system.

(c) Any record pertaining to a vehicle license plate, driver's license, or identicard issued under RCW 46.08.066 that, alone or in combination with any other records, may reveal the identity of an individual, or reveal that an individual is or was, performing an undercover or covert law enforcement, confidential public health work, public assistance fraud, or child support investigative activity. This exemption does not prevent the release of the total number of vehicle license plates, drivers' licenses, or identicards that, under RCW 46.08.066, an agency or department has applied for, been issued, denied, returned, destroyed, lost, and reported for misuse.

(d) Any record pertaining to a vessel registration issued under RCW 88.02.330 that, alone or in combination with any other records, may reveal the identity of an individual, or reveal that an individual is or was, performing an undercover or covert law enforcement activity. This exemption does not prevent the release of the total number of vessel registrations that, under RCW 88.02.330, an agency or department has applied for, been issued, denied, returned, destroyed, lost, and reported for misuse;

(8) All information related to individual claims resolution structured settlement agreements submitted to the board of industrial insurance appeals under RCW 51.04.063, other

than final orders from the board of industrial insurance appeals.

Upon request by the legislature, the department of licensing shall provide a report to the legislature containing all of the information in subsection (7)(c) and (d) of this section that is subject to public disclosure;

(9) Voluntarily submitted information contained in a database that is part of or associated with enhanced 911 emergency communications systems, or information contained or used in emergency notification systems as provided under RCW 38.52.575 and 38.52.577;

(10) Until the person reaches eighteen years of age, information, otherwise disclosable under chapter 29A.08 RCW, that relates to a future voter, except for the purpose of processing and delivering ballots;

(11) All information submitted by a person to the state, either directly or through a state-licensed gambling establishment, or Indian tribes, or tribal enterprises that own gambling operations or facilities with class III gaming compacts, as part of the self-exclusion program established in RCW 9.46.071 or 67.70.040 for people with a gambling problem or gambling disorder; and

(12) Names, addresses, or other personal information of individuals who participated in the bump-fire stock buy-back program under *RCW 43.43.920. [2019 c 470 § 8; 2019 c 239 § 2; (2019 c 239 § 1 expired July 1, 2019); 2019 c 213 § 2; 2018 c 109 § 16; 2017 3rd sp.s. c 6 § 222. Prior: 2015 c 224 § 2; 2015 c 47 § 1; 2014 c 142 § 1; prior: 2013 c 336 § 3; 2013 c 220 § 1; prior: 2011 c 350 § 2; 2011 c 173 § 1; 2010 c 106 § 102; 2009 c 510 § 8; 2008 c 200 § 5; 2005 c 274 § 403.]

Reviser's note: *(1) RCW 43.43.920 expired January 1, 2020.

(2) This section was amended by 2019 c 213 § 2, 2019 c 239 § 2, and by 2019 c 470 § 8, without reference to one another. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Expiration date—Effective date—2019 c 239 §§ 1 and 2: "(1) Section 1 of this act expires July 1, 2019.

(2) Section 2 of this act takes effect July 1, 2019." [2019 c 239 § 4.]

Effective date—2019 c 239: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 30, 2019]." [2019 c 239 § 5.]

Application—2019 c 239: "The exemptions in this act apply to any public records requests made prior to April 30, 2019, for which the disclosure of records has not already occurred." [2019 c 239 § 3.]

Findings—Intent—Effective date—2018 c 109: See notes following RCW 29A.08.170.

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Effective date—2013 c 336: See note following RCW 46.08.066.

Effective date—2011 c 350: See note following RCW 46.20.111.

Effective date—2010 c 106: See note following RCW 35.102.145.

Finding—Intent—Liberal construction—2009 c 510: See note following RCW 31.45.010.

Additional notes found at www.leg.wa.gov

42.56.235 Religious affiliation exemption. All records that relate to or contain personally identifying information about an individual's religious beliefs, practices, or affiliation

are exempt from disclosure under this chapter. [2018 c 303 § 7.]

42.56.240 Investigative, law enforcement, and crime victims. The following investigative, law enforcement, and crime victim information is exempt from public inspection and copying under this chapter:

(1) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy;

(2) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim, or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath;

(3) Any records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenses contained in chapter 9A.44 RCW or sexually violent offenses as defined in RCW 71.09.020, which have been transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval pursuant to RCW 40.14.070(2)(b);

(4) License applications under RCW 9.41.070; copies of license applications or information on the applications may be released to law enforcement or corrections agencies;

(5) Information revealing the specific details that describe an alleged or proven child victim of sexual assault under age eighteen, or the identity or contact information of an alleged or proven child victim of sexual assault who is under age eighteen. Identifying information includes the child victim's name, addresses, location, photograph, and in cases in which the child victim is a relative, stepchild, or step-sibling of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator. Contact information includes phone numbers, email addresses, social media profiles, and user names and passwords;

(6) Information contained in a local or regionally maintained gang database as well as the statewide gang database referenced in RCW 43.43.762;

(7) Data from the electronic sales tracking system established in RCW 69.43.165;

(8) Information submitted to the statewide unified sex offender notification and registration program under RCW 36.28A.040(6) by a person for the purpose of receiving notification regarding a registered sex offender, including the person's name, residential address, and email address;

(9) Personally identifying information collected by law enforcement agencies pursuant to local security alarm system programs and vacation crime watch programs. Nothing in this subsection shall be interpreted so as to prohibit the legal owner of a residence or business from accessing information regarding his or her residence or business;

(10) The felony firearm offense conviction database of felony firearm offenders established in RCW 43.43.822;

(11) The identity of a state employee or officer who has in good faith filed a complaint with an ethics board, as provided in RCW 42.52.410, or who has in good faith reported improper governmental action, as defined in RCW 42.40.020, to the auditor or other public official, as defined in RCW 42.40.020;

(12) The following security threat group information collected and maintained by the department of corrections pursuant to RCW 72.09.745: (a) Information that could lead to the identification of a person's security threat group status, affiliation, or activities; (b) information that reveals specific security threats associated with the operation and activities of security threat groups; and (c) information that identifies the number of security threat group members, affiliates, or associates;

(13) The global positioning system data that would indicate the location of the residence of an employee or worker of a criminal justice agency as defined in RCW 10.97.030;

(14) Body worn camera recordings to the extent nondisclosure is essential for the protection of any person's right to privacy as described in RCW 42.56.050, including, but not limited to, the circumstances enumerated in (a) of this subsection. A law enforcement or corrections agency shall not disclose a body worn camera recording to the extent the recording is exempt under this subsection.

(a) Disclosure of a body worn camera recording is presumed to be highly offensive to a reasonable person under RCW 42.56.050 to the extent it depicts:

(i)(A) Any areas of a medical facility, counseling, or therapeutic program office where:

(I) A patient is registered to receive treatment, receiving treatment, waiting for treatment, or being transported in the course of treatment; or

(II) Health care information is shared with patients, their families, or among the care team; or

(B) Information that meets the definition of protected health information for purposes of the health insurance portability and accountability act of 1996 or health care information for purposes of chapter 70.02 RCW;

(ii) The interior of a place of residence where a person has a reasonable expectation of privacy;

(iii) An intimate image;

(iv) A minor;

(v) The body of a deceased person;

(vi) The identity of or communications from a victim or witness of an incident involving domestic violence as defined in RCW 10.99.020 or sexual assault as defined in RCW 70.125.030, or disclosure of intimate images as defined in RCW 9A.86.010. If at the time of recording the victim or witness indicates a desire for disclosure or nondisclosure of the recorded identity or communications, such desire shall govern; or

(vii) The identifiable location information of a community-based domestic violence program as defined in RCW 70.123.020, or emergency shelter as defined in RCW 70.123.020.

(b) The presumptions set out in (a) of this subsection may be rebutted by specific evidence in individual cases.

(c) In a court action seeking the right to inspect or copy a body worn camera recording, a person who prevails against a law enforcement or corrections agency that withholds or discloses all or part of a body worn camera recording pursuant to (a) of this subsection is not entitled to fees, costs, or awards pursuant to RCW 42.56.550 unless it is shown that the law enforcement or corrections agency acted in bad faith or with gross negligence.

(d) A request for body worn camera recordings must:

(i) Specifically identify a name of a person or persons involved in the incident;

(ii) Provide the incident or case number;

(iii) Provide the date, time, and location of the incident or incidents; or

(iv) Identify a law enforcement or corrections officer involved in the incident or incidents.

(e)(i) A person directly involved in an incident recorded by the requested body worn camera recording, an attorney representing a person directly involved in an incident recorded by the requested body worn camera recording, a person or his or her attorney who requests a body worn camera recording relevant to a criminal case involving that person, or the executive director from either the Washington state commission on African American affairs, Asian Pacific American affairs, or Hispanic affairs, has the right to obtain the body worn camera recording, subject to any exemption under this chapter or any applicable law. In addition, an attorney who represents a person regarding a potential or existing civil cause of action involving the denial of civil rights under the federal or state Constitution, or a violation of a United States department of justice settlement agreement, has the right to obtain the body worn camera recording if relevant to the cause of action, subject to any exemption under this chapter or any applicable law. The attorney must explain the relevancy of the requested body worn camera recording to the cause of action and specify that he or she is seeking relief from redaction costs under this subsection (14)(e).

(ii) A law enforcement or corrections agency responding to requests under this subsection (14)(e) may not require the requesting individual to pay costs of any redacting, altering, distorting, pixelating, suppressing, or otherwise obscuring any portion of a body worn camera recording.

(iii) A law enforcement or corrections agency may require any person requesting a body worn camera recording pursuant to this subsection (14)(e) to identify himself or herself to ensure he or she is a person entitled to obtain the body worn camera recording under this subsection (14)(e).

(f)(i) A law enforcement or corrections agency responding to a request to disclose body worn camera recordings may require any requester not listed in (e) of this subsection to pay the reasonable costs of redacting, altering, distorting, pixelating, suppressing, or otherwise obscuring any portion of the body worn camera recording prior to disclosure only to the extent necessary to comply with the exemptions in this chapter or any applicable law.

(ii) An agency that charges redaction costs under this subsection (14)(f) must use redaction technology that provides the least costly commercially available method of redacting body worn camera recordings, to the extent possible and reasonable.

(iii) In any case where an agency charges a requestor for the costs of redacting a body worn camera recording under this subsection (14)(f), the time spent on redaction of the recording shall not count towards the agency's allocation of, or limitation on, time or costs spent responding to public records requests under this chapter, as established pursuant to local ordinance, policy, procedure, or state law.

(g) For purposes of this subsection (14):

(i) "Body worn camera recording" means a video and/or sound recording that is made by a body worn camera attached to the uniform or eyewear of a law enforcement or corrections officer while in the course of his or her official duties; and

(ii) "Intimate image" means an individual or individuals engaged in sexual activity, including sexual intercourse as defined in RCW 9A.44.010 and masturbation, or an individual's intimate body parts, whether nude or visible through less than opaque clothing, including the genitals, pubic area, anus, or postpubescent female nipple.

(h) Nothing in this subsection shall be construed to restrict access to body worn camera recordings as otherwise permitted by law for official or recognized civilian and accountability bodies or pursuant to any court order.

(i) Nothing in this section is intended to modify the obligations of prosecuting attorneys and law enforcement under *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963), *Kyles v. Whitley*, 541 U.S. 419, 115 S. Ct. 1555, 131 L. Ed.2d 490 (1995), and the relevant Washington court criminal rules and statutes.

(j) A law enforcement or corrections agency must retain body worn camera recordings for at least sixty days and thereafter may destroy the records in accordance with the applicable records retention schedule;

(15) Any records and information contained within the statewide sexual assault kit tracking system established in RCW 43.43.545;

(16)(a) Survivor communications with, and survivor records maintained by, campus-affiliated advocates.

(b) Nothing in this subsection shall be construed to restrict access to records maintained by a campus-affiliated advocate in the event that:

(i) The survivor consents to inspection or copying;

(ii) There is a clear, imminent risk of serious physical injury or death of the survivor or another person;

(iii) Inspection or copying is required by federal law; or

(iv) A court of competent jurisdiction mandates that the record be available for inspection or copying.

(c) "Campus-affiliated advocate" and "survivor" have the definitions in RCW 28B.112.030;

(17) Information and records prepared, owned, used, or retained by the Washington association of sheriffs and police chiefs and information and records prepared, owned, used, or retained by the Washington state patrol pursuant to chapter 261, Laws of 2017; and

(18) Any and all audio or video recordings of child forensic interviews as defined in chapter 26.44 RCW. Such recordings are confidential and may only be disclosed pursuant to a court order entered upon a showing of good cause and with advance notice to the child's parent, guardian, or legal custodian. However, if the child is an emancipated minor or has attained the age of majority as defined in RCW

26.28.010, advance notice must be to the child. Failure to disclose an audio or video recording of a child forensic interview as defined in chapter 26.44 RCW is not grounds for penalties or other sanctions available under this chapter. [2019 c 300 § 1. Prior: 2018 c 285 § 1; 2018 c 171 § 7; prior: 2017 c 261 § 7; 2017 c 72 § 3; prior: 2016 c 173 § 8; 2016 c 163 § 2; prior: 2015 c 224 § 3; 2015 c 91 § 1; prior: 2013 c 315 § 2; 2013 c 190 § 7; 2013 c 183 § 1; 2012 c 88 § 1; prior: 2010 c 266 § 2; 2010 c 182 § 5; 2008 c 276 § 202; 2005 c 274 § 404.]

Retroactive application—2018 c 171 § 7: "Section 7 of this act applies retroactively to all outstanding public records requests submitted prior to March 22, 2018." [2018 c 171 § 8.]

Effective date—2018 c 171: See note following RCW 26.44.188.

Finding—Intent—2017 c 72: See note following RCW 28B.112.030.

Finding—Intent—2016 c 173: See note following RCW 43.43.545.

Finding—Intent—2016 c 163: "The legislature finds that technological developments present opportunities for additional truth-finding, transparency, and accountability in interactions between law enforcement or corrections officers and the public. The legislature intends to promote transparency and accountability by permitting access to video and/or sound recordings of interactions with law enforcement or corrections officers, while preserving the public's reasonable expectation that the recordings of these interactions will not be publicly disclosed to enable voyeurism or exploitation." [2016 c 163 § 1.]

Finding—2013 c 190: See note following RCW 42.52.410.

Restrictions on dissemination of child forensic interview recordings: RCW 26.44.187 and 26.44.188.

Additional notes found at www.leg.wa.gov

42.56.250 Employment and licensing. The following employment and licensing information is exempt from public inspection and copying under this chapter:

(1) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination;

(2) All applications for public employment other than for vacancies in elective office, including the names of applicants, resumes, and other related materials submitted with respect to an applicant;

(3) Professional growth plans (PGPs) in educator license renewals submitted through the eCert system in the office of the superintendent of public instruction;

(4) The following information held by any public agency in personnel records, public employment related records, volunteer rosters, or included in any mailing list of employees or volunteers of any public agency: Residential addresses, residential telephone numbers, personal wireless telephone numbers, personal email addresses, social security numbers, driver's license numbers, identicard numbers, payroll deductions including the amount and identification of the deduction, and emergency contact information of employees or volunteers of a public agency, and the names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal email addresses, social security numbers, and emergency contact information of dependents of employees or volunteers of a public agency. For purposes of this subsection, "employees" includes independent provider home care workers as defined in RCW 74.39A.240;

(5) Information that identifies a person who, while an agency employee: (a) Seeks advice, under an informal process established by the employing agency, in order to ascer-

tain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (b) requests his or her identity or any identifying information not be disclosed;

(6) Investigative records compiled by an employing agency in connection with an investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws or an employing agency's internal policies prohibiting discrimination or harassment in employment. Records are exempt in their entirety while the investigation is active and ongoing. After the agency has notified the complaining employee of the outcome of the investigation, the records may be disclosed only if the names of complainants, other accusers, and witnesses are redacted, unless a complainant, other accuser, or witness has consented to the disclosure of his or her name. The employing agency must inform a complainant, other accuser, or witness that his or her name will be redacted from the investigation records unless he or she consents to disclosure;

(7) Criminal history records checks for board staff finalist candidates conducted pursuant to RCW 43.33A.025;

(8) Photographs and month and year of birth in the personnel files of employees or volunteers of a public agency, including employees and workers of criminal justice agencies as defined in RCW 10.97.030. The news media, as defined in RCW 5.68.010(5), shall have access to the photographs and full date of birth. For the purposes of this subsection, news media does not include any person or organization of persons in the custody of a criminal justice agency as defined in RCW 10.97.030;

(9) The global positioning system data that would indicate the location of the residence of a public employee or volunteer using the global positioning system recording device;

(10) Until the person reaches eighteen years of age, information, otherwise disclosable under chapter 29A.08 RCW, that relates to a future voter, except for the purpose of processing and delivering ballots; and

(11) Voluntarily submitted information collected and maintained by a state agency or higher education institution that identifies an individual state employee's personal demographic details. "Personal demographic details" means race or ethnicity, sexual orientation as defined by *RCW 49.60.040(26), immigration status, national origin, or status as a person with a disability. This exemption does not prevent the release of state employee demographic information in a deidentified or aggregate format.

(12) Upon receipt of a request for information located exclusively in an employee's personnel, payroll, supervisor, or training file, the agency must provide notice to the employee, to any union representing the employee, and to the requestor. The notice must state:

(a) The date of the request;

(b) The nature of the requested record relating to the employee;

(c) That the agency will release any information in the record which is not exempt from the disclosure requirements of this chapter at least ten days from the date the notice is made; and

(d) That the employee may seek to enjoin release of the records under RCW 42.56.540. [2020 c 106 § 1. Prior: 2019 c 349 § 2; 2019 c 229 § 1; 2018 c 109 § 17; prior: 2017 c 38

(2020 Ed.)

§ 1; 2017 c 16 § 1; 2014 c 106 § 1; prior: 2010 c 257 § 1; 2010 c 128 § 9; 2006 c 209 § 6; 2005 c 274 § 405.]

*Reviser's note: RCW 49.60.040 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (26) to subsection (27).

Findings—2019 c 349: "The legislature finds that workplace harassment remains a persistent problem and there is an urgent need to address barriers that prevent people from reporting harassment. The United States equal employment opportunity commission select task force on the study of harassment in the workplace released a report in 2016 finding that ninety percent of individuals who experience harassment never take formal action, and noting that seventy-five percent of employees who spoke out against workplace mistreatment faced some sort of retaliation. The legislature finds that it is in the public interest for state employees to feel safe to report incidents of harassment when it occurs and to protect these employees from an increased risk of retaliation. The legislature finds that the release of the identities of employees who report or participate in harassment investigations increases the risk of retaliation, invades the privacy of a vulnerable population, and significantly reduces reporting of harassment. The legislature finds that if state government can make it easier for victims and witnesses of harassment to come forward and report harassment, harassment issues can be dealt with before they worsen or spread." [2019 c 349 § 1.]

Findings—Intent—Effective date—2018 c 109: See notes following RCW 29A.08.170.

42.56.260 Real estate transactions. (1) Subject to the time limitations in subsection (2) of this section, the following documents relating to an agency's real estate transactions are exempt from public inspection and copying under this chapter:

(a) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property;

(b) Documents prepared for the purpose of considering the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price, including records prepared for executive session pursuant to RCW 42.30.110(1)(b); and

(c) Documents prepared for the purpose of considering the minimum price of real estate that will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price, including records prepared for executive session pursuant to RCW 42.30.110(1)(c).

(2) The exemptions in this section do not apply when disclosure is mandated by another statute or after the project or prospective project is abandoned or all properties that are part of the project have been purchased, sold, or leased. No appraisal may be withheld for more than three years. [2015 c 150 § 1; 2005 c 274 § 406.]

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

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

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

required by RCW 47.28.070; or (c) alternative public works contracting procedures as required by RCW 39.10.200 through 39.10.905;

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

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.325, 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(20) Financial and commercial information submitted to or obtained by the University of Washington, other than information the university is required to disclose under RCW

28B.20.150, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the University of Washington consolidated endowment fund or to result in private loss to the providers of this information;

(21) Market share data submitted by a manufacturer under ***RCW 70.95N.190(4);

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

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

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

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

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

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

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

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

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

(31) Records filed with the department of ecology under ****chapter 70.375 RCW that a court has determined are confidential valuable commercial information under *****RCW 70.375.130; and

(32) Unaggregated financial, proprietary, or commercial information submitted to or obtained by the liquor and cannabis board in applications for licenses under RCW 66.24.140 or 66.24.145, or in any reports or remittances submitted by a person licensed under RCW 66.24.140 or 66.24.145 under rules adopted by the liquor and cannabis board under chapter 66.08 RCW. [2020 c 238 § 11. Prior: 2019 c 394 § 10; 2019 c 344 § 14; 2019 c 212 § 12; prior: 2018 c 201 § 8008; 2018 c 196 § 21; 2018 c 4 § 9; 2017 c 317 § 17; prior: 2016 sp.s. c 9 § 3; 2016 sp.s. c 8 § 1; 2016 c 178 § 1; 2015 c 274 § 24; prior: 2014 c 192 § 6; 2014 c 174 § 5; 2014 c 144 § 6; 2013 c 305 § 14; 2011 1st sp.s. c 14 § 15; 2009 c 394 § 3; 2008 c 306 § 1; prior: 2007 c 470 § 2; (2007 c 470 § 1 expired June 30, 2008); 2007 c 251 § 13; (2007 c 251 § 12 expired June 30, 2008); 2007 c 197 § 4; (2007 c 197 § 3 expired June 30, 2008); prior: 2006 c 369 § 2; 2006 c 341 § 6; 2006 c 338 § 5; 2006 c 302 § 12; 2006 c 209 § 7; 2006 c 183 § 37; 2006 c 171 § 8; 2005 c 274 § 407.]

Reviser's note: *(1) Chapter 70.95H RCW was repealed in its entirety by 2017 3rd sp.s. c 25 § 9.

***(2) Chapter 70.95N RCW was recodified as chapter 70A.500 RCW by 2020 c 20 § 2024.

****(3) RCW 70.95N.190 was recodified as RCW 70A.500.190 by 2020 c 20 § 2024.

*****(4) Chapter 70.375 RCW was recodified as chapter 70A.515 RCW by 2020 c 20 § 2069.

******(5) RCW 70.375.130 was recodified as RCW 70A.515.130 by 2020 c 20 § 2069.

Findings—2019 c 394: See note following RCW 69.50.563.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Findings—Application—2017 c 317: See notes following RCW 69.50.325.

Effective date—2015 c 274: See note following RCW 90.56.005.

Intent—2014 c 174: See note following RCW 28B.50.902.

Short title—Findings—Intent—2014 c 144: See notes following RCW 21.20.880.

Effective date—2013 c 305: See note following RCW 70A.500.020.

Intent—2009 c 394: See note following RCW 28B.20.150.

Findings—Intent—2006 c 338: See note following RCW 19.112.110.

Additional notes found at www.leg.wa.gov

42.56.280 Preliminary drafts, notes, recommendations, intra-agency memorandums. Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended are exempt under this chapter, except that a specific record is not exempt when publicly cited by an agency in connection with any agency action. [2005 c 274 § 408.]

42.56.290 Agency party to controversy. Records that are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts are exempt from disclosure under this chapter. [2005 c 274 § 409.]

42.56.300 Archaeological sites. (1) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites are exempt from disclosure under this chapter.

(2) Records, maps, and other information, acquired during watershed analysis pursuant to the forests and fish report under RCW 76.09.370, that identify the location of archaeological sites, historic sites, artifacts, or the sites of traditional religious, ceremonial, or social uses and activities of affected Indian tribes, are exempt from disclosure under this chapter in order to prevent the looting or depredation of such sites.

(3) Any site form, report, specific fields and tables relating to site form data within a database, or geographic information systems spatial layer obtained by any state agency or local government, or shared between any state agency, local government, or tribal government, is exempt from disclosure under this chapter, if the material is related to:

- (a) An archaeological site as defined in RCW 27.53.030;
- (b) Historical [Historic] archaeological resources as defined in RCW 27.53.030; or
- (c) Traditional cultural places.

(4) The local government or agency shall respond to requests from the owner of the real property for public records exempt under subsection (1), (2), or (3) of this section by providing information to the requestor on how to contact the department of archaeology and historic preservation to obtain available locality information on archaeological and cultural resources. [2014 c 165 § 1; 2006 c 86 § 1; 2005 c 274 § 410.]

Additional notes found at www.leg.wa.gov

42.56.310 Library records. Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, that discloses or could be used to disclose the identity of a library user is exempt from disclosure under this chapter. [2005 c 274 § 411.]

42.56.315 Certain student information. Information received by a school district superintendent, a designee of the superintendent, or a principal pursuant to RCW 28A.225.330, 9A.44.138, 13.04.155, 13.40.215, or 72.09.730 is exempt from disclosure under this chapter. [2020 c 167 § 10.]

42.56.320 Educational information. The following educational information is exempt from disclosure under this chapter:

(1) Financial disclosures filed by private vocational schools under chapters 28B.85 and 28C.10 RCW;

(2) Financial and commercial information supplied by or on behalf of a person, firm, corporation, or entity under chapter 28B.95 RCW relating to the purchase or sale of tuition units and contracts for the purchase of multiple tuition units;

(3) Individually identifiable information received by the workforce training and education coordinating board for research or evaluation purposes;

(4) Except for public records as defined in RCW 40.14.010, any records or documents obtained by a state college, university, library, or archive through or concerning any gift, grant, conveyance, bequest, or devise, the terms of which restrict or regulate public access to those records or documents; and

(5) The annual declaration of intent filed by parents under RCW 28A.200.010 for a child to receive home-based instruction. [2009 c 191 § 1; 2005 c 274 § 412.]

42.56.330 Public utilities and transportation. The following information relating to public utilities and transportation is exempt from disclosure under this chapter:

(1) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 or 81.77.210 that a court has determined are confidential under RCW 80.04.095 or 81.77.210;

(2) The addresses, telephone numbers, electronic contact information, and customer-specific utility usage and billing information in increments less than a billing cycle of the customers of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order;

(3) The names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool, carpool, or other ride-sharing program or service. Participants' names, general locations, and point of contact may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides;

(4) The personally identifying information of current or former participants or applicants in a paratransit or other transit service operated for the benefit of persons with disabilities or elderly persons;

(5) The personally identifying information of persons who acquire and use transit passes or other fare payment media including, but not limited to, stored value smart cards and magnetic strip cards, except that an agency may disclose personally identifying information to a person, employer, educational institution, or other entity that is responsible, in whole or in part, for payment of the cost of acquiring or using a transit pass or other fare payment media for the purpose of preventing fraud. As used in this subsection, "personally identifying information" includes acquisition or use information pertaining to a specific, individual transit pass or fare payment media.

(a) Information regarding the acquisition or use of transit passes or fare payment media may be disclosed in aggregate form if the data does not contain any personally identifying information.

(b) Personally identifying information may be released to law enforcement agencies if the request is accompanied by a court order;

(6) Any information obtained by governmental agencies that is collected by the use of a motor carrier intelligent transportation system or any comparable information equipment attached to a truck, tractor, or trailer; however, the information may be given to other governmental agencies or the owners of the truck, tractor, or trailer from which the information is obtained. As used in this subsection, "motor carrier" has the same definition as provided in RCW 81.80.010;

(7) The personally identifying information of persons who acquire and use transponders or other technology to facilitate payment of tolls. This information may be disclosed in aggregate form as long as the data does not contain any personally identifying information. For these purposes aggregate data may include the census tract of the account holder as long as any individual personally identifying information is not released. Personally identifying information may be released to law enforcement agencies only for toll enforcement purposes. Personally identifying information may be released to law enforcement agencies for other purposes only if the request is accompanied by a court order;

(8) The personally identifying information of persons who acquire and use a driver's license or identicaid that includes a radio frequency identification chip or similar technology to facilitate border crossing. This information may be disclosed in aggregate form as long as the data does not contain any personally identifying information. Personally identifying information may be released to law enforcement agencies only for United States customs and border protection enforcement purposes. Personally identifying information may be released to law enforcement agencies for other purposes only if the request is accompanied by a court order; and

(9) Personally identifying information included in safety complaints submitted under chapter 81.61 RCW. [2017 c 333 § 6; 2015 c 224 § 4. Prior: 2014 c 170 § 2; 2014 c 33 § 1; 2012 c 68 § 4; 2010 c 128 § 8; 2008 c 200 § 6; 2007 c 197 § 5; 2006 c 209 § 8; 2005 c 274 § 413.]

Effective date—2017 c 333: See note following RCW 81.61.010.

42.56.335 Public utility districts and municipally owned electrical utilities—Restrictions on access by law enforcement authorities. A law enforcement authority may not request inspection or copying of records of any person who belongs to a public utility district or a municipally owned electrical utility unless the authority provides the public utility district or municipally owned electrical utility with a written statement in which the authority states that it suspects that the particular person to whom the records pertain has committed a crime and the authority has a reasonable belief that the records could determine or help determine whether the suspicion might be true. Information obtained in violation of this section is inadmissible in any criminal proceeding. [2007 c 197 § 6.]

42.56.350 Health professionals. (1) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health is exempt from disclosure under this chapter. The exemption in this section does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, creden-

tialing, investigatory, disciplinary, and examination organizations.

(2) The current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department are exempt from disclosure under this chapter, if the provider requests that this information be withheld from public inspection and copying, and provides to the department of health an accurate alternate or business address and business telephone number. The current residential address and residential telephone number of a health care provider governed under RCW 18.130.040 maintained in the files of the department of health shall automatically be withheld from public inspection and copying unless the provider specifically requests the information be released, and except as provided for under *RCW 42.56.070(9). [2005 c 274 § 415.]

*Reviser's note: RCW 42.56.070 was amended by 2017 c 304 § 1, changing subsection (9) to subsection (8).

42.56.355 Interstate medical licensure compact. (1) Information distributed to any Washington health profession board or commission by an interstate health professions licensure compact or member boards as described in RCW 18.71B.080(6) of the interstate medical licensure compact is exempt from disclosure under this chapter. This exemption does not prohibit the requestor from requesting these documents from the state of origin.

(2) This exemption does not pertain to any records created by Washington health profession boards or commissions from the documents described in subsection (1) of this section. Records created by Washington health profession boards or commissions from the documents described in subsection (1) of this section may be exempt under other sections of this chapter. [2017 c 195 § 25.]

42.56.360 Health care. (1) The following health care information is exempt from disclosure under this chapter:

(a) Information obtained by the pharmacy quality assurance commission as provided in RCW 69.45.090;

(b) Information obtained by the pharmacy quality assurance commission or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420;

(c) Information and documents created specifically for, and collected and maintained by a quality improvement committee under RCW 43.70.510, 70.230.080, or 70.41.200, or by a peer review committee under RCW 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640 or 18.20.390, or by a hospital, as defined in RCW 43.70.056, for reporting of health care-associated infections under RCW 43.70.056, a notification of an incident under RCW 70.56.040(5), and reports regarding adverse events under RCW 70.56.020(2)(b), regardless of which agency is in possession of the information and documents;

(d)(i) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310;

(ii) If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this subsection (1)(d) as exempt from disclosure;

(iii) If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality;

(e) Records of the entity obtained in an action under RCW 18.71.300 through 18.71.340;

(f) Complaints filed under chapter 18.130 RCW after July 27, 1997, to the extent provided in RCW 18.130.095(1);

(g) Information obtained by the department of health under chapter 70.225 RCW;

(h) Information collected by the department of health under chapter 70.245 RCW except as provided in RCW 70.245.150;

(i) Cardiac and stroke system performance data submitted to national, state, or local data collection systems under RCW 70.168.150(2)(b);

(j) All documents, including completed forms, received pursuant to a wellness program under RCW 41.04.362, but not statistical reports that do not identify an individual;

(k) Data and information exempt from disclosure under RCW 43.371.040; and

(l) Medical information contained in files and records of members of retirement plans administered by the department of retirement systems or the law enforcement officers' and firefighters' plan 2 retirement board, as provided to the department of retirement systems under RCW 41.04.830.

(2) Chapter 70.02 RCW applies to public inspection and copying of health care information of patients.

(3)(a) Documents related to infant mortality reviews conducted pursuant to RCW 70.05.170 are exempt from disclosure as provided for in RCW 70.05.170(3).

(b)(i) If an agency provides copies of public records to another agency that are exempt from public disclosure under this subsection (3), those records remain exempt to the same extent the records were exempt in the possession of the originating entity.

(ii) For notice purposes only, agencies providing exempt records under this subsection (3) to other agencies may mark any exempt records as "exempt" so that the receiving agency is aware of the exemption, however whether or not a record is marked exempt does not affect whether the record is actually exempt from disclosure.

(4) Information and documents related to maternal mortality reviews conducted pursuant to RCW 70.54.450 are confidential and exempt from public inspection and copying. [2020 c 323 § 2; 2016 c 238 § 2; 2014 c 223 § 17; 2013 c 19 § 47. Prior: 2010 c 128 § 3; 2010 c 52 § 6; prior: 2009 c 1 § 24 (Initiative Measure No. 1000, approved November 4, 2008); (2009 c 1 § 23 (Initiative Measure No. 1000, approved November 4, 2008) expired July 1, 2009); 2008 c 136 § 5; (2008 c 136 § 4 expired July 1, 2009); prior: 2007 c 273 § 25; 2007 c 261 § 4; 2007 c 259 § 49; prior: 2006 c 209 § 9; 2006 c 8 § 112; 2005 c 274 § 416.]

Finding—2014 c 223: See note following RCW 41.05.690.

Findings—Intent—2010 c 52: See note following RCW 70.168.015.

Findings—2007 c 261: See note following RCW 43.70.056.

Findings—Intent—Part headings and subheadings not law—Severity—2006 c 8: See notes following RCW 5.64.010.

Basic health plan—Confidentiality: RCW 70.47.150.

Additional notes found at www.leg.wa.gov

42.56.365 Vital records. (Effective January 1, 2021.)

All or part of any vital records, reports, supporting documentation, vital statistics, data, or information contained therein under chapter 70.58A RCW are not subject to public inspection and copying under this chapter. [2019 c 148 § 39.]

Effective date—Rule-making authority—2019 c 148: See RCW 70.58A.901 and 70.58A.902.

42.56.370 Client records of domestic violence programs, or community sexual assault programs or services for underserved populations. Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a community sexual assault program or services for underserved populations as defined in RCW 70.125.030 are exempt from disclosure under this chapter. [2012 c 29 § 13; 2005 c 274 § 417.]

42.56.375 Sexual misconduct—Postsecondary educational institutions—Personal information of witnesses and victims. (1) For the purposes of RCW 28B.112.040 through 28B.112.080 regarding postsecondary educational institutions, personal identifying information in an employee personnel file, student file, investigation file, settlement agreement, or other files held by a postsecondary educational institution that reveals the identity of witnesses to or victims of sexual misconduct committed at the postsecondary educational institution by an employee of the institution are exempt from public disclosure and copying. If the victim or witness indicates a desire for disclosure of the victim's or witness' personal identifying information, such desire shall govern.

(2) For purposes of this section, "witness" does not mean an employee under investigation for allegations of sexual misconduct. [2020 c 335 § 7.]

Findings—Intent—2020 c 335: See note following RCW 28B.112.040.

42.56.380 Agriculture and livestock. The following information relating to agriculture and livestock is exempt from disclosure under this chapter:

(1) Business-related information under RCW 15.86.110;

(2) Information provided under RCW 15.54.362;

(3) Production or sales records required to determine assessment levels and actual assessment payments to commodity boards and commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.115, 15.100, 15.89, and 16.67 RCW or required by the department of agriculture to administer these chapters or the department's programs;

(4) Consignment information contained on phytosanitary certificates issued by the department of agriculture under chapters 15.13, 15.49, and 15.17 RCW or federal phytosanitary certificates issued under 7 C.F.R. 353 through cooperative agreements with the animal and plant health inspection

service, United States department of agriculture, or on applications for phytosanitary certification required by the department of agriculture;

(5) Financial and commercial information and records supplied by persons (a) to the department of agriculture for the purpose of conducting a referendum for the potential establishment of a commodity board or commission; or (b) to the department of agriculture or commodity boards or commissions formed under chapter 15.24, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.115, 15.100, 15.89, or 16.67 RCW with respect to domestic or export marketing activities or individual producer's production information;

(6) Information obtained regarding the purchases, sales, or production of an individual American ginseng grower or dealer, except for providing reports to the United States fish and wildlife service under RCW 15.19.080;

(7) Information collected regarding packers and shippers of fruits and vegetables for the issuance of certificates of compliance under RCW 15.17.140(2) and 15.17.143;

(8) Financial statements obtained under RCW 16.65.030(1)(d) for the purposes of determining whether or not the applicant meets the minimum net worth requirements to construct or operate a public livestock market;

(9) Information submitted by an individual or business to the department of agriculture under the requirements of chapters 16.36, 16.57, and 43.23 RCW for the purpose of herd inventory management for animal disease traceability. This information includes animal ownership, numbers of animals, locations, contact information, movements of livestock, financial information, the purchase and sale of livestock, account numbers or unique identifiers issued by government to private entities, and information related to livestock disease or injury that would identify an animal, a person, or location. Disclosure to local, state, and federal officials is not public disclosure. This exemption does not affect the disclosure of information used in reportable animal health investigations under chapter 16.36 RCW once they are complete;

(10) Results of testing for animal diseases from samples submitted by or at the direction of the animal owner or his or her designee that can be identified to a particular business or individual;

(11) Records of international livestock importation that can be identified to a particular animal, business, or individual received from the United States department of homeland security or the United States department of agriculture that are not disclosable by the federal agency under federal law including 5 U.S.C. Sec. 552;

(12) Records related to the entry of prohibited agricultural products imported into Washington state or that had Washington state as a final destination received from the United States department of homeland security or the United States department of agriculture that are not disclosable by the federal agency under federal law including 5 U.S.C. Sec. 552;

(13) Information obtained from the federal government or others under contract with the federal government or records obtained by the department of agriculture, in accordance with RCW 15.135.100;

(14) Hop grower lot numbers and laboratory results associated with the hop grower lot numbers where this informa-

tion is used by the department of agriculture to issue export documents; and

(15) Information or records obtained pursuant to a food and drug administration contract or commissioning agreement, in accordance with RCW 15.130.150. [2019 c 337 § 3. Prior: 2018 c 170 § 1; 2018 c 106 § 11; 2012 c 168 § 1; 2010 c 128 § 2; 2009 c 33 § 37; 2007 c 177 § 1; prior: 2006 c 330 § 26; 2006 c 75 § 3; 2005 c 274 § 418.]

Findings—Intent—2019 c 337: See note following RCW 15.130.150.

Findings—2006 c 75: "The legislature finds that livestock identification numbers, premise information, and animal movement data are proprietary information that all have a role in defining a livestock producer's position within the marketplace, including his or her competitive advantage over other producers. The legislature therefore finds that exempting certain voluntary livestock identification, premise, and movement information from state public disclosure requirements will foster an environment that is more conducive to voluntary participation, and lead to a more effective livestock identification system." [2006 c 75 § 1.]

Additional notes found at www.leg.wa.gov

42.56.390 Emergency or transitional housing. Names of individuals residing in emergency or transitional housing that are furnished to the department of revenue or a county assessor in order to substantiate a claim for property tax exemption under RCW 84.36.043 are exempt from disclosure under this chapter. [2005 c 274 § 419.]

42.56.400 Insurance and financial institutions. (*Effective until January 1, 2022.*) The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(30) All claims data, including health care and financial related data received under RCW 41.05.890, received and held by the health care authority. [2020 c 243 § 4; 2019 c 389 § 102. Prior: 2018 c 260 § 32; 2018 c 30 § 9; prior: 2017 3rd sp.s. c 30 § 2; 2017 c 193 § 2; prior: 2016 c 142 § 20; (2016 c 142 § 19 expired July 1, 2017); 2016 c 122 § 4; prior: 2015 c 122 § 14; 2015 c 122 § 13; 2015 c 17 § 11; 2015 c 17 § 10; prior: 2013 c 277 § 5; 2013 c 65 § 5; 2012 2nd sp.s. c 3 § 8; 2012 c 222 § 2; 2011 c 188 § 21; prior: 2010 c 172 § 2; 2010 c 97 § 3; 2009 c 104 § 23; prior: 2007 c 197 § 7; 2007 c 117 § 36; 2007 c 82 § 17; prior: 2006 c 284 § 17; 2006 c 8 § 210; 2005 c 274 § 420.]

Effective date—2018 c 260 §§ 14, 22, 23, 31, and 32: See note following RCW 41.05.075.

Effective date—2018 c 30: See note following RCW 48.195.005.

Effective date—2017 3rd sp.s. c 30: See note following RCW 48.02.230.

Effective date—2016 c 142 § 20: "Section 20 of this act takes effect July 1, 2017." [2016 c 142 § 23.]

Expiration date—2016 c 142 § 19: "Section 19 of this act expires July 1, 2017." [2016 c 142 § 22.]

Effective date—2016 c 142: See note following RCW 48.74.010.

Intent—2016 c 122: See note following RCW 48.46.243.

Effective dates—2015 c 122: See note following RCW 48.31B.005.

Short title—Effective dates—2015 c 17: See RCW 48.05A.900 and 48.05A.901.

Findings—Goals—Intent—2012 2nd sp.s. c 3: See note following RCW 28A.400.275.

Effective date—2011 c 188: See RCW 48.13.900.

Findings—Intent—Part headings and subheadings not law—Severability—2006 c 8: See notes following RCW 5.64.010.

Additional notes found at www.leg.wa.gov

42.56.400 Insurance and financial institutions. (*Effective January 1, 2022.*) The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(31) Contracts not subject to public disclosure under RCW 48.200.040 and 48.43.731. [2020 c 243 § 4; 2020 c 240 § 9; 2019 c 389 § 102. Prior: 2018 c 260 § 32; 2018 c 30 § 9; prior: 2017 3rd sp.s. c 30 § 2; 2017 c 193 § 2; prior: 2016 c 142 § 20; (2016 c 142 § 19 expired July 1, 2017); 2016 c 122 § 4; prior: 2015 c 122 § 14; 2015 c 122 § 13; 2015 c 17 § 11; 2015 c 17 § 10; prior: 2013 c 277 § 5; 2013 c 65 § 5; 2012

2nd sp.s. c 3 § 8; 2012 c 222 § 2; 2011 c 188 § 21; prior: 2010 c 172 § 2; 2010 c 97 § 3; 2009 c 104 § 23; prior: 2007 c 197 § 7; 2007 c 117 § 36; 2007 c 82 § 17; prior: 2006 c 284 § 17; 2006 c 8 § 210; 2005 c 274 § 420.]

Reviser's note: This section was amended by 2020 c 240 § 9 and by 2020 c 243 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Rule making—Effective date—2020 c 240: See RCW 48.200.900 and 48.200.901.

Effective date—2018 c 260 §§ 14, 22, 23, 31, and 32: See note following RCW 41.05.075.

Effective date—2018 c 30: See note following RCW 48.195.005.

Effective date—2017 3rd sp.s. c 30: See note following RCW 48.02.230.

Effective date—2016 c 142 § 20: "Section 20 of this act takes effect July 1, 2017." [2016 c 142 § 23.]

Expiration date—2016 c 142 § 19: "Section 19 of this act expires July 1, 2017." [2016 c 142 § 22.]

Effective date—2016 c 142: See note following RCW 48.74.010.

Intent—2016 c 122: See note following RCW 48.46.243.

Effective dates—2015 c 122: See note following RCW 48.31B.005.

Short title—Effective dates—2015 c 17: See RCW 48.05A.900 and 48.05A.901.

Findings—Goals—Intent—2012 2nd sp.s. c 3: See note following RCW 28A.400.275.

Effective date—2011 c 188: See RCW 48.13.900.

Findings—Intent—Part headings and subheadings not law—Severity—2006 c 8: See notes following RCW 5.64.010.

Additional notes found at www.leg.wa.gov

42.56.403 Property and casualty insurance statements of actuarial opinion. Documents, materials, and information obtained by the insurance commissioner under RCW 48.05.385(2) are confidential and privileged and not subject to public disclosure under this chapter. [2006 c 25 § 3.]

Additional notes found at www.leg.wa.gov

42.56.410 Employment security department records, certain purposes. The following information related to employment security is exempt from disclosure under this chapter:

(1) Records maintained by the employment security department and subject to chapter 50.13 or 50A.25 RCW if provided to another individual or organization for operational, research, or evaluation purposes are exempt from disclosure under this chapter; and

(2) Any inventory or data map records created under RCW 50.13.120(1)(b) that reveal the location of personal information or the extent to which it is protected. [2019 c 81 § 10; 2019 c 13 § 68; 2005 c 274 § 421.]

Reviser's note: This section was amended by 2019 c 13 § 68 and by 2019 c 81 § 10, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

42.56.420 Security. The following information relating to security is exempt from disclosure under this chapter:

(1) Those portions of records assembled, prepared, or maintained to prevent, mitigate, or respond to criminal terrorist acts, which are acts that significantly disrupt the conduct

of government or of the general civilian population of the state or the United States and that manifest an extreme indifference to human life, the public disclosure of which would have a substantial likelihood of threatening public safety, consisting of:

(a) Specific and unique vulnerability assessments or specific and unique response or deployment plans, including compiled underlying data collected in preparation of or essential to the assessments, or to the response or deployment plans; and

(b) Records not subject to public disclosure under federal law that are shared by federal or international agencies, and information prepared from national security briefings provided to state or local government officials related to domestic preparedness for acts of terrorism;

(2) Those portions of records containing specific and unique vulnerability assessments or specific and unique emergency and escape response plans at a city, county, or state adult or juvenile correctional facility, or secure facility for persons civilly confined under chapter 71.09 RCW, the public disclosure of which would have a substantial likelihood of threatening the security of a city, county, or state adult or juvenile correctional facility, secure facility for persons civilly confined under chapter 71.09 RCW, or any individual's safety;

(3) Information compiled by school districts or schools in the development of their comprehensive safe school plans under RCW 28A.320.125, to the extent that they identify specific vulnerabilities of school districts and each individual school;

(4) Information regarding the public and private infrastructure and security of computer and telecommunications networks, consisting of security passwords, security access codes and programs, access codes for secure software applications, security and service recovery plans, security risk assessments, and security test results to the extent that they identify specific system vulnerabilities, and other such information the release of which may increase risk to the confidentiality, integrity, or availability of security, information technology infrastructure, or assets;

(5) The system security and emergency preparedness plan required under RCW 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170, and 81.112.180; and

(6) Personally identifiable information of employees, and other security information, of a private cloud service provider that has entered into a criminal justice information services agreement as contemplated by the United States department of justice criminal justice information services security policy, as authorized by 28 C.F.R. Part 20. [2017 c 149 § 1; 2016 c 153 § 1; 2013 2nd sp.s. c 33 § 9; 2009 c 67 § 1; 2005 c 274 § 422.]

42.56.430 Fish and wildlife. (Effective until June 30, 2022.) The following information relating to fish and wildlife is exempt from disclosure under this chapter:

(1) Commercial fishing catch data from logbooks required to be provided to the department of fish and wildlife under RCW 77.12.047, when the data identifies specific catch location, timing, or methodology and the release of which would result in unfair competitive disadvantage to the commercial fisher providing the catch data, however, this

information may be released to government agencies concerned with the management of fish and wildlife resources;

(2) Sensitive fish and wildlife data. Sensitive fish and wildlife data may be released to the following entities and their agents for fish, wildlife, land management purposes, or scientific research needs: Government agencies, public utilities, and accredited colleges and universities. Sensitive fish and wildlife data may be released to tribal governments. Sensitive fish and wildlife data may also be released to the owner, lessee, or right-of-way or easement holder of the private land to which the data pertains. The release of sensitive fish and wildlife data must be subject to a confidentiality agreement, except upon release of sensitive fish and wildlife data to the owner, lessee, or right-of-way or easement holder of private land who initially provided the data. Sensitive fish and wildlife data does not include data related to reports of predatory wildlife as specified in RCW 77.12.885. Sensitive fish and wildlife data must meet at least one of the following criteria of this subsection as applied by the department of fish and wildlife:

(a) The nesting sites or specific locations of endangered species designated under RCW 77.12.020, or threatened or sensitive species classified by rule of the department of fish and wildlife;

(b) Radio frequencies used in, or locational data generated by, telemetry studies; or

(c) Other location data that could compromise the viability of a specific fish or wildlife population, and where at least one of the following criteria are met:

(i) The species has a known commercial or black market value;

(ii) There is a history of malicious take of that species and the species behavior or ecology renders it especially vulnerable;

(iii) There is a known demand to visit, take, or disturb the species; or

(iv) The species has an extremely limited distribution and concentration;

(3) The following information regarding any damage prevention cooperative agreement, or nonlethal preventative measures deployed to minimize wolf interactions with pets and livestock:

(a) The name, telephone number, residential address, and other personally identifying information of any person who has a current damage prevention cooperative agreement with the department, including a pet or livestock owner, and his or her employees or immediate family members, who agrees to deploy, or is responsible for the deployment of, nonlethal, preventative measures; and

(b) The legal description or name of any residential property, ranch, or farm, that is owned, leased, or used by any person included in (a) of this subsection;

(4) The following information regarding a reported depredation by wolves on pets or livestock:

(a) The name, telephone number, residential address, and other personally identifying information of:

(i) Any person who reported the depredation;

(ii) Any pet or livestock owner, and his or her employees or immediate family members, whose pet or livestock was the subject of a reported depredation; and

(ii) Any department of fish and wildlife employee, range rider contractor, or trapper contractor who directly:

(A) Responds to a depredation; or

(B) Assists in the lethal removal of a wolf; and

(b) The legal description, location coordinates, or name that identifies any residential property, or ranch or farm that contains a residence, that is owned, leased, or used by any person included in (a) of this subsection;

(5) The personally identifying information of persons who acquire recreational licenses under RCW 77.32.010 or commercial licenses under chapter 77.65 or 77.70 RCW, except name, address of contact used by the department, and type of license, endorsement, or tag; however, the department of fish and wildlife may disclose personally identifying information to:

(a) Government agencies concerned with the management of fish and wildlife resources;

(b) The department of social and health services, child support division, and to the department of licensing in order to implement RCW 77.32.014 and 46.20.291; and

(c) Law enforcement agencies for the purpose of firearm possession enforcement under RCW 9.41.040;

(6) Information that the department of fish and wildlife has received or accessed but may not disclose due to confidentiality requirements in the Magnuson-Stevens fishery conservation and management reauthorization act of 2006 (16 U.S.C. Sec. 1861(h)(3) and (i), and Sec. 1881a(b));

(7) The following tribal fish and shellfish harvest information, shared with the department of fish and wildlife:

(a) Fisher name;

(b) Fisher signature;

(c) Total harvest value per species;

(d) Total harvest value;

(e) Price per pound; and

(f) Tribal tax information; and

(8) The following commercial shellfish harvest information, shared with the department of fish and wildlife:

(a) Individual farmer name;

(b) Individual farmer signature;

(c) Total harvest value per species;

(d) Total harvest value;

(e) Price per pound; and

(f) Tax information. [2018 c 214 § 1. Prior: 2017 c 246 § 1; 2017 c 71 § 1; 2008 c 252 § 1; 2007 c 293 § 1; 2005 c 274 § 423.]

Expiration date—2018 c 214 § 1: "Section 1 of this act expires June 30, 2022." [2018 c 214 § 3.]

Expiration date—2017 c 246: "This act expires June 30, 2022." [2017 c 246 § 4.]

42.56.430 Fish and wildlife. (Effective June 30, 2022.)

The following information relating to fish and wildlife is exempt from disclosure under this chapter:

(1) Commercial fishing catch data from logbooks required to be provided to the department of fish and wildlife under RCW 77.12.047, when the data identifies specific catch location, timing, or methodology and the release of which would result in unfair competitive disadvantage to the commercial fisher providing the catch data, however, this information may be released to government agencies concerned with the management of fish and wildlife resources;

(2) Sensitive fish and wildlife data. Sensitive fish and wildlife data may be released to the following entities and their agents for fish, wildlife, land management purposes, or scientific research needs: Government agencies, public utilities, and accredited colleges and universities. Sensitive fish and wildlife data may be released to tribal governments. Sensitive fish and wildlife data may also be released to the owner, lessee, or right-of-way or easement holder of the private land to which the data pertains. The release of sensitive fish and wildlife data must be subject to a confidentiality agreement, except upon release of sensitive fish and wildlife data to the owner, lessee, or right-of-way or easement holder of private land who initially provided the data. Sensitive fish and wildlife data does not include data related to reports of predatory wildlife as specified in RCW 77.12.885. Sensitive fish and wildlife data must meet at least one of the following criteria of this subsection as applied by the department of fish and wildlife:

(a) The nesting sites or specific locations of endangered species designated under RCW 77.12.020, or threatened or sensitive species classified by rule of the department of fish and wildlife;

(b) Radio frequencies used in, or locational data generated by, telemetry studies; or

(c) Other location data that could compromise the viability of a specific fish or wildlife population, and where at least one of the following criteria are met:

(i) The species has a known commercial or black market value;

(ii) There is a history of malicious take of that species and the species behavior or ecology renders it especially vulnerable;

(iii) There is a known demand to visit, take, or disturb the species; or

(iv) The species has an extremely limited distribution and concentration;

(3) The personally identifying information of persons who acquire recreational licenses under RCW 77.32.010 or commercial licenses under chapter 77.65 or 77.70 RCW, except name, address of contact used by the department, and type of license, endorsement, or tag; however, the department of fish and wildlife may disclose personally identifying information to:

(a) Government agencies concerned with the management of fish and wildlife resources;

(b) The department of social and health services, child support division, and to the department of licensing in order to implement RCW 77.32.014 and 46.20.291; and

(c) Law enforcement agencies for the purpose of firearm possession enforcement under RCW 9.41.040;

(4) Information that the department of fish and wildlife has received or accessed but may not disclose due to confidentiality requirements in the Magnuson-Stevens fishery conservation and management reauthorization act of 2006 (16 U.S.C. Sec. 1861(h)(3) and (i), and Sec. 1881a(b));

(5) The following tribal fish and shellfish harvest information, shared with the department of fish and wildlife:

(a) Fisher name;

(b) Fisher signature;

(c) Total harvest value per species;

(d) Total harvest value;

(e) Price per pound; and

(f) Tribal tax information; and

(6) The following commercial shellfish harvest information, shared with the department of fish and wildlife:

(a) Individual farmer name;

(b) Individual farmer signature;

(c) Total harvest value per species;

(d) Total harvest value;

(e) Price per pound; and

(f) Tax information. [2018 c 214 § 2; 2017 c 71 § 1; 2008 c 252 § 1; 2007 c 293 § 1; 2005 c 274 § 423.]

Effective date—2018 c 214 § 2: "Section 2 of this act takes effect June 30, 2022." [2018 c 214 § 4.]

42.56.440 Veterans' discharge papers—Exceptions.

(1) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have not been commingled with other recorded documents are exempt from disclosure under this chapter. These records will be available only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding that veteran's general power of attorney, or to anyone else designated in writing by that veteran to receive the records.

(2) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have been commingled with other records are exempt from disclosure under this chapter, if the veteran has recorded a "request for exemption from public disclosure of discharge papers" with the county auditor. If such a request has been recorded, these records may be released only to the veteran filing the papers, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records.

(3) Discharge papers of a veteran filed at the office of the county auditor after June 30, 2002, are not public records, but will be available only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records.

(4) For the purposes of this section, next of kin of deceased veterans have the same rights to full access to the record. Next of kin are the veteran's widow or widower who has not remarried, son, daughter, father, mother, brother, and sister. [2005 c 274 § 424.]

42.56.450 Check cashers and sellers licensing applications. Information in an application for licensing or a small loan endorsement under chapter 31.45 RCW regarding the personal residential address, telephone number of the applicant, or financial statement is exempt from disclosure under this chapter. [2005 c 274 § 425.]

42.56.460 Fireworks and explosives. (1) All records obtained and all reports produced as required by state fireworks law, chapter 70.77 RCW, are exempt from disclosure under this chapter.

(2) All records obtained and all reports submitted as required by the Washington state explosives act, chapter 70.74 RCW, are exempt from disclosure under this chapter. Nothing in this subsection (2) shall be construed to restrict access to information related to the regulatory duties or actions of any agency. [2019 c 125 § 1; 2005 c 274 § 426.]

42.56.470 Correctional industries workers. All records, documents, data, and other materials obtained under the requirements of RCW 72.09.115 from an existing correctional industries class I work program participant or an applicant for a proposed new or expanded class I correctional industries work program are exempt from public disclosure under this chapter. [2005 c 274 § 427.]

42.56.510 Duty to disclose or withhold information—**Otherwise provided.** Nothing in RCW 42.56.250 and 42.56.330 shall affect a positive duty of an agency to disclose or a positive duty to withhold information which duty to disclose or withhold is contained in any other law. [2005 c 274 § 287; 1991 c 23 § 11; 1990 c 256 § 2; 1987 c 404 § 3. Formerly RCW 42.17.311.]

42.56.520 Prompt responses required. (1) Responses to requests for public records shall be made promptly by agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives. Within five business days of receiving a public record request, an agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives must respond in one of the ways provided in this subsection (1):

(a) Providing the record;

(b) Providing an internet address and link on the agency's web site to the specific records requested, except that if the requester notifies the agency that he or she cannot access the records through the internet, then the agency must provide copies of the record or allow the requester to view copies using an agency computer;

(c) Acknowledging that the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives has received the request and providing a reasonable estimate of the time the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives will require to respond to the request;

(d) Acknowledging that the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives has received the request and asking the requestor to provide clarification for a request that is unclear, and providing, to the greatest extent possible, a reasonable estimate of the time the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives will require to respond to the request if it is not clarified; or

(e) Denying the public record request.

(2) Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine

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whether any of the information requested is exempt and that a denial should be made as to all or part of the request.

(3)(a) In acknowledging receipt of a public record request that is unclear, an agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives may ask the requestor to clarify what information the requestor is seeking.

(b) If the requestor fails to respond to an agency request to clarify the request, and the entire request is unclear, the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives need not respond to it. Otherwise, the agency must respond, pursuant to this section, to those portions of the request that are clear.

(4) Denials of requests must be accompanied by a written statement of the specific reasons therefor. Agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives shall establish mechanisms for the most prompt possible review of decisions denying inspection, and such review shall be deemed completed at the end of the second business day following the denial of inspection and shall constitute final agency action or final action by the office of the secretary of the senate or the office of the chief clerk of the house of representatives for the purposes of judicial review. [2017 c 303 § 3; 2010 c 69 § 2; 1995 c 397 § 15; 1992 c 139 § 6; 1975 1st ex.s. c 294 § 18; 1973 c 1 § 32 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.320.]

Finding—2010 c 69: "The internet provides for instant access to public records at a significantly reduced cost to the agency and the public. Agencies are encouraged to make commonly requested records available on agency web sites. When an agency has made records available on its web site, members of the public with computer access should be encouraged to preserve taxpayer resources by accessing those records online." [2010 c 69 § 1.]

42.56.530 Review of agency denial. Whenever a state agency concludes that a public record is exempt from disclosure and denies a person opportunity to inspect or copy a public record for that reason, the person may request the attorney general to review the matter. The attorney general shall provide the person with his or her written opinion on whether the record is exempt.

Nothing in this section shall be deemed to establish an attorney-client relationship between the attorney general and a person making a request under this section. [1992 c 139 § 10. Formerly RCW 42.17.325.]

42.56.540 Court protection of public records. The examination of any specific public record may be enjoined if, upon motion and affidavit by an agency or its representative or a person who is named in the record or to whom the record specifically pertains, the superior court for the county in which the movant resides or in which the record is maintained, finds that such examination would clearly not be in the public interest and would substantially and irreparably damage any person, or would substantially and irreparably damage vital governmental functions. An agency has the option of notifying persons named in the record or to whom a record specifically pertains, that release of a record has been requested. However, this option does not exist where the agency is required by law to provide such notice. [1992 c 139 § 7; 1975 1st ex.s. c 294 § 19; 1973 c 1 § 33 (Initiative Mea-

sure No. 276, approved November 7, 1972). Formerly RCW 42.17.330.]

42.56.550 Judicial review of agency actions. (1) Upon the motion of any person having been denied an opportunity to inspect or copy a public record by an agency, the superior court in the county in which a record is maintained may require the responsible agency to show cause why it has refused to allow inspection or copying of a specific public record or class of records. The burden of proof shall be on the agency to establish that refusal to permit public inspection and copying is in accordance with a statute that exempts or prohibits disclosure in whole or in part of specific information or records.

(2) Upon the motion of any person who believes that an agency has not made a reasonable estimate of the time that the agency requires to respond to a public record request or a reasonable estimate of the charges to produce copies of public records, the superior court in the county in which a record is maintained may require the responsible agency to show that the estimate it provided is reasonable. The burden of proof shall be on the agency to show that the estimate it provided is reasonable.

(3) Judicial review of all agency actions taken or challenged under RCW 42.56.030 through 42.56.520 shall be de novo. Courts shall take into account the policy of this chapter that free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others. Courts may examine any record in camera in any proceeding brought under this section. The court may conduct a hearing based solely on affidavits.

(4) Any person who prevails against an agency in any action in the courts seeking the right to inspect or copy any public record or the right to receive a response to a public record request within a reasonable amount of time shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. In addition, it shall be within the discretion of the court to award such person an amount not to exceed one hundred dollars for each day that he or she was denied the right to inspect or copy said public record.

(5) For actions under this section against counties, the venue provisions of RCW 36.01.050 apply.

(6) Actions under this section must be filed within one year of the agency's claim of exemption or the last production of a record on a partial or installment basis. [2017 c 304 § 5; 2011 c 273 § 1. Prior: 2005 c 483 § 5; 2005 c 274 § 288; 1992 c 139 § 8; 1987 c 403 § 5; 1975 1st ex.s. c 294 § 20; 1973 c 1 § 34 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.340.]

Intent—Severability—1987 c 403: See notes following RCW 42.56.050.

Application of chapter 300, Laws of 2011: See note following RCW 42.56.565.

42.56.560 Application of RCW 42.56.550. The procedures in RCW 42.56.550 govern denials of an opportunity to inspect or copy a public record by the office of the secretary of the senate or the office of the chief clerk of the house of

representatives. [2005 c 274 § 289; 1995 c 397 § 16. Formerly RCW 42.17.341.]

42.56.565 Inspection or copying by persons serving criminal sentences—Injunction. (1) A court shall not award penalties under RCW 42.56.550(4) to a person who was serving a criminal sentence in a state, local, or privately operated correctional facility on the date the request for public records was made, unless the court finds that the agency acted in bad faith in denying the person the opportunity to inspect or copy a public record.

(2) The inspection or copying of any nonexempt public record by persons serving criminal sentences in state, local, or privately operated correctional facilities may be enjoined pursuant to this section.

(a) The injunction may be requested by: (i) An agency or its representative; (ii) a person named in the record or his or her representative; or (iii) a person to whom the requests specifically pertains or his or her representative.

(b) The request must be filed in: (i) The superior court in which the movant resides; or (ii) the superior court in the county in which the record is maintained.

(c) In order to issue an injunction, the court must find that:

(i) The request was made to harass or intimidate the agency or its employees;

(ii) Fulfilling the request would likely threaten the security of correctional facilities;

(iii) Fulfilling the request would likely threaten the safety or security of staff, inmates, family members of staff, family members of other inmates, or any other person; or

(iv) Fulfilling the request may assist criminal activity.

(3) In deciding whether to enjoin a request under subsection (2) of this section, the court may consider all relevant factors including, but not limited to:

(a) Other requests by the requestor;

(b) The type of record or records sought;

(c) Statements offered by the requestor concerning the purpose for the request;

(d) Whether disclosure of the requested records would likely harm any person or vital government interest;

(e) Whether the request seeks a significant and burdensome number of documents;

(f) The impact of disclosure on correctional facility security and order, the safety or security of correctional facility staff, inmates, or others; and

(g) The deterrence of criminal activity.

(4) The motion proceeding described in this section shall be a summary proceeding based on affidavits or declarations, unless the court orders otherwise. Upon a showing by a preponderance of the evidence, the court may enjoin all or any part of a request or requests. Based on the evidence, the court may also enjoin, for a period of time the court deems reasonable, future requests by:

(a) The same requestor; or

(b) An entity owned or controlled in whole or in part by the same requestor.

(5) An agency shall not be liable for penalties under RCW 42.56.550(4) for any period during which an order under this section is in effect, including during an appeal of

an order under this section, regardless of the outcome of the appeal. [2011 c 300 § 1; 2009 c 10 § 1.]

Application—2011 c 300: "This act applies to all actions brought under RCW 42.56.550 in which final judgment has not been entered as of July 22, 2011." [2011 c 300 § 2.]

Additional notes found at www.leg.wa.gov

42.56.570 Explanatory pamphlet—Advisory model rules—Consultation and training services. (1) The attorney general's office shall publish, and update when appropriate, a pamphlet, written in plain language, explaining this chapter.

(2) The attorney general, by February 1, 2006, shall adopt by rule advisory model rules for state and local agencies, as defined in RCW 42.56.010, addressing the following subjects:

- (a) Providing fullest assistance to requestors;
- (b) Fulfilling large requests in the most efficient manner;
- (c) Fulfilling requests for electronic records; and
- (d) Any other issues pertaining to public disclosure as determined by the attorney general.

(3) The attorney general, in his or her discretion, may from time to time revise the model rules.

(4) Local agencies should consult the advisory model rules when establishing local ordinances for compliance with the requirements and responsibilities of this chapter.

(5) The attorney general must establish a consultation program to provide information for developing best practices for local agencies requesting assistance in compliance with this chapter including, but not limited to: Responding to records requests, seeking additional public and private resources for developing and updating technology information services, and mitigating liability and costs of compliance. The attorney general may develop the program in conjunction with the advisory model rule and may collaborate with the chief information officer, the state archivist, and other relevant agencies and organizations in developing and managing the program.

(6) The state archivist must offer and provide consultation and training services for local agencies on improving record retention practices. [2019 c 372 § 2; 2017 c 303 § 4; 2007 c 197 § 8. Prior: 2005 c 483 § 4; 2005 c 274 § 290; 1992 c 139 § 9. Formerly RCW 42.17.348.]

42.56.580 Public records officers. (1) Each state and local agency shall appoint and publicly identify a public records officer whose responsibility is to serve as a point of contact for members of the public in requesting disclosure of public records and to oversee the agency's compliance with the public records disclosure requirements of this chapter. A state or local agency's public records officer may appoint an employee or official of another agency as its public records officer.

(2) For state agencies, the name and contact information of the agency's public records officer to whom members of the public may direct requests for disclosure of public records and who will oversee the agency's compliance with the public records disclosure requirements of this chapter shall be published in the state register at the time of designation and maintained thereafter on the code reviser web site for the duration of the designation.

(3) For local agencies, the name and contact information of the agency's public records officer to whom members of the public may direct requests for disclosure of public records and who will oversee the agency's compliance within the public records disclosure requirements of this chapter shall be made in a way reasonably calculated to provide notice to the public, including posting at the local agency's place of business, posting on its internet site, or including in its publications. [2007 c 456 § 6; 2005 c 483 § 3. Formerly RCW 42.17.253.]

42.56.590 Personal information—Notice of security breaches. (1) Any agency that owns or licenses data that includes personal information shall disclose any breach of the security of the system to any resident of this state whose personal information was, or is reasonably believed to have been, acquired by an unauthorized person and the personal information was not secured. Notice is not required if the breach of the security of the system is not reasonably likely to subject consumers to a risk of harm. The breach of secured personal information must be disclosed if the information acquired and accessed is not secured during a security breach or if the confidential process, encryption key, or other means to decipher the secured information was acquired by an unauthorized person.

(2) Any agency that maintains or possesses data that may include personal information that the agency does not own or license shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(3) The notification required by this section may be delayed if the data owner or licensee contacts a law enforcement agency after discovery of a breach of the security of the system and a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made after the law enforcement agency determines that it will not compromise the investigation.

(4) For purposes of this section and except under subsection (5) of this section and RCW 42.56.592, notice may be provided by one of the following methods:

- (a) Written notice;
- (b) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 U.S.C. Sec. 7001; or
- (c) Substitute notice, if the agency demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars, or that the affected class of subject persons to be notified exceeds five hundred thousand, or the agency does not have sufficient contact information. Substitute notice shall consist of all of the following:

- (i) Email notice when the agency has an email address for the subject persons;
- (ii) Conspicuous posting of the notice on the agency's web site page, if the agency maintains one; and
- (iii) Notification to major statewide media.

(5) An agency that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with

the timing requirements of this section is in compliance with the notification requirements of this section if it notifies subject persons in accordance with its policies in the event of a breach of security of the system.

(6) Any agency that is required to issue notification pursuant to this section shall meet all of the following requirements:

(a) The notification must be written in plain language; and

(b) The notification must include, at a minimum, the following information:

(i) The name and contact information of the reporting agency subject to this section;

(ii) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach;

(iii) A time frame of exposure, if known, including the date of the breach and the date of the discovery of the breach; and

(iv) The toll-free telephone numbers and addresses of the major credit reporting agencies if the breach exposed personal information.

(7) Any agency that is required to issue a notification pursuant to this section to more than five hundred Washington residents as a result of a single breach shall notify the attorney general of the breach no more than thirty days after the breach was discovered.

(a) The notice to the attorney general must include the following information:

(i) The number of Washington residents affected by the breach, or an estimate if the exact number is not known;

(ii) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach;

(iii) A time frame of exposure, if known, including the date of the breach and the date of the discovery of the breach;

(iv) A summary of steps taken to contain the breach; and

(v) A single sample copy of the security breach notification, excluding any personally identifiable information.

(b) The notice to the attorney general must be updated if any of the information identified in (a) of this subsection is unknown at the time notice is due.

(8) Notification to affected individuals must be made in the most expedient time possible, without unreasonable delay, and no more than thirty calendar days after the breach was discovered, unless the delay is at the request of law enforcement as provided in subsection (3) of this section, or the delay is due to any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system. An agency may delay notification to the consumer for up to an additional fourteen days to allow for notification to be translated into the primary language of the affected consumers.

(9) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of data that compromises the security, confidentiality, or integrity of personal information maintained by the agency. Good faith acquisition of personal information by an employee or agent of the agency for the purposes of the agency is not a breach of the security of the system when the personal information is not used or subject to further unauthorized disclosure.

(10)(a) For purposes of this section, "personal information" means:

(i) An individual's first name or first initial and last name in combination with any one or more of the following data elements:

(A) Social security number or the last four digits of the social security number;

(B) Driver's license number or Washington identification card number;

(C) Account number, credit or debit card number, or any required security code, access code, or password that would permit access to an individual's financial account, or any other numbers or information that can be used to access a person's financial account;

(D) Full date of birth;

(E) Private key that is unique to an individual and that is used to authenticate or sign an electronic record;

(F) Student, military, or passport identification number;

(G) Health insurance policy number or health insurance identification number;

(H) Any information about a consumer's medical history or mental or physical condition or about a health care professional's medical diagnosis or treatment of the consumer; or

(I) Biometric data generated by automatic measurements of an individual's biological characteristics, such as a fingerprint, voiceprint, eye retinas, irises, or other unique biological patterns or characteristics that is used to identify a specific individual;

(ii) User name or email address in combination with a password or security questions and answers that would permit access to an online account; and

(iii) Any of the data elements or any combination of the data elements described in (a)(i) of this subsection without the consumer's first name or first initial and last name if:

(A) Encryption, redaction, or other methods have not rendered the data element or combination of data elements unusable; and

(B) The data element or combination of data elements would enable a person to commit identity theft against a consumer.

(b) Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(11) For purposes of this section, "secured" means encrypted in a manner that meets or exceeds the national institute of standards and technology standard or is otherwise modified so that the personal information is rendered unreadable, unusable, or undecipherable by an unauthorized person. [2020 c 65 § 1; 2019 c 241 § 5; 2015 c 64 § 3; 2007 c 197 § 9; 2005 c 368 § 1. Formerly RCW 42.17.31922.]

Effective date—2019 c 241: See note following RCW 19.255.010.

Intent—2015 c 64: See note following RCW 19.255.010.

Similar provision: RCW 19.255.010.

42.56.592 Personal information—Covered entities.

A covered entity under the federal health insurance portability and accountability act of 1996, Title 42 U.S.C. Sec. 1320d et seq., is deemed to have complied with the requirements of this chapter with respect to protected health information if it has complied with section 13402 of the federal health information technology for economic and clinical health act, P.L.

111-5 as it existed on July 24, 2015. Covered entities shall notify the attorney general pursuant to RCW 42.56.590(7) in compliance with the timeliness of notification requirements of section 13402 of the federal health information technology for economic and clinical health act, P.L. 111-5 as it existed on July 24, 2015, notwithstanding the timeline in RCW 42.56.590(7). [2019 c 241 § 6.]

Effective date—2019 c 241: See note following RCW 19.255.010.

42.56.594 Personal information—Consumer protection. (1) Any waiver of the provisions of RCW 42.56.590 or 42.56.592 is contrary to public policy, and is void and unenforceable.

(2)(a) Any consumer injured by a violation of RCW 42.56.590 may institute a civil action to recover damages.

(b) Any agency that violates, proposes to violate, or has violated RCW 42.56.590 may be enjoined.

(c) The rights and remedies available under RCW 42.56.590 are cumulative to each other and to any other rights and remedies available under law. [2019 c 241 § 7.]

Effective date—2019 c 241: See note following RCW 19.255.010.

42.56.600 Mediation communications. Records of mediation communications that are privileged under chapter 7.07 RCW are exempt from disclosure under this chapter. [2006 c 209 § 15.]

42.56.610 Certain information from dairies and feedlots limited—Rules. The following information in plans, records, and reports obtained by state and local agencies from dairies, animal feeding operations, and concentrated animal feeding operations, not required to apply for a national pollutant discharge elimination system permit is disclosable only in ranges that provide meaningful information to the public while ensuring confidentiality of business information regarding: (1) Number of animals; (2) volume of livestock nutrients generated; (3) number of acres covered by the plan or used for land application of livestock nutrients; (4) livestock nutrients transferred to other persons; and (5) crop yields. The department of agriculture shall adopt rules to implement this section in consultation with affected state and local agencies. [2005 c 510 § 5. Formerly RCW 42.17.31923.]

42.56.615 Enumeration data used by the office of financial management for population estimates. Actual enumeration data collected under RCW 35.13.260, 35A.14.700, 36.13.030, and chapter 43.62 RCW shall be used and retained only by the office of financial management and only for the purposes of RCW 35.13.260, 35A.14.700, 36.13.030, and chapter 43.62 RCW. The enumeration data collected is confidential, is exempt from public inspection and copying under this chapter, and in accordance with RCW 43.41.435, must be destroyed after it is used. [2014 c 14 § 1.]

42.56.620 Marijuana research licensee reports. Reports submitted by marijuana research licensees in accordance with rules adopted by the state liquor and cannabis board under RCW 69.50.372 that contain proprietary information are exempt from disclosure under this chapter. [2015 2nd sp.s. c 4 § 1504; 2015 c 71 § 4.]

(2020 Ed.)

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

42.56.625 Medical marijuana authorization database. Records in the medical marijuana authorization database established in RCW 69.51A.230 containing names and other personally identifiable information of qualifying patients and designated providers are exempt from disclosure under this chapter. [2015 c 70 § 22.]

Effective date—2015 c 70 §§ 21, 22, 32, and 33: See note following RCW 69.51A.230.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

42.56.630 Registration information of members of cooperatives to produce and process medical marijuana.

(1) Registration information submitted to the state liquor and cannabis board under RCW 69.51A.250 including the names of all participating members of a cooperative, copies of each member's recognition card, location of the cooperative, and other information required for registration by the state liquor and cannabis board is exempt from disclosure under this chapter.

(2) The definitions in this section apply throughout this section unless the context clearly requires otherwise.

(a) "Cooperative" means a cooperative established under RCW 69.51A.250 to produce and process marijuana only for the medical use of members of the cooperative.

(b) "Recognition card" has the same meaning as provided in RCW 69.51A.010. [2015 2nd sp.s. c 4 § 1002.]

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

42.56.640 Vulnerable individuals, in-home caregivers for vulnerable populations. (1) Sensitive personal information of vulnerable individuals and sensitive personal information of in-home caregivers for vulnerable populations is exempt from inspection and copying under this chapter.

(2) The following definitions apply to this section:

(a) "In-home caregivers for vulnerable populations" means: (i) Individual providers as defined in RCW 74.39A.240, (ii) home care aides as defined in RCW 18.88B.010, and (iii) family child care providers as defined in RCW 41.56.030.

(b) "Sensitive personal information" means names, addresses, GPS [global positioning system] coordinates, telephone numbers, email addresses, social security numbers, driver's license numbers, or other personally identifying information.

(c) "Vulnerable individual" has the meaning set forth in RCW 9.35.005. [2017 c 4 § 8 (Initiative Measure No. 1501, approved November 8, 2016).]

Intent—2017 c 4 §§ 8, 10, and 11 (Initiative Measure No. 1501): "It is the intent of part three of this act to protect seniors and vulnerable individuals from identity theft and other financial crimes by preventing the release of public records that could be used to victimize them. Sensitive personal information about in-home caregivers for vulnerable populations is protected because its release could facilitate identity crimes against seniors, vulnerable individuals, and other vulnerable populations that these caregivers serve." [2017 c 4 § 7 (Initiative Measure No. 1501, approved November 8, 2016).]

Short title—Intent—Construction—2017 c 4 (Initiative Measure No. 1501): See notes following RCW 9.35.005.

42.56.645 Release of public information—2017 c 4 (Initiative Measure No. 1501). [(1)] Nothing in chapter 4, Laws of 2017 shall prevent the release of public information in the following circumstances:

(a) The information is released to a governmental body, including the state's area agencies on aging, and the recipient agrees to protect the confidentiality of the information;

(b) The information concerns individuals who have been accused of or disciplined for abuse, neglect, exploitation, abandonment, or other acts involving the victimization of individuals or other professional misconduct;

(c) The information is being released as part of a judicial or quasi-judicial proceeding and subject to a court's order protecting the confidentiality of the information and allowing it to be used solely in that proceeding;

(d) The information is being provided to a representative certified or recognized under RCW 41.56.080, or as necessary for the provision of fringe benefits to public employees, and the recipient agrees to protect the confidentiality of the information;

(e) The disclosure is required by federal law;

(f) The disclosure is required by a contract between the state and a third party, and the recipient agrees to protect the confidentiality of the information;

(g) The information is released to a person or entity under contract with the state to manage, administer, or provide services to vulnerable residents, or under contract with the state to engage in research or analysis about state services for vulnerable residents, and the recipient agrees to protect the confidentiality of the information; or

(h) Information about specific public employee(s) is released to a bona fide news organization that requests such information to conduct an investigation into, or report upon, the actions of such specific public employee(s).

(2) Nothing in chapter 4, Laws of 2017 shall prevent an agency from providing contact information for the purposes of RCW 74.39A.056(3) and 74.39A.250. Nothing in chapter 4, Laws of 2017 shall prevent an agency from confirming the licensing or certification status of a caregiver on an individual basis to allow consumers to ensure the licensing or certification status of an individual caregiver. [2017 c 4 § 11 (Initiative Measure No. 1501, approved November 8, 2016).]

Intent—2017 c 4 §§ 8, 10, and 11 (Initiative Measure No. 1501): See note following RCW 42.56.640.

Short title—Intent—Construction—2017 c 4 (Initiative Measure No. 1501): See notes following RCW 9.35.005.

42.56.650 Health carrier data. (1) Any data submitted by health carriers to the health benefit exchange for purposes of establishing standardized health plans under RCW 43.71.095 are exempt from disclosure under this chapter. This subsection applies to health carrier data in the custody of the insurance commissioner for purposes of consulting with the health benefit exchange under RCW 43.71.095(1).

(2) Any data submitted by health carriers to the health care authority for purposes of RCW 41.05.410 are exempt from disclosure under this chapter. [2019 c 364 § 2.]

42.56.655 Explosives exemption report. By December 1, 2023, the public records exemptions accountability committee, in addition to its duties in RCW 42.56.140, must

prepare and submit a report to the legislature that includes recommendations on whether the exemption created in RCW 42.56.460(2) should be continued, modified, or terminated. No recommendations or action from the committee or the legislature will result in the continuation of the exemption created in RCW 42.56.460(2). [2019 c 125 § 2.]

42.56.660 Agency employee records. (1) Except by court order issued pursuant to subsection (3) of this section, an agency may not disclose as a response to a public records request made pursuant to this chapter records concerning an agency employee, as defined in subsection (5) of this section, if:

(a) The requestor is a person alleged in the claim of workplace sexual harassment or stalking to have harassed or stalked the agency employee who is named as the victim in the claim; and

(b) After conducting an investigation, the agency issued discipline resulting from the claim of workplace sexual harassment or stalking to the requestor described under (a) of this subsection.

(2)(a) When the requestor is someone other than a person described under subsection (1) of this section, the agency must immediately notify an agency employee upon receipt of a public records request for records concerning that agency employee if the agency conducted an investigation of the claim of workplace sexual harassment or stalking involving the agency employee and the agency issued discipline resulting from the claim.

(b) Upon notice provided in accordance with (a) of this subsection, the agency employee may bring an action in a court of competent jurisdiction to enjoin the agency from disclosing the records. The agency employee shall immediately notify the agency upon filing an action under this subsection. Except for the five-day notification required under RCW 42.56.520, the time for the employing agency to process a request for records is suspended during the pendency of an action filed under this subsection. Upon notice of an action filed under this subsection, the agency may not disclose such records unless by an order issued in accordance with subsection (3) of this section, or if the action is dismissed without the court granting an injunction.

(3)(a) A court of competent jurisdiction, following sufficient notice to the employing agency, may order the release of some or all of the records described in subsections (1) and (2) of this section after finding that, in consideration of the totality of the circumstances, disclosure would not violate the right to privacy under RCW 42.56.050 for the agency employee. An agency that is ordered in accordance with this subsection to disclose records is not liable for penalties, attorneys' fees, or costs under RCW 42.56.550 if the agency has complied with this section.

(b) For the purposes of this section, it is presumed to be highly offensive to a reasonable person under RCW 42.56.050 to disclose, directly or indirectly, records concerning an agency employee who has made a claim of workplace sexual harassment or stalking with the agency, or is named as a victim in the claim, to persons alleged in the claim to have sexually harassed or stalked the agency employee named as the victim and where the agency issued discipline resulting from the claim after conducting an investigation. The pre-

sumption set out under this subsection may be rebutted upon showing of clear, cogent, and convincing evidence that disclosure of the requested record or information to persons alleged in the claim to have sexually harassed or stalked the agency employee named as the victim in the claim is not highly offensive.

(4) Nothing in this section restricts access to records described under subsections (1) and (2) of this section where the agency employee consents in writing to disclosure.

(5) For the purposes of this section:

(a) "Agency" means a state agency, including every state office, department, division, bureau, board, commission, or other state agency.

(b) "Agency employee" means a state agency employee who has made a claim of workplace sexual harassment or stalking with the employing agency, or is named as the victim in the claim.

(c) "Records concerning an agency employee" do not include work product created by the agency employee as part of his or her official duties. [2019 c 373 § 2.]

Findings—2019 c 373: "The legislature finds that state agency employees operate in unique work environments in which there is a higher level of transparency surrounding their daily work activities. The legislature finds that we must act to protect the health and safety of state employees, but even more so when employees become the victims of sexual harassment or stalking. The legislature finds that when a state agency employee is the target of sexual harassment or stalking, there is a significant risk to the employee's physical safety and well-being. The legislature finds that workplace safety is of paramount importance and that the state has an interest in protecting against the inappropriate use of public resources to carry out actions of sexual harassment or stalking." [2019 c 373 § 1.]

Effective date—2019 c 373: "This act takes effect July 1, 2020." [2019 c 373 § 6.]

42.56.665 Agency employee records—Civil liability.

(1) Any person who requests and obtains a record concerning an agency employee, as described in RCW 42.56.660, is subject to civil liability if he or she uses the record or information in the record to harass, stalk, threaten, or intimidate that agency employee, or provides the record or information in the record to a person, knowing that the person intends to use it to harass, stalk, threaten, or intimidate that agency employee.

(2) Any person liable under subsection (1) of this section may be sued in superior court by any aggrieved party, or in the name of the state by the attorney general or the prosecuting authority of any political subdivision. The court may order an appropriate civil remedy. The plaintiff may recover up to one thousand dollars for each record used in violation of this section, as well as costs and reasonable attorneys' fees.

(3) For the purposes of this section:

(a) "Agency" means a state agency, including every state office, department, division, bureau, board, commission, or other state agency.

(b) "Agency employee" means a state agency employee who has made a claim of workplace sexual harassment or stalking with the employing agency, or is named as the victim in the claim.

(c) "Record concerning an agency employee" does not include work product created by the agency employee as part of his or her official duties. [2019 c 373 § 3.]

Effective date—Findings—2019 c 373: See notes following RCW 42.56.660.

(2020 Ed.)

42.56.670 Agency employee records—Model policies.

By January 1, 2020, the attorney general, in consultation with state agencies, shall create model policies for the implementation of chapter 373, Laws of 2019. [2019 c 373 § 4.]

Effective date—Findings—2019 c 373: See notes following RCW 42.56.660.

42.56.675 Agency employee records—Lists of names.

A state agency may not disclose lists of the names of agency employees, as defined under RCW 42.56.660, maintained by the agency in order to administer RCW 42.56.660. [2019 c 373 § 5.]

Effective date—Findings—2019 c 373: See notes following RCW 42.56.660.

42.56.900 Purpose—2005 c 274 §§ 402-429. The purpose of sections 402 through 429 of this act is to reorganize the public inspection and copying exemptions in *RCW 42.17.310 through 42.17.31921 by creating smaller, discrete code sections organized by subject matter. The legislature does not intend that this act effectuate any substantive change to any public inspection and copying exemption in the Revised Code of Washington. [2005 c 274 § 401.]

***Reviser's note:** The substance of RCW 42.17.310 through 42.17.31921 was recodified in chapter 42.56 RCW. See the Comparative Table in the Table of Disposition of Former RCW Sections.

42.56.904 Intent—2007 c 391. It is the intent of the legislature to clarify that no reasonable construction of chapter 42.56 RCW has ever allowed attorney invoices to be withheld in their entirety by any public entity in a request for documents under that chapter. It is further the intent of the legislature that specific descriptions of work performed be redacted only if they would reveal an attorney's mental impressions, actual legal advice, theories, or opinions, or are otherwise exempt under chapter 391, Laws of 2007 or other laws, with the burden upon the public entity to justify each redaction and narrowly construe any exception to full disclosure. The legislature intends to clarify that the public's interest in open, accountable government includes an accounting of any expenditure of public resources, including through liability insurance, upon private legal counsel or private consultants. [2007 c 391 § 1.]

Chapter 42.60 RCW

RELIGIOUS AFFILIATION NONDISCLOSURE

Sections

42.60.010	Findings.
42.60.020	Prohibitions—Government agencies and public employees.
42.60.030	Prohibitions—Law enforcement agencies.
42.60.040	Agreements in conflict with chapter.

42.60.010 Findings. The legislature finds and declares the following:

(1) Washington state celebrates the rich cultural heritage and diversity of its residents; and

(2) Freedom of religion and protection from persecution on the basis of religion is one of the founding ideals of the nation. [2018 c 303 § 1.]

42.60.020 Prohibitions—Government agencies and public employees. A state or local government agency or public employee shall not:

(1) Provide or disclose to federal government authorities personally identifiable information regarding the religious beliefs, practices, or affiliation of any individual, except where the employee is a witness to a crime;

(2) Use public funds, facilities, property, equipment, or personnel to assist in creation, implementation, or enforcement of any government program compiling a list, registry, or database of personally identifiable information about individuals based on religious beliefs, practice, or affiliation, for law enforcement or immigration purposes; or

(3) Make personally identifiable information from agency databases available, including any databases maintained by private vendors contracting with the agency, to anyone or any entity for the purpose of investigation or enforcement under any government program compiling a list, registry, or database of individuals based on religious belief, practice, or affiliation, or national origin, or ethnicity for law enforcement or immigration purposes. [2018 c 303 § 3.]

42.60.030 Prohibitions—Law enforcement agencies. State and local law enforcement agencies shall not:

(1) Collect information on the religious belief, practice, or affiliation of any individual except (a) as part of a criminal investigation of an individual based on reasonable suspicion that the individual has engaged in criminal activity, and when there is a nexus between the criminal activity and the specific information collected about religious belief, practice, or affiliation, or (b) where necessary to provide religious accommodations; or

(2) Use public funds, facilities, property, equipment, or personnel to investigate, enforce, or assist in the investigation or enforcement of any criminal, civil, or administrative violation, or warrant for a violation, of any requirement that individuals register with the federal government or any federal agency based on religion. [2018 c 303 § 4.]

42.60.040 Agreements in conflict with chapter. Any agreements in existence on June 7, 2018, that make any state or local government agency information or database available in conflict with the terms of this chapter are terminated on that date to the extent of the conflict. [2018 c 303 § 5.]