

Appendices

What's in this section?

The Appendices section of the Procedure Manual contains reference documents and forms. Please use the forms in this section as formatted. Do not change them to suit your personal style preferences. If you have questions on any of this information, please contact your Field Operations Manager, or any Commission staff.

Why it's important

The references found in this section provide the details of legal or policy requirements that affect your conservation district. The forms provide a consistent way for the Commission to gather the information it needs from all districts statewide. Much of this information is also available on the Commission's website (<http://www.scc.wa.gov/>).

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**Chapter 89.08 RCW
CONSERVATION DISTRICTS**

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NOTES:

Duties of conservation commission and conservation districts for dairy waste management: Chapter 90.64 RCW.

Property tax exemption for district's personal property: RCW 84.36.240, 84.36.815.

State participation in soil conservation district -- Limit: RCW 86.26.100.

RCW 89.08.005

Short title.

This chapter shall be known and cited as the conservation districts law.

[1973 1st ex.s. c 184 § 1; 1961 c 240 § 1; 1939 c 187 § 1; RRS § 10726-1.]

RCW 89.08.010

Preamble.

It is hereby declared, as a matter of legislative determination:

(1) That the lands of the state of Washington are among the basic assets of the state and that the preservation of these lands is necessary to protect and promote the health, safety, and general welfare of its people; that improper land-use practices have caused and have contributed to, and are now causing and contributing to, a progressively more serious erosion of the lands of this state by wind and water; that the breaking of natural grass, plant and forest cover have interfered with the natural factors of soil stabilization, causing loosening of soil and exhaustion of humus, and developing a soil condition that favors erosion; that the topsoil is being blown and washed off of lands; that there has been an accelerated washing of sloping lands; that these processes of erosion by wind and water speed up with removal of absorptive topsoil, causing exposure of less absorptive and less protective but more erosive subsoil; that failure by any land occupier to conserve the soil and control erosion upon his lands may cause a washing and blowing of soil from his lands onto other lands and makes the conservation of soil and control of erosion on such other lands difficult or impossible, and that extensive denuding of land for development creates critical erosion areas that are difficult to effectively regenerate and the resulting sediment causes extensive pollution of streams, ponds, lakes and other waters.

(2) That the consequences of such soil erosion in the form of soil blowing and soil washing are the silting and sedimentation of stream channels, reservoirs, dams, ditches, and harbors, and loading the air with soil particles; the loss of fertile soil material in dust storms; the piling up of soil on lower slopes and its deposit over alluvial plains; the reduction in productivity or outright ruin of rich bottom lands by overwash of poor subsoil material, sand, and gravel swept out of the hills; deterioration of soil and its fertility, deterioration of crops grown thereon, and declining acre yields despite development of scientific processes for increasing such yields; loss of soil and water which causes destruction of food and cover for wildlife; a blowing and washing of soil into streams which silts over spawning beds, and destroys water plants, diminishing the food supply of fish; a diminishing of the underground water reserve, which causes water shortages, intensifies periods of drought, and causes crop failures; an increase in the speed and volume of rainfall run-off, causing severe and increasing floods, which bring suffering, disease, and death; impoverishment of families attempting to farm eroding and eroded lands; damage to roads, highways, railways, buildings, and other property from floods and from dust storms; and losses in navigation, hydroelectric power, municipal water supply, irrigation developments, farming and grazing.

(3) That to conserve soil resources and control and prevent soil erosion and prevent flood water and sediment damages, and further agricultural and nonagricultural phases of the conservation, development, utilization, and disposal of water, it is necessary that land-use practices contributing to soil wastage and soil erosion be discouraged and discontinued, and appropriate soil-conserving land-use practices, and works of improvement for flood prevention of agricultural and nonagricultural phases of the conservation, development, utilization, and disposal of water be adopted and carried out;

that among the procedures necessary for widespread adoption, are the carrying on of engineering operations such as the construction of terraces, terrace outlets, check-dams, desilting basins, flood water retarding structures, channel floodways, dikes, ponds, ditches, and the like; the utilization of strip cropping, contour cultivating, and contour furrowing; land irrigation; seeding and planting of waste, sloping, abandoned, or eroded lands to water-conserving and erosion-preventing plants, trees, and grasses; forestation and reforestation; rotation of crops; soil stabilizations with trees, grasses, legumes, and other thick-growing, soil-holding crops, retardation of run-off by increasing absorption of rainfall; and retirement from cultivation of steep, highly erosive areas and areas now badly gullied or otherwise eroded.

(4) Whereas, there is a pressing need for the conservation of renewable resources in all areas of the state, whether urban, suburban, or rural, and that the benefits of resource practices, programs, and projects, as carried out by the state conservation commission and by the conservation districts, should be available to all such areas; therefore, it is hereby declared to be the policy of the legislature to provide for the conservation of the renewable resources of this state, and for the control and prevention of soil erosion, and for the prevention of flood water and sediment damages, and for furthering agricultural and nonagricultural phases of conservation, development, utilization, and disposal of water, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this state. To this end all incorporated cities and towns heretofore excluded from the boundaries of a conservation district established pursuant to the provisions of the state conservation district law, as amended, may be approved by the conservation commission as being included in and deemed a part of the district upon receiving a petition for annexation signed by the governing authority of the city or town and the conservation district within the exterior boundaries of which it lies in whole or in part or to which it lies closest.

[1973 1st ex.s. c 184 § 2; 1939 c 187 § 2; RRS § 10726-2.]

RCW 89.08.020

Definitions.

Unless the context clearly indicates otherwise, as used in this chapter:

"Commission" and "state conservation commission" means the agency created hereunder. All former references to "state soil and water conservation committee", "state committee" or "committee" shall be deemed to be references to the "state conservation commission";

"District", or "conservation district" means a governmental subdivision of this state and a public body corporate and politic, organized in accordance with the provisions of chapter 184, Laws of 1973 1st ex. sess., for the purposes, with the powers, and subject to the restrictions set forth in this chapter. All districts created under chapter 184, Laws of 1973 1st ex. sess. shall be known as conservation districts and shall have all the powers

and duties set out in chapter 184, Laws of 1973 1st ex. sess. All references in chapter 184, Laws of 1973 1st ex. sess. to "districts", or "soil and water conservation districts" shall be deemed to be reference to "conservation districts";

"Board" and "supervisors" mean the board of supervisors of a conservation district;

"Land occupier" or "occupier of land" includes any person, firm, political subdivision, government agency, municipality, public or private corporation, copartnership, association, or any other entity whatsoever which holds title to, or is in possession of, any lands lying within a district organized under the provisions of chapter 184, Laws of 1973 1st ex. sess., whether as owner, lessee, renter, tenant, or otherwise;

"District elector" or "voter" means a registered voter in the county where the district is located who resides within the district boundary or in the area affected by a petition;

"Due notice" means a notice published at least twice, with at least six days between publications, in a publication of general circulation within the affected area, or if there is no such publication, by posting at a reasonable number of public places within the area, where it is customary to post notices concerning county and municipal affairs. Any hearing held pursuant to due notice may be postponed from time to time without a new notice;

"Renewable natural resources", "natural resources" or "resources" includes land, air, water, vegetation, fish, wildlife, wild rivers, wilderness, natural beauty, scenery and open space;

"Conservation" includes conservation, development, improvement, maintenance, preservation, protection and use, and alleviation of floodwater and sediment damages, and the disposal of excess surface waters.

"Farm and agricultural land" means either (a) land in any contiguous ownership of twenty or more acres devoted primarily to agricultural uses; (b) any parcel of land five acres or more but less than twenty acres devoted primarily to agricultural uses, which has produced a gross income from agricultural uses equivalent to one hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter; or (c) any parcel of land of less than five acres devoted primarily to agricultural uses which has produced a gross income of one thousand dollars or more per year for three of the five calendar years preceding the date of application for classification under this chapter. Agricultural lands shall also include farm woodlots of less than twenty and more than five acres and the land on which appurtenances necessary to production, preparation or sale of the agricultural products exist in conjunction with the lands producing such products. Agricultural lands shall also include any parcel of land of one to five acres, which is not contiguous, but which otherwise constitutes an integral part of farming operations being conducted on land qualifying under this section as "farm and agricultural lands".

RCW 89.08.030

Conservation commission.

There is hereby established to serve as an agency of the state and to perform the functions conferred upon it by law, the state conservation commission, which shall succeed to all powers, duties and property of the state soil and water conservation committee.

The commission shall consist of ten members, five of whom are ex officio. Two members shall be appointed by the governor, one of whom shall be a landowner or operator of a farm. At least two of the three elected members shall be landowners or operators of a farm and shall be elected as herein provided. The appointed members shall serve for a term of four years.

The three elected members shall be elected for three-year terms, one shall be elected each year by the district supervisors at their annual statewide meeting. One of the members shall reside in eastern Washington, one in central Washington and one in western Washington, the specific boundaries to be determined by district supervisors. At the first such election, the term of the member from western Washington shall be one year, central Washington two years and eastern Washington three years, and successors shall be elected for three years.

Unexpired term vacancies in the office of appointed commission members shall be filled by appointment by the governor in the same manner as full-term appointments. Unexpired terms of elected commission members shall be filled by the regional vice president of the Washington association of conservation districts who is serving that part of the state where the vacancy occurs, such term to continue only until district supervisors can fill the unexpired term by electing the commission member.

The director of the department of ecology, the director of the department of agriculture, the commissioner of public lands, the president of the Washington association of conservation districts, and the dean of the college of agriculture at Washington State University shall be ex officio members of the commission. An ex officio member of the commission shall hold office so long as he or she retains the office by virtue of which he or she is a member of the commission. Ex officio members may delegate their authority.

The commission may invite appropriate officers of cooperating organizations, state and federal agencies to serve as advisers to the conservation commission.

[1987 c 180 § 1; 1983 c 248 § 13; 1973 1st ex.s. c 184 § 4; 1967 c 217 § 1; 1961 c 240 § 3; 1955 c 304 § 3. Prior: 1951 c 216 § 3; 1949 c 106 § 1, part; 1939 c 187 § 4, part; Rem. Supp. 1949 § 10726-4, part.]

RCW 89.08.040

Members -- Compensation and travel expenses -- Records, rules, hearings, etc.

Members shall be compensated in accordance with RCW 43.03.240 and shall be entitled

to travel expenses in accordance with RCW 43.03.050 and 43.03.060 incurred in the discharge of their duties.

The commission shall keep a record of its official actions, shall adopt a seal, which shall be judicially noticed, and may perform such acts, hold such public hearings, and promulgate such rules and regulations as may be necessary for the execution of its functions under chapter 184, Laws of 1973 1st ex. sess. The state department of ecology is empowered to pay the travel expenses of the elected and appointed members of the state conservation commission, and the salaries, wages and other expenses of such administrative officers or other employees as may be required under the provisions of this chapter.

[1984 c 287 § 112; 1975-'76 2nd ex.s. c 34 § 179; 1973 1st ex.s. c 184 § 5; 1961 c 240 § 4; 1955 c 304 § 4. Prior: 1951 c 216 § 4; 1949 c 106 § 1, part; 1939 c 187 § 4, part; Rem. Supp. 1949 § 10726-4, part.]

NOTES:

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

Effective date -- Severability -- 1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 89.08.050

Employees -- Delegation -- Quorum.

The commission may employ an administrative officer, and such technical experts and such other agents and employees, permanent and temporary as it may require, and shall determine their qualifications, duties, and compensation. The commission may call upon the attorney general for such legal services as it may require.

It shall have authority to delegate to its chairman, to one or more of its members, to one or more agents or employees such duties and powers as it deems proper. It shall be supplied with suitable office accommodations at the central office of the department of ecology, and shall be furnished the necessary supplies and equipment.

The commission shall organize annually and select a chairman from among its members, who shall serve for one year from the date of his selection. A majority of the commission shall constitute a quorum and all actions of the commission shall be by a majority vote of the members present and voting at a meeting at which a quorum is present.

[1973 1st ex.s. c 184 § 6; 1961 c 240 § 5; 1955 c 304 § 5. Prior: 1949 c 106 § 1, part; 1939 c 187 § 4, part; Rem. Supp. 1949 § 10726-4, part.]

RCW 89.08.060

Assistance of other state agencies and institutions.

Upon request of the commission, for the purpose of carrying out any of its functions, the supervising officer of any state agency or state institution of learning may, insofar as may be possible under available appropriations and having due regard to the needs of the agency to which the request is directed, assign or detail to the commission, members of the staff or personnel of such agency or institution of learning, and make such special reports, surveys, or studies as the commission may request.

[1973 1st ex.s. c 184 § 7; 1955 c 304 § 6. Prior: 1949 c 106 § 1, part; 1939 c 187 § 4, part; Rem. Supp. 1949 § 10726-4, part.]

RCW 89.08.070

General duties of commission.

In addition to the duties and powers hereinafter conferred upon the commission, it shall have the following duties and powers:

(1) To offer such assistance as may be appropriate to the supervisors of conservation districts organized under the provisions of chapter 184, Laws of 1973 1st ex. sess., in the carrying out of any of their powers and programs:

(a) to assist and guide districts in the preparation and carrying out of programs for resource conservation authorized under chapter 184, Laws of 1973 1st ex. sess.;

(b) to review district programs;

(c) to coordinate the programs of the several districts and resolve any conflicts in such programs;

(d) to facilitate, promote, assist, harmonize, coordinate, and guide the resource conservation programs and activities of districts as they relate to other special purpose districts, counties, and other public agencies.

(2) To keep the supervisors of each of the several conservation districts organized under the provisions of chapter 184, Laws of 1973 1st ex. sess. informed of the activities and experience of all other districts organized hereunder, and to facilitate an interchange of advice and experience between such districts and cooperation between them.

(3) To review agreements, or forms of agreements, proposed to be entered into by districts with other districts or with any state, federal, interstate, or other public or private agency, organization, or individual, and advise the districts concerning such agreements or forms of agreements.

(4) To secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this state in the work of such districts.

(5) To recommend the inclusion in annual and longer term budgets and appropriation legislation of the state of Washington of funds necessary for appropriation by the legislature to finance the activities of the commission and the conservation districts; to administer the provisions of any law hereinafter enacted by the legislature appropriating funds for expenditure in connection with the activities of conservation districts; to distribute to conservation districts funds, equipment, supplies and services received by the commission for that purpose from any source, subject to such conditions as shall be made applicable thereto in any state or federal statute or local ordinance making available such funds, property or services; to issue regulations establishing guidelines and suitable controls to govern the use by conservation districts of such funds, property and services; and to review all budgets, administrative procedures and operations of such districts and advise the districts concerning their conformance with applicable laws and regulations.

(6) To encourage the cooperation and collaboration of state, federal, regional, interstate and local public and private agencies with the conservation districts, and facilitate arrangements under which the conservation districts may serve county governing bodies and other agencies as their local operating agencies in the administration of any activity concerned with the conservation of renewable natural resources.

(7) To disseminate information throughout the state concerning the activities and programs of the conservation districts organized hereunder, and to encourage the formation of such districts in areas where their organization is desirable; to make available information concerning the needs and the work of the conservation district and the commission to the governor, the legislature, executive agencies of the government of this state, political subdivisions of this state, cooperating federal agencies, and the general public.

(8) Pursuant to procedures developed mutually by the commission and other state and local agencies that are authorized to plan or administer activities significantly affecting the conservation of renewable natural resources, to receive from such agencies for review and comment suitable descriptions of their plans, programs and activities for purposes of coordination with district conservation programs; to arrange for and participate in conferences necessary to avoid conflict among such plans and programs, to call attention to omissions, and to avoid duplication of effort.

(9) To compile information and make studies, summaries and analysis of district programs in relation to each other and to other resource conservation programs on a statewide basis.

(10) To assist conservation districts in obtaining legal services from state and local legal officers.

(11) To require annual reports from conservation districts, the form and content of which shall be developed by the commission.

(12) To establish by regulations, with the assistance and advice of the state auditor's office, adequate and reasonably uniform accounting and auditing procedures which shall be used by conservation districts.

[1973 1st ex.s. c 184 § 8; 1961 c 240 § 6; 1955 c 304 § 7. Prior: 1949 c 106 § 1, part; 1939 c 187 § 4, part; Rem. Supp. 1949 § 10726-4, part.]

RCW 89.08.080

Petition to form district -- Contents.

To form a conservation district, twenty percent of the voters within the area to be affected may file a petition with the commission asking that the area be organized into a district.

The petition shall give the name of the proposed district, state that it is needed in the interest of the public health, safety, and welfare, give a general description of the area proposed to be organized and request that the commission determine that it be created, and that it define the boundaries thereof and call an election on the question of creating the district.

If more than one petition is filed covering parts of the same area, the commission may consolidate all or any of them.

[1999 c 305 § 2; 1973 1st ex.s. c 184 § 9; 1961 c 240 § 7; 1961 c 17 § 1. Prior: 1939 c 187 § 5, part; RRS § 10726-5, part.]

RCW 89.08.090

Notice of hearing -- Hearing.

Within thirty days after a petition is filed, the commission shall give due notice of the time and place of a public hearing thereon. At the hearing all interested persons shall be heard.

If it appears to the commission that additional land should be included in the district, the hearing shall be adjourned and a new notice given covering the entire area and a new date fixed for further hearing, unless waiver of notice by the owners of the additional land is filed with the commission.

No district shall include any portion of a railroad right of way, or another similar district. The lands included in a district need not be contiguous.

[1973 1st ex.s. c 184 § 10; 1955 c 304 § 9. Prior: 1939 c 187 § 5, part; RRS § 10726-5, part.]

RCW 89.08.100

Findings -- Order.

After the hearing, if the commission finds that the public health, safety, and welfare

warrant the creation of the district, it shall enter an order to that effect and define the boundaries thereof by metes and bounds or by legal subdivisions.

In making its findings the commission shall consider the topography of the particular area and of the state generally; the composition of the soil; the distribution of erosion; the prevailing land use practices; the effects upon and benefits to the land proposed to be included; the relation of the area to existing watersheds and agricultural regions and to other similar districts organized or proposed; and consider such other physical, geographical, and economic factors as are relevant.

If the commission finds there is no need for the district, it shall enter an order denying the petition, and no petition covering the same or substantially the same area may be filed within six months thereafter.

[1973 1st ex.s. c 184 § 11; 1955 c 304 § 10. Prior: 1939 c 187 § 5, part; RRS § 10726-5, part.]

RCW 89.08.110

Election -- How conducted.

If the commission finds that the district is needed, it shall then determine whether it is practicable. To assist the commission in determining this question, it shall, within a reasonable time, submit the proposition to a vote of the district electors in the proposed district.

The commission shall fix the date of the election, designate the polling places, fix the hours for opening and closing the polls, and appoint the election officials. The election shall be conducted, the vote counted and returns canvassed and the results published by the commission.

[1999 c 305 § 3; 1973 1st ex.s. c 184 § 12; 1955 c 304 § 11. Prior: 1939 c 187 § 5, part; RRS § 10726-5, part.]

RCW 89.08.120

Ballots.

The commission shall provide the ballots for the election which shall contain the words

For creation of a conservation district of the lands below described and lying in the county or counties of, and," and

Against creation of a conservation district of the lands below described and lying in the county or counties of, and"

The ballot shall set forth the boundaries of the proposed district, and contain a direction to insert an X in the square of the voter's choice.

[1973 1st ex.s. c 184 § 13; 1961 c 240 § 8; 1955 c 304 § 12. Prior: 1939 c 187 § 5, part; RRS § 10726-5, part.]

RCW 89.08.130

Notice of election.

The commission shall give due notice of the election, which shall state generally the purpose of the election, the date thereof, the place and hours of voting, and set forth the boundaries of the proposed district.

Only qualified district electors within the proposed district as determined by the commission may vote at the election. Each voter shall vote in the polling place nearest the voter's residence.

[1999 c 305 § 4; 1973 1st ex.s. c 184 § 14; 1955 c 304 § 13. Prior: 1939 c 187 § 5, part; RRS § 10726-5, part.]

RCW 89.08.140

Expense of hearing and election.

The commission shall bear all expense of giving the notices and conducting the hearings and election, and shall issue regulations governing all hearings and elections and supervise the conduct thereof. It shall provide for registration of eligible voters or prescribe the procedure to determine the eligible voters. No informality in connection with the election shall invalidate the results, if the notice thereof was substantially given, and the election fairly conducted.

[1973 1st ex.s. c 184 § 15; 1955 c 304 § 14. Prior: 1939 c 187 § 5, part; RRS § 10726-5, part.]

RCW 89.08.150

Procedure after canvass.

If a majority of the votes cast at the election are against the creation of the district, the commission shall deny the petition. If a majority favor the district, the commission shall determine the practicability of the project.

In making such determination, the commission shall consider the attitude of the voters of the district; the number of eligible voters who voted at the election; the size of the majority vote; the wealth and income of the land occupiers; the probable expense of carrying out the project; and any other economic factors relevant thereto.

If the commission finds that the project is impracticable it shall enter an order to that effect and deny the petition. When the petition has been denied, no new petition covering the same or substantially the same area may be filed within six months therefrom.

[1999 c 305 § 5; 1973 1st ex.s. c 184 § 16; 1955 c 304 § 15. Prior: 1939 c 187 § 5, part; RRS § 10726-5, part.]

RCW 89.08.160

Appointment of supervisors -- Application to secretary of state.

If the commission finds the project practicable, it shall appoint two supervisors, one of whom shall be a landowner or operator of a farm, who shall be qualified by training and experience to perform the specialized skilled services required of them. They, with the three elected supervisors, two of whom shall be landowners or operators of a farm, shall constitute the governing board of the district.

The two appointed supervisors shall file with the secretary of state a sworn application, reciting that a petition was filed with the commission for the creation of the district; that all required proceedings were had thereon; that they were appointed by the commission as such supervisors; and that the application is being filed to complete the organization of the district. It shall contain the names and residences of the applicants, a certified copy of their appointments, the name of the district, the location of the office of the supervisors and the term of office of each applicant.

The application shall be accompanied by a statement of the commission, reciting that a petition was filed, notice issued, and hearing held thereon as required; that it determined the need for the district and defined the boundaries thereof; that notice was given and an election held on the question of creating the district; that a majority vote favored the district, and that the commission had determined the district practicable; and shall set forth the boundaries of the district.

[1973 1st ex.s. c 184 § 17; 1955 c 304 § 16. Prior: 1939 c 187 § 5, part; RRS § 10726-5, part.]

RCW 89.08.170

Secretary of state's certificate -- Change of name.

If the secretary of state finds that the name of the proposed district is such as will not be confused with that of any other district, he shall enter the application and statement in his records. If he finds the name may be confusing, he shall certify that fact to the commission, which shall submit a new name free from such objections, and he shall enter the application and statement as modified, in his records. Thereupon the district shall be considered organized into a body corporate.

The secretary of state shall then issue to the supervisors a certificate of organization of the district under the seal of the state, and shall record the certificate in his office. Proof of the issuance of the certificate shall be evidence of the establishment of the district, and a certified copy of the certificate shall be admissible as evidence and shall be proof of the

filing and contents thereof. The name of a conservation district may be changed upon recommendation by the supervisors of a district and approval by the state conservation commission and the secretary of state. The new name shall be recorded by the secretary of state following the same general procedure as for the previous name.

[1973 1st ex.s. c 184 § 18; 1961 c 240 § 9; 1955 c 304 § 17. Prior: 1951 c 216 § 1; 1939 c 187 § 5, part; RRS § 10726-5, part.]

RCW 89.08.180

Annexation of territory -- Boundary change -- Combining two or more districts.

Territory may be added to an existing district upon filing a petition as in the case of formation with the commission by twenty percent of the voters of the affected area to be included. The same procedure shall be followed as for the creation of the district.

As an alternate procedure, the commission may upon the petition of a majority of the voters in any one or more districts or in unorganized territory adjoining a conservation district change the boundaries of a district, or districts, if such action will promote the practical and feasible administration of such district or districts.

Upon petition of the boards of supervisors of two or more districts, the commission may approve the combining of all or parts of such districts and name the district, or districts, with the approval of the name by the secretary of state. A public hearing and/or a referendum may be held if deemed necessary or desirable by the commission in order to determine the wishes of the voters.

When districts are combined, the joint boards of supervisors will first select a chairman, secretary and other necessary officers and select a regular date for meetings. All elected supervisors will continue to serve as members of the board until the expiration of their current term of office, and/or until the election date nearest their expiration date. All appointed supervisors will continue to serve until the expiration of their current term of office, at which time the commission will make the necessary appointments. In the event that more than two districts are combined, a similar procedure will be set up and administered by the commission.

When districts are combined or territory is moved from one district to another, the property, records and accounts of the districts involved shall be distributed to the remaining district or districts as approved by the commission. A new certificate of organization, naming and describing the new district or districts, shall be issued by the secretary of state.

[1999 c 305 § 6; 1973 1st ex.s. c 184 § 19; 1961 c 240 § 10; 1955 c 304 § 18. Prior: 1951 c 216 § 2; 1939 c 187 § 5, part; RRS § 10726-5, part.]

RCW 89.08.185

Petition to withdraw from district -- Approval or rejection -- Disputed petitions.

The local governing body of any city or incorporated town within an existing district may approve by majority vote a petition to withdraw from the district. The petition shall be submitted to the district for its approval. If approved by the district, the petition shall be sent to the commission. The commission shall approve the petition and forward it to the secretary of state and the boundary of the district shall be adjusted accordingly. If the petition is not approved by the district, the district shall adopt a resolution specifying the reasons why the petition is not approved. The petition and the district's resolution shall be sent to the commission for its review. The commission shall approve or reject the petition based upon criteria it has adopted for the evaluation of petitions in dispute. If the commission approves the petition, it shall forward the petition to the secretary of state and the boundaries of the district shall be adjusted accordingly. The criteria used by the commission to evaluate petitions which are in dispute shall be adopted as rules by the commission under chapter 34.05 RCW, the administrative procedure act.

[1999 c 305 § 7.]

RCW 89.08.190

Nomination and election of supervisors -- Annual meeting of voters.

Within thirty days after the issuance of the certificate of organization, unless the time is extended by the commission, petitions shall be filed with the commission to nominate candidates for the three elected supervisors. The petition shall be signed by not less than twenty-five district electors, and a district elector may sign petitions nominating more than one person.

In the case of a new district, the commission shall give due notice to elect the three supervisors. All provisions pertaining to elections on the creation of a district shall govern this election so far as applicable. The names of all nominees shall appear on the ballot in alphabetical order, together with instructions to vote for three. The three candidates receiving the most votes shall be declared elected supervisors, the one receiving the most being elected for a three-year term, the next for two and the last for one year. An alternate method of dividing the district into three zones may be used when requested by the board of supervisors and approved by the commission. In such case, instructions will be to vote for one in each zone. The candidate receiving the most votes in a zone shall be declared elected.

Each year after the creation of the first board of supervisors, the board shall by resolution and by giving due notice, set a date during the first quarter of each calendar year at which time it shall conduct an election, except that for elections in 2002 only, the board shall set the date during the second quarter of the calendar year at which time it shall conduct an election. Names of candidates nominated by petition shall appear in alphabetical order on the ballots, together with an extra line wherein may be written in the name of any other candidate. The commission shall establish procedures for elections, canvass the returns and announce the official results thereof. Election results may be announced by polling officials at the close of the election subject to official canvass of ballots by the commission. Supervisors elected shall take office at the first board meeting following the election.

[2002 c 43 § 3; 1973 1st ex.s. c 184 § 20; 1967 c 217 § 2; 1961 c 240 § 11; 1955 c 304 § 19; 1939 c 187 § 6; RRS § 10726-6.]

NOTES:

Intent -- Effective date -- 2002 c 43: See notes following RCW 29.13.020.

RCW 89.08.200

Supervisors -- Term, vacancies, removal, etc. -- Compensation.

The term of office of each supervisor shall be three years and until his successor is appointed or elected and qualified, except that the supervisors first appointed shall serve for one and two years respectively from the date of their appointments, as designated in their appointments.

In the case of elected supervisors, the term of office of each supervisor shall be three years and until his successor is elected and qualified, except that for the first election, the one receiving the largest number of votes shall be elected for three years; the next largest two years; and the third largest one year. Successors shall be elected for three-year terms.

Vacancies in the office of appointed supervisors shall be filled by the state conservation commission. Vacancies in the office of elected supervisors shall be filled by appointment made by the remaining supervisors for the unexpired term.

A majority of the supervisors shall constitute a quorum and the concurrence of a majority is required for any official action or determination.

Supervisors shall serve without compensation, but they shall be entitled to expenses, including traveling expenses, necessarily incurred in discharge of their duties. A supervisor may be removed by the state conservation commission upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.

The governing board shall designate a chairman from time to time.

[1973 1st ex.s. c 184 § 21; 1961 c 240 § 12; 1955 c 304 § 21. Prior: 1949 c 106 § 2, part; 1939 c 187 § 7, part; Rem. Supp. 1949 § 10726-7, part.]

RCW 89.08.210

Powers and duties of supervisors.

The supervisors may employ a secretary, treasurer, technical experts, and such other officers, agents, and employees, permanent and temporary, as they may require, and determine their qualifications, duties, and compensation. It may call upon the attorney general for legal services, or may employ its own counsel and legal staff. The supervisors may delegate to their chairman, to one or more supervisors, or to one or more agents or employees such powers and duties as it deems proper. The supervisors shall furnish to the commission, upon request, copies of such internal rules, regulations, orders, contracts,

forms, and other documents as they shall adopt or employ, and such other information concerning their activities as the commission may require in the performance of its duties under chapter 184, Laws of 1973 1st ex. sess. The supervisors shall provide for the execution of surety bonds for officers and all employees who shall be entrusted with funds or property.

The supervisors shall provide for the keeping of a full and accurate record of all proceedings, resolutions, regulations, and orders issued or adopted. The supervisors shall provide for an annual audit of the accounts of receipts and disbursements in accordance with procedures prescribed by regulations of the commission.

The board may invite the legislative body of any municipality or county near or within the district, to designate a representative to advise and consult with it on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county. The governing body of a district shall appoint such advisory committees as may be needed to assure the availability of appropriate channels of communication to the board of supervisors, to persons affected by district operations, and to local, regional, state and interstate special-purpose districts and agencies responsible for community planning, zoning, or other resource development activities. The district shall keep such committees informed of its work, and such advisory committees shall submit recommendations from time to time to the board of supervisors.

[2000 c 45 § 1; 1973 1st ex.s. c 184 § 22; 1955 c 304 § 22. Prior: 1949 c 106 § 2, part; 1939 c 187 § 7, part; Rem. Supp. 1949 § 10726-7, part.]

RCW 89.08.215

Treasurer -- Powers and duties -- Bond.

The treasurer of the county in which a conservation district is located is ex officio treasurer of the district. However, the board of supervisors by resolution may designate some other person having experience in financial or fiscal matters as treasurer of the conservation district. The board of supervisors shall require a bond, with a surety company authorized to do business in the state of Washington, in an amount and under the terms and conditions which the board of supervisors by resolution from time to time finds will protect the district against loss. The premium on this bond shall be paid by the district.

All district funds shall be paid to the treasurer and disbursed only on warrants issued by an auditor appointed by the board of supervisors, upon orders or vouchers approved by it. The treasurer shall establish a conservation district fund into which shall be paid all district funds. The treasurer shall maintain any special funds created by the board of supervisors for the placement of all money as the board of supervisors may, by resolution, direct.

If the treasurer of the district is the treasurer of the county all district funds shall be deposited with the county depositories under the same restrictions, contracts, and security as provided for county depositories. If the treasurer of the district is some other person,

all funds shall be deposited in a bank or banks authorized to do business in this state as the board of supervisors, by resolution, designates.

A district may provide and require a reasonable bond of any other person handling moneys or securities of the district, if the district pays the premium.

[2000 c 45 § 2.]

RCW 89.08.220

Corporate status and powers of district.

A conservation district organized under the provisions of chapter 184, Laws of 1973 1st ex. sess. shall constitute a governmental subdivision of this state, and a public body corporate and politic exercising public powers, but shall not levy taxes or issue bonds and such district, and the supervisors thereof, shall have the following powers, in addition to others granted in other sections of chapter 184, Laws of 1973 1st ex. sess.:

(1) To conduct surveys, investigations, and research relating to the conservation of renewable natural resources and the preventive and control measures and works of improvement needed, to publish the results of such surveys, investigations, or research, and to disseminate information concerning such preventive and control measures and works of improvement: PROVIDED, That in order to avoid duplication of research activities, no district shall initiate any research program except in cooperation with the government of this state or any of its agencies, or with the United States or any of its agencies;

(2) To conduct educational and demonstrational projects on any lands within the district upon obtaining the consent of the occupier of such lands and such necessary rights or interests in such lands as may be required in order to demonstrate by example the means, methods, measures, and works of improvement by which the conservation of renewable natural resources may be carried out;

(3) To carry out preventative and control measures and works of improvement for the conservation of renewable natural resources, within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of lands, and the measures listed in RCW [89.08.010](#), on any lands within the district upon obtaining the consent of the occupier of such lands and such necessary rights or interests in such lands as may be required;

(4) To cooperate or enter into agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to any agency, governmental or otherwise, or any occupier of lands within the district in the carrying on of preventive and control measures and works of improvement for the conservation of renewable natural resources within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of chapter 184, Laws of 1973 1st ex. sess. For purposes of this subsection only, land occupiers who are also district supervisors are not subject to the provisions of RCW 42.23.030;

(5) To obtain options upon and to acquire in any manner, except by condemnation, by purchase, exchange, lease, gift, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein; to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of chapter 184, Laws of 1973 1st ex. sess.; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of chapter 184, Laws of 1973 1st ex. sess.;

(6) To make available, on such terms, as it shall prescribe, to land occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds, seedlings, and such other equipment and material as will assist them to carry on operations upon their lands for the conservation of renewable natural resources;

(7) To prepare and keep current a comprehensive long-range program recommending the conservation of all the renewable natural resources of the district. Such programs shall be directed toward the best use of renewable natural resources and in a manner that will best meet the needs of the district and the state, taking into consideration, where appropriate, such uses as farming, grazing, timber supply, forest, parks, outdoor recreation, potable water supplies for urban and rural areas, water for agriculture, minimal flow, and industrial uses, watershed stabilization, control of soil erosion, retardation of water run-off, flood prevention and control, reservoirs and other water storage, restriction of developments of flood plains, protection of open space and scenery, preservation of natural beauty, protection of fish and wildlife, preservation of wilderness areas and wild rivers, the prevention or reduction of sedimentation and other pollution in rivers and other waters, and such location of highways, schools, housing developments, industries, airports and other facilities and structures as will fit the needs of the state and be consistent with the best uses of the renewable natural resources of the state. The program shall include an inventory of all renewable natural resources in the district, a compilation of current resource needs, projections of future resource requirements, priorities for various resource activities, projected timetables, descriptions of available alternatives, and provisions for coordination with other resource programs.

The district shall also prepare an annual work plan, which shall describe the action programs, services, facilities, materials, working arrangements and estimated funds needed to carry out the parts of the long-range programs that are of the highest priorities.

The districts shall hold public hearings at appropriate times in connection with the preparation of programs and plans, shall give careful consideration to the views expressed and problems revealed in hearings, and shall keep the public informed concerning their programs, plans, and activities. Occupiers of land shall be invited to submit proposals for consideration to such hearings. The districts may supplement such hearings with meetings, referenda and other suitable means to determine the wishes of interested parties and the general public in regard to current and proposed plans and programs of a district. They shall confer with public and private agencies, individually and in groups, to give and obtain information and understanding of the impact of district operations upon agriculture, forestry, water supply and quality, flood control, particular

industries, commercial concerns and other public and private interests, both rural and urban.

Each district shall submit to the commission its proposed long-range program and annual work plans for review and comment.

The long-range renewable natural resource program, together with the supplemental annual work plans, developed by each district under the foregoing procedures shall have official status as the authorized program of the district, and it shall be published by the districts as its "renewable resources program". Copies shall be made available by the districts to the appropriate counties, municipalities, special purpose districts and state agencies, and shall be made available in convenient places for examination by public land occupier or private interest concerned. Summaries of the program and selected material therefrom shall be distributed as widely as feasible for public information;

(8) To administer any project or program concerned with the conservation of renewable natural resources located within its boundaries undertaken by any federal, state, or other public agency by entering into a contract or other appropriate administrative arrangement with any agency administering such project or program;

(9) Cooperate with other districts organized under chapter 184, Laws of 1973 1st ex. sess. in the exercise of any of its powers;

(10) To accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, from this state or any of its agencies, or from any other source, and to use or expend such moneys, services, materials, or any contributions in carrying out the purposes of chapter 184, Laws 1973 1st ex. sess.;

(11) To sue and be sued in the name of the district; to have a seal which shall be judicially noticed; have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to borrow money and to pledge, mortgage and assign the income of the district and its real or personal property therefor; and to make, amend rules and regulations not inconsistent with chapter 184, Laws of 1973 1st ex. sess. and to carry into effect its purposes;

(12) Any two or more districts may engage in joint activities by agreement between or among them in planning, financing, constructing, operating, maintaining, and administering any program or project concerned with the conservation of renewable natural resources. The districts concerned may make available for purposes of the agreement any funds, property, personnel, equipment, or services available to them under chapter 184, Laws of 1973 1st ex. sess.;

Any district may enter into such agreements with a district or districts in adjoining states to carry out such purposes if the law in such other states permits the districts in such states to enter into such agreements.

The commission shall have authority to propose, guide, and facilitate the establishment and carrying out of any such agreement;

(13) Every district shall, through public hearings, annual meetings, publications, or other means, keep the general public, agencies and occupiers of land within the district, informed of the works and activities planned and administered by the district, of the purposes these will serve, of the income and expenditures of the district, of the funds borrowed by the district and the purposes for which such funds are expended, and of the results achieved annually by the district; and

(14) The supervisors of conservation districts may designate an area, state, and national association of conservation districts as a coordinating agency in the execution of the duties imposed by this chapter, and to make gifts in the form of dues, quotas, or otherwise to such associations for costs of services rendered, and may support and attend such meetings as may be required to promote and perfect the organization and to effect its purposes.

[1999 c 305 § 8; 1973 1st ex.s. c 184 § 23; 1963 c 110 § 1; 1961 c 240 § 13; 1955 c 304 § 23. Prior: (i) 1939 c 187 § 8; RRS § 10726-8. (ii) 1939 c 187 § 13; RRS § 10726-13.]

RCW 89.08.341

Intergovernmental cooperation -- Authority.

Any agency of the government of this state and any local political subdivision of this state is hereby authorized to make such arrangements with any district, through contract, regulation or other appropriate means, wherever it believes that such arrangements will promote administrative efficiency or economy.

In connection with any such arrangements, any state or local agency or political subdivision of this state is authorized, within the limits of funds available to it, to contribute funds, equipment, property or services to any district; and to collaborate with a district in jointly planning, constructing, financing or operating any work or activity provided for in such arrangements and in the joint acquisition, maintenance and operation of equipment or facilities in connection therewith.

State agencies, the districts, and other local agencies are authorized to make available to each other maps, reports and data in their possession that are useful in the preparation of their respective programs and plans for resource conservation. The districts shall keep the state and local agencies fully informed concerning the status and progress of the preparation of their resource conservation programs and plans.

The state conservation commission and the counties of the state may provide respective conservation districts such administrative funds as will be necessary to carry out the purpose of chapter 184, Laws of 1973 1st ex. sess.

[1973 1st ex.s. c 184 § 24.]

RCW 89.08.350

Petition to dissolve district -- Election.

At any time after five years from the organization of a district, twenty percent of the voters in the district may file with the commission a petition, praying that the district be dissolved. The commission may hold public hearings thereon, and within sixty days from receipt of the petition, shall give due notice of an election on the question of dissolution. It shall provide appropriate ballots, conduct the election, canvass the returns, and declare the results in the same manner as for elections to create a district.

All district electors may vote at the election. No informality relating to the election shall invalidate it if notice is substantially given and the election is fairly conducted.

[1999 c 305 § 9; 1973 1st ex.s. c 184 § 25; 1955 c 304 § 25. Prior: 1939 c 187 § 15, part; RRS § 10726-15, part.]

RCW 89.08.360

Result of election -- Dissolution.

If a majority of the votes cast at the election are for dissolution, the district shall be dissolved.

[1999 c 305 § 10; 1973 1st ex.s. c 184 § 26; 1955 c 304 § 26. Prior: 1939 c 187 § 15, part; RRS § 10726-15, part.]

RCW 89.08.370

Disposition of affairs upon dissolution.

If the district is ordered dissolved, the supervisors shall forthwith terminate the affairs of the district and dispose of all district property at public auction, and pay the proceeds therefrom to pay any debts of the district and any remaining balance to the state treasurer.

They shall then file a verified application with the secretary of state for the dissolution of the district, accompanied by a certificate of the commission reciting the determination that further operation of the district is impracticable. The application shall recite that the property of the district has been disposed of, that the proceeds therefrom have been used to pay any debts of the district and any remaining balance paid to the treasurer, and contain a full accounting of the property and proceeds. Thereupon the secretary shall issue to the supervisors a certificate of dissolution and file a copy thereof in his or her records.

[1999 c 305 § 11; 1973 1st ex.s. c 184 § 27; 1955 c 304 § 27. Prior: 1939 c 187 § 15, part; RRS § 10726-15, part.]

RCW 89.08.390

Water rights preserved -- 1939 c 187.

Insofar as any of the provisions of this chapter are inconsistent with the provisions of any other law, the provisions of this chapter shall be controlling: PROVIDED, HOWEVER, That none of the provisions of this chapter shall be construed so as to impair water rights appurtenant to lands within or without the boundaries of any district or districts organized hereunder.

[1939 c 187 § 17; RRS § 10726-17.]

RCW 89.08.391

Water rights preserved -- 1973 1st ex.s. c 184.

Insofar as any of the provisions of this chapter are inconsistent with the provisions of any other law, the provisions of this chapter shall be controlling: PROVIDED, HOWEVER, That none of the provisions of this chapter shall be construed so as to impair water rights appurtenant to lands within or without the boundaries of any district or districts organized hereunder.

[1973 1st ex.s. c 184 § 30.]

RCW 89.08.400

Special assessments for natural resource conservation.

(1) Special assessments are authorized to be imposed for conservation districts as provided in this section. Activities and programs to conserve natural resources, including soil and water, are declared to be of special benefit to lands and may be used as the basis upon which special assessments are imposed.

(2) Special assessments to finance the activities of a conservation district may be imposed by the county legislative authority of the county in which the conservation district is located for a period or periods each not to exceed ten years in duration.

The supervisors of a conservation district shall hold a public hearing on a proposed system of assessments prior to the first day of August in the year prior to which it is proposed that the initial special assessments be collected. At that public hearing, the supervisors shall gather information and shall alter the proposed system of assessments when appropriate, including the number of years during which it is proposed that the special assessments be imposed.

On or before the first day of August in that year, the supervisors of a conservation district shall file the proposed system of assessments, indicating the years during which it is proposed that the special assessments shall be imposed, and a proposed budget for the

succeeding year with the county legislative authority of the county within which the conservation district is located. The county legislative authority shall hold a public hearing on the proposed system of assessments. After the hearing, the county legislative authority may accept, or modify and accept, the proposed system of assessments, including the number of years during which the special assessments shall be imposed, if it finds that both the public interest will be served by the imposition of the special assessments and that the special assessments to be imposed on any land will not exceed the special benefit that the land receives or will receive from the activities of the conservation district. The findings of the county legislative authority shall be final and conclusive. Special assessments may be altered during this period on individual parcels in accordance with the system of assessments if land is divided or land uses or other factors change.

Notice of the public hearings held by the supervisors and the county legislative authority shall be posted conspicuously in at least five places throughout the conservation district, and published once a week for two consecutive weeks in a newspaper in general circulation throughout the conservation district, with the date of the last publication at least five days prior to the public hearing.

(3) A system of assessments shall classify lands in the conservation district into suitable classifications according to benefits conferred or to be conferred by the activities of the conservation district, determine an annual per acre rate of assessment for each classification of land, and indicate the total amount of special assessments proposed to be obtained from each classification of lands. Lands deemed not to receive benefit from the activities of the conservation district shall be placed into a separate classification and shall not be subject to the special assessments. An annual assessment rate shall be stated as either uniform annual per acre amount, or an annual flat rate per parcel plus a uniform annual rate per acre amount, for each classification of land. The maximum annual per acre special assessment rate shall not exceed ten cents per acre. The maximum annual per parcel rate shall not exceed five dollars.

Public land, including lands owned or held by the state, shall be subject to special assessments to the same extent as privately owned lands. The procedures provided in chapter 79.44 RCW shall be followed if lands owned or held by the state are subject to the special assessments of a conservation district.

Forest lands used solely for the planting, growing, or harvesting of trees may be subject to special assessments if such lands benefit from the activities of the conservation district, but the per acre rate of special assessment on benefited forest lands shall not exceed one-tenth of the weighted average per acre assessment on all other lands within the conservation district that are subject to its special assessments. The calculation of the weighted average per acre special assessment shall be a ratio calculated as follows: (a) The numerator shall be the total amount of money estimated to be derived from the imposition of per acre special assessments on the nonforest lands in the conservation district; and (b) the denominator shall be the total number of nonforest land acres in the conservation district that receive benefit from the activities of the conservation district

and which are subject to the special assessments of the conservation district. No more than ten thousand acres of such forest lands that is both owned by the same person or entity and is located in the same conservation district may be subject to the special assessments that are imposed for that conservation district in any year. Per parcel charges shall not be imposed on forest land parcels. However, in lieu of a per parcel charge, a charge of up to three dollars per forest landowner may be imposed on each owner of forest lands whose forest lands are subject to a per acre rate of assessment.

(4) A conservation district shall prepare an assessment roll that implements the system of assessments approved by the county legislative authority. The special assessments from the assessment roll shall be spread by the county assessor as a separate item on the tax rolls and shall be collected and accounted for with property taxes by the county treasurer. The amount of a special assessment shall constitute a lien against the land that shall be subject to the same conditions as a tax lien, collected by the treasurer in the same manner as delinquent real property taxes, and subject to the same interest rate and penalty as for delinquent property taxes. The county treasurer shall deduct an amount from the collected special assessments, as established by the county legislative authority, to cover the costs incurred by the county assessor and county treasurer in spreading and collecting the special assessments, but not to exceed the actual costs of such work.

(5) The special assessments for a conservation district shall not be spread on the tax rolls and shall not be collected with property tax collections in the following year if, after the system of assessments has been approved by the county legislative authority but prior to the fifteenth day of December in that year, a petition has been filed with the county legislative authority objecting to the imposition of such special assessments, which petition has been signed by at least twenty percent of the owners of land that would be subject to the special assessments to be imposed for a conservation district.

[1992 c 70 § 1; 1989 c 18 § 1.]

RCW 89.08.410

Grants to conservation districts.

The state conservation commission may authorize grants to conservation districts from moneys appropriated to the commission for such purposes as provided in this section. Such grants shall be made annually on or before the last day of June of each year and shall be made only to those conservation districts that apply for the grants. After all the grant requests have been submitted, the initial grants in any year shall be made so that a conservation district shall not receive a grant in excess of the lesser of: (1) an amount equal to the total moneys obtained by the conservation district from all other sources, other than any grants obtained from the state, during the preceding calendar year; or (2) twenty-two thousand five hundred dollars. If the appropriated moneys are insufficient to make the maximum level of the initial grants, each grant amount shall be reduced by an equal dollar amount until the total amount of the grants is equal to the amount of the appropriation.

However, further grants shall be made to those conservation districts that were limited to grants of twenty-two thousand five hundred dollars if the appropriated moneys are in excess of the amount of the initial distribution of grants, but the total of both grants to any conservation district in any year shall not exceed an amount equal to the total moneys obtained by that conservation district from all other sources, other than any grants obtained from the state, during the preceding calendar year. If the appropriated moneys are insufficient to make the second distribution of grants, each grant under the second distribution shall be reduced by an equal dollar amount until the total amount of all the grants is equal to the amount of the appropriation.

[1989 c 18 § 2.]

RCW 89.08.440

Best management practices for fish and wildlife habitat, water quality, and water quantity property tax exemption--List -- Forms -- Certification of claims.

(1) For the purpose of identifying property that may qualify for the exemption provided under RCW 84.36.255, each conservation district shall develop and maintain a list of best management practices that qualify for the exemption.

(2) Each conservation district shall ensure that the appropriate forms approved by the department of revenue are made available to property owners who may qualify for the exemption under RCW 84.36.255 and shall certify claims for exemption as provided in RCW 84.36.255(3).

[1997 c 295 § 3.]

NOTES:

Purpose -- 1997 c 295: See note following RCW 84.36.255.

RCW 89.08.450

Watershed restoration projects -- Intent.

The legislature declares that it is the goal of the state of Washington to preserve and restore the natural resources of the state and, in particular, fish and wildlife and their habitat. It is further the policy of the state insofar as possible to utilize the volunteer organizations who have demonstrated their commitment to these goals.

To this end, it is the intent of the legislature to minimize the expense and delays caused by unnecessary bureaucratic process in securing permits for projects that preserve or restore native fish and wildlife habitat.

[1995 c 378 § 1.]

RCW 89.08.460

Watershed restoration projects -- Definitions.

Unless the context clearly requires otherwise, the definitions in this section shall apply throughout RCW [89.08.450](#) through [89.08.510](#).

(1) "Watershed restoration plan" means a plan, developed or sponsored by the department of fish and wildlife, the department of ecology, the department of natural resources, the department of transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county, or a conservation district, that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed, and for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the state environmental policy act. If the implementation measures or actions would have a probable significant, adverse environmental impact, a detailed statement under RCW 43.21C.031 must be prepared on the plan.

(2) "Watershed restoration project" means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:

(a) A project that involves less than ten miles of streamreach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed, or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;

(b) A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

(c) A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure other than a bridge or culvert or instream habitat enhancement structure associated with the project is less than two hundred square feet in floor area and is located above the ordinary high water mark of the stream.

[1995 c 378 § 2.]

RCW 89.08.470

Watershed restoration projects -- Consolidated permit application process -- Fish habitat enhancement project.

(1) By January 1, 1996, the Washington conservation commission shall develop, in consultation with other state agencies, tribes, and local governments, a consolidated application process for permits for a watershed restoration project developed by an agency or sponsored by an agency on behalf of a volunteer organization. The

consolidated process shall include a single permit application form for use by all responsible state and local agencies. The commission shall encourage use of the consolidated permit application process by any federal agency responsible for issuance of related permits. The permit application forms to be consolidated shall include, at a minimum, applications for: (a) Approvals related to water quality standards under chapter 90.48 RCW; (b) hydraulic project approvals under *chapter 75.20 RCW; and (c) section 401 water quality certifications under 33 U.S.C. Sec. 1341 and chapter 90.48 RCW.

(2) If a watershed restoration project is also a fish habitat enhancement project that meets the criteria of **RCW 75.20.350(1), the project sponsor shall instead follow the permit review and approval process established in **RCW 75.20.350 with regard to state and local government permitting requirements. The sponsor shall so notify state and local permitting authorities.

[1998 c 249 § 13; 1995 c 378 § 3.]

NOTES:

Reviser's note: *(1) Chapter 75.20 RCW was recodified as chapter 77.55 RCW by 2000 c 107. See Comparative Table for that chapter in the Table of Disposition of Former RCW Sections, Volume 0.

** (2) RCW 75.20.350 was recodified as RCW 77.55.290 pursuant to 2000 c 107 § 129.

Findings -- Purpose -- Report -- Effective date -- 1998 c 249: See notes following RCW 77.55.290.

RCW 89.08.480

Watershed restoration projects -- Designated recipients of project applications -- Notice to commission.

Each agency of the state and unit of local government that claims jurisdiction or the right to require permits, other approvals, or fees as a condition of allowing a watershed restoration project to proceed shall designate an office or official as a designated recipient of project applications and shall inform the conservation commission of the designation.

[1995 c 378 § 4.]

RCW 89.08.490

Watershed restoration projects -- Acceptance of applications -- Permit decisions.

All agencies of the state and local governments shall accept the single application developed under RCW [89.08.470](#). Unless the procedures under RCW [89.08.500](#) are invoked, the application shall be processed without charge and permit decisions shall be issued within forty-five days of receipt of a complete application.

[1995 c 378 § 5.]

RCW 89.08.500

Watershed restoration projects -- Appointment of project facilitator by *permit assistance center -- Coordinated process for permit decisions.

The applicant or any state agency, tribe, or local government with permit processing responsibility may request that the *permit assistance center created by chapter 347, Laws of 1995 appoint a project facilitator to develop in consultation with the applicant and permit agencies a coordinated process for permit decisions on the application. The process may incorporate procedures for coordinating state permits under chapter 347, Laws of 1995. The *center shall adopt a target of completing permit decisions within forty-five days of receipt of a complete application.

If **House Bill No. 1724 is not enacted by June 30, 1995, this section shall be null and void.

[1995 c 378 § 6.]

NOTES:

Reviser's note: *(1) The permit assistance center and its powers and duties were terminated effective June 30, 1999, pursuant to 1995 c 347 § 617.

** (2) House Bill No. 1724 [1995 c 347] was enacted.

RCW 89.08.510

Watershed restoration projects -- General permits -- Cooperative permitting agreements.

State agencies, tribes, and local governments responsible for permits or other approvals of watershed restoration projects as defined in RCW [89.08.460](#) may develop general permits or permits by rule to address some or all projects required by an approved watershed restoration plan, or for types of watershed restoration projects. Nothing in chapter 378, Laws of 1995 precludes local governments, state agencies, and tribes from working out other cooperative permitting agreements outside the procedures of chapter 378, Laws of 1995.

[1995 c 378 § 7.]

RCW 89.08.520

Water quality and habitat protection grant programs -- Statement of environmental benefits -- Development of outcome-focused performance measures.

In administering grant programs to improve water quality and protect habitat, the commission shall require grant recipients to incorporate the environmental benefits of the project into their grant applications, and the commission shall utilize the statement of

environmental benefit[s] in its grant prioritization and selection process. The commission shall also develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grant program. The commission shall work with the districts to develop uniform performance measures across participating districts. To the extent possible, the commission should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270. The commission shall consult with affected interest groups in implementing this section.

[2001 c 227 § 3.]

NOTES:

Findings -- Intent -- 2001 c 227: See note following RCW 43.41.270.

RCW 89.08.530

Agricultural conservation easements program.

(1) The agricultural conservation easements program is created. The state conservation commission shall manage the program and adopt rules as necessary to implement the legislature's intent.

(2) The commission shall report to the legislature on an on-going basis regarding potential funding sources for the purchase of agricultural conservation easements under the program and recommend changes to existing funding authorized by the legislature.

(3) All funding for the program shall be deposited into the agricultural conservation easements account created in RCW [89.08.540](#). Expenditures from the account shall be made to local governments and private nonprofits on a match or no match required basis at the discretion of the commission.

(4) Easements purchased with money from the agricultural conservation easements account run with the land.

[2002 c 280 § 2.]

NOTES:

Intent -- 2002 c 280: "Among the rising costs that are increasingly driving Washington farmers out of business is the cost of land. Many of our oldest, well-established farms, often on the fringes of established communities, are under growing pressure to be sold for uses other than agriculture. In the face of these rising land costs, new farmers are finding it increasingly difficult to be able to afford to purchase farmland.

At the same time, the conversion of these prime farmlands to development costs our communities open and green space, reduces our access to local quality food, diminishes our cultural and historic roots, often represents a fiscal loss for governments, and

frequently results in environmental costs including reduced flood detention, loss of surface water filtration, diminished aquifer recharge, loss of habitat and connective wildlife migration corridors, and loss of opportunities to protect riparian lands.

These concerns, among others, are leading the federal government and local jurisdictions around our state to provide funding for local programs to purchase agricultural conservation easements that help keep farmers in farming and farmland in agriculture. It is the intent of the legislature to create a Washington purchase of agricultural conservation easements program that will facilitate the use of federal funds, ease the burdens of local governments launching similar programs at the local level, and help local governments fight the conversion of agricultural lands they have not otherwise protected through their planning processes." [2002 c 280 § 1.]

RCW 89.08.540

Agricultural conservation easements account.

(1) The agricultural conservation easements account is created in the custody of the state treasurer. All receipts from legislative appropriations, other sources as directed by the legislature, and gifts, grants, or endowments from public or private sources must be deposited into the account. Expenditures from the account may be used only for the purchase of easements under the agricultural conservation easements program. Only the state conservation commission, or the executive director of the commission on the commission's behalf, may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) The commission is authorized to receive and expend gifts, grants, or endowments from public or private sources that are made available, in trust or otherwise, for the use and benefit of the agricultural conservation easements program.

[2002 c 280 § 3.]

NOTES:

Intent -- 2002 c 280: See note following RCW [89.08.530](#).

RCW 89.08.900

Severability -- 1939 c 187.

If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

[1939 c 187 § 16; RRS § 10726-16.]

RCW 89.08.901

Severability -- 1973 1st ex.s. c 184.

If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

[1973 1st ex.s. c 184 § 31.]

RCW 89.08.902

Severability -- 1989 c 18.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1989 c 18 § 3.]

WASHINGTON STATE PATROL

Identification and Criminal History Section
PO Box 42633, Olympia WA 98504-2633

REQUEST FOR CRIMINAL HISTORY INFORMATION CHILD/ADULT ABUSE INFORMATION ACT RCW 43.43.830 THROUGH 43.43.845 (Instructions on Reverse Side)

A REQUESTING AGENCY/ADDRESS

Agency _____

Attn _____

Address _____

City/State/Zip _____

I certify this request is made pursuant to and for the purpose indicated.

Authorized Signature _____

Date _____

Title _____

Area Code/Phone Number _____

B PURPOSE

Check appropriate box

- Educational School District (ESD)/School District Volunteer - no fee
- Non-Profit Business/Organization - no fee (Excluding Schools & ESD's)
- Profit Business/Organization - \$10
- Adoptive Parent - \$10

Fees: Make payable to **Washington State Patrol** by cashier's check, money order, or business account.

C APPLICANT OF INQUIRY (please provide as much information as possible name and date of birth are mandatory)

Applicant's Name: _____
Last First Middle

Alias/Maiden Name(s): _____

Date of Birth: _____ Sex: _____ Race: _____
Month/Day/Year

Social Security Number: _____ Driver's Lic. Number/State: _____ / _____

Secondary dissemination of this criminal history record information response is prohibited unless in compliance with RCW 10.97.050.

D IDENTIFICATION DECLARING NO EVIDENCE WASHINGTON STATE PATROL IDENTIFICATION & CRIMINAL HISTORY SECTION

As of this date, the applicant named below shows no evidence pursuant to RCW 43.43.830 through 43.43.845.

Requesting Agency _____

Applicant's Signature _____

Applicant's Name _____

Address _____

City/State/Zip _____

WSP Use Only

Valid Two Years From Issue

Applicant Right Thumb Print (Optional)

MAIL COMPLETED FORM TO:

WASHINGTON STATE PATROL
IDENTIFICATION AND CRIMINAL HISTORY SECTION
PO BOX 42633
OLYMPIA, WA 98504-2633

FOR FURTHER INFORMATION, CONTACT THE WASHINGTON STATE PATROL AT PHONE NUMBER: (360) 705-5100

EMAIL ADDRESS: crimhis@wsp.wa.gov

Washington State Patrol WEBSITE: <http://www.wa.gov/wsp/>

CHILD/ADULT ABUSE RECORD SEARCH GUIDELINES:

Refer to Revised Code of Washington (RCW) 43.43.830-43.43.845 for complete information. Child/Adult Abuse Information Act background checks may be conducted by Washington state businesses, organizations or individuals. All other states must conduct searches under the Criminal Records Privacy Act, RCW 10.97.

1. Searches can be conducted only on prospective employees, volunteers or adoptive parents.

Background checks can be conducted on prospective employees, volunteers, or adoptive parents who will or may have unsupervised access to children under sixteen years of age, developmentally disabled persons, or vulnerable adults. The background check is for initial employment or engagement decisions only.

Background checks on current employees or volunteers should be done through the Criminal Records Privacy Act, RCW 10.97

2. Applicants must be notified an inquiry may be made.

A business or organization shall not make an inquiry to the Washington State Patrol unless the business or organization has notified the applicant, applying for a position as an employee or volunteer that an inquiry may be made.

3. A business or organization must prepare a disclosure statement to be signed by the applicant before a background check may be conducted.

A business or organization shall require each applicant to disclose whether the applicant has been:

- (a) convicted of any crime against children or other persons;
- (b) convicted of crimes relating to financial exploitation if the victim was a vulnerable adult;
- (c) convicted of crimes related to drugs as defined in RCW 43.43.830;
- (d) found in any dependency action under RCW 13.34.040 to have sexually assaulted or exploited any minor or to have physically abused any minor;
- (e) found by a court in a domestic relations proceeding under Title 26 RCW to have sexually abused or exploited any minor or to have physically abused any minor;
- (f) found in any disciplinary board final decision to have sexually or physically abused or exploited any minor or developmentally disabled person or to have abused or financially exploited any vulnerable adult;
- (g) found by a court in a protection proceeding under chapter 74.34 RCW, to have abused or financially exploited a vulnerable adult.

The disclosure shall be made in writing and signed by the applicant and sworn under penalty of perjury. The disclosure sheet shall specify all crimes against children or other persons, all crimes relating to drugs, and all crimes relating to financial exploitation as defined in RCW 43.43.830 in which the victim was a vulnerable adult.

4. Applicants must be notified of the response.

The requesting agency shall notify the applicant of the Washington State Patrol's response within ten days after receipt. The employer shall provide a copy of the response to the applicant and shall notify the applicant of such availability.

WASHINGTON STATE PATROL RESPONSE

This identification certificate is the result of a request for criminal conviction record information from the Washington State Patrol Identification and Criminal History Section on a prospective applicant by a business or organization. Pursuant to the Child/Adult Abuse Information Act, RCW 43.43.830 through 43.43.845, if the conviction record, disciplinary board final decision, or civil adjudication record shows no evidence of a crime against children or other persons, an identification declaring the showing of no evidence shall be issued to the applicant.

Ten Minute Supervisor #9

Fact Sheet: *Exemption from Overtime Pay*

Overtime pay is one of the top three employment issues frequently litigated in court. In Washington State, failure to pay earned overtime results in awards of at least double damages plus all attorney fees. These facts make the issue worthy of the attention of all conservation district supervisors.

Application and interpretation of the overtime provisions in the federal Fair Labor Standards Act (FLSA) and the Washington Minimum Wage Act (MWA) is very complex. The Field Operations Managers have noted a significant level of confusion among district supervisors and staff on this issue. To help reduce your confusion and risk, we want to provide some basic information.

To qualify for a legal exemption from overtime pay, an employee must meet a three-part test (some computer professionals also qualify under separate rules). If an employee does not pass the test, they are considered non-exempt and must be paid overtime.

1. The employee must exercise independent judgement and discretion as an executive, administrative, or professional employee of the district.
 - A. An executive manages a district, supervises employees, and can hire or fire employees (or at least substantially effect those decisions).
 - B. An administrative employee works directly on management policies and district operations, and assists the executive or performs work requiring specialized skills under general supervision.
 - C. A professional employee requires an advanced education and does original or creative work with a predominantly intellectual and varied work product.
2. At least 80% of an employee's work must be executive, administrative, or professional in nature.
3. The employee must be paid on a salary basis.
 - A. Consistently receive the same salary week after week with no reductions for variations in quality or quantity of work.
 - B. Not required to provide a rigid accounting for all work and exchange time (within limits of government accountability).
 - C. Any disciplinary penalties that include salary deductions must be in full week increments.

There is a fourth test related to rate of pay, but the threshold is so low that almost all employees qualify. The threshold is >\$155/week for executive or administrative exemptions and >\$170/week for professional exemptions.

We believe the lowest risk for your district is to have no exempt employees. For any employees you classify as exempt, we strongly recommend you carefully consider and apply the three part test. If you have any questions or concerns, seek qualified legal counsel. Additional information can be found at <http://www.mrsc.org/legal/flsa/flsaweb.htm>.

Ten Minute Supervisor #9

Checklist: *Rules for Overtime Pay*

1. If a non-exempt (see *Fact Sheet*) employee works over 40 hours in any work week, the employee must be paid for the overtime hours at 1 ½ times the hourly pay rate (or more).
2. Work hours do not include sick, vacation, holiday, or any other type of leave.
3. The district is free to define the start and end of the seven day period that constitutes the work week.
4. The non-exempt employee may opt to take time off in lieu of pay: the employee is awarded 1 ½ hours off for every hour of overtime worked.
5. An alternative is to provide a flexible schedule for employees: if over eight hours are worked one day, but an employee takes off an equivalent number of hours on another day **within the same work week** (keeping total hours worked for the week to 40), then no overtime is due.
6. The district may adopt a policy that requires prior approval to work overtime.
7. If an employee works overtime, but did not obtain permission per district policy:
 - A. The district is still legally obligated to pay the overtime.
 - B. The district is also obligated to discipline the employee per district policy.
8. Some grants will pay for overtime, other grants will not; check to make sure before vouchering for overtime or using a composite rate that includes overtime!

Conservation Project Specialist I

SAMPLE JOB DESCRIPTION

1. Purpose of the job

Serves as a mid-level member of a team of conservation professionals Working in both the field and office; coordinates the District's Conservation Reserve Enhancement Program (CREP); plans, organizes, and coordinates natural resource, water quality, and stream and wetland restoration projects; organizes and coordinates volunteer events; assists other staff with work at the Wetland Plant Cooperative and Native Plant Holding Facility (WPC); assists other staff in carrying out miscellaneous grant or contract-related tasks as part of the District's annual plan of work.

2. Essential job functions (in order of time required)

- a. Markets and implements the CREP program to the agricultural community; assists landowners with the sign-up process; develops buffer enhancement plans; oversees CREP contract implementation; and monitors installed CREP plans.
- b. Plans, organizes and carries out community based stream and wetland restoration projects on private land throughout King County.
- c. Coordinates volunteer and conservation corps work crews on stream and wetland buffer enhancement projects, and at the WPC.
- d. Performs labor-intensive native plant propagation tasks at the WPC.
- e. Writes grant proposals to obtain funding for special initiative projects.
- f. Manages grants, including all reporting and record keeping.
- g. Provides information and assistance to the general public and local landowners on natural resource management practices.
- h. Writes educational fact sheets, articles and assist with publications.
- i. Prepares written progress reports and document accomplishments.
- j. Develops and supports District partnerships with other agencies, organizations and groups involved in watershed restoration activities.
- k. Performs office and administrative tasks in support of assigned projects.
- l. Performs other duties as required.

3. Minimum qualifications and requirements

- a. A Bachelor of Science (BS) or Bachelor of Arts (BA) degree in environmental science or closely related field, plus at least 2 years of related professional

experience. A Master of Science (MS) in environmental science or closely related field may be substituted for 1 year of experience.

- b. Knowledge and experience in stream and wetland restoration techniques, native plant propagation, and the use of native plants.
- c. Experience planning and organizing restoration projects, working the public and private landowners, and supervising volunteer and/or Conservation Corps work crews.
- d. Must hold, or be able to obtain, a valid Washington driver's license.

4. Desirable knowledge and abilities

- a. Be knowledgeable of Puget Sound watersheds, current land use practices, and the resource management issues and challenges facing the Puget Sound region.
- b. Be able to communicate effectively with staff, other agency personnel, the public, and diverse landowner populations.
- c. Be willing to take direction, work as part of a team, and function cooperatively with other agencies, organizations and groups involved in watershed activities.

5. Working conditions

This position is located in the _____ Conservation District, a small, county-wide, public, natural resources agency. This position is labor intensive, multi-faceted, and requires a high level of motivation, versatility and the ability to work independently. This position requires both indoor and outdoor work, often labor-intensive.

6. Supervision

This position reports to the District Coordinator, and may supervise temporary employees hired for specific project work.

7. Work schedule and status

This is a full-time position (40 hours per week), with some flexibility. Usual workdays are Monday through Friday, 7AM until 4PM, with some Saturday work as required.

This position is non-exempt under the Fair Labor Standards Act (FLSA).

8. Salary and benefits

Salary: \$3,150 to \$3,870 per month, depending on qualifications and experience.

Benefits include medical and dental insurance, life insurance, and a retirement plan.

APPENDIX E – SAMPLE POSITION (RECRUITMENT) ANNOUNCEMENT

Job Opportunity District Administrator

_____ Conservation District, Washington State

The mission of the _____ Conservation District is to conserve and sustain the beneficial use of our natural resources through voluntary cooperative rural and urban partnerships, education, leadership, technical expertise, and financial assistance.

The District Administrator is responsible for the overall management of the Conservation District, supervision of district employees, and satisfaction of district clients. She or he is responsible for the comprehensive implementation of the district mission and budget in a timely and efficient manner, and for developing sufficient financial resources to fund district programs. The District Administrator oversees interagency and community partnerships that further the mission of the district, and ensures that all district functions are managed and services provided in accordance with applicable local, state, and federal laws and regulations. This position reports to the Board of Supervisors.

Employment requirements

A bachelor's degree in public administration or any closely allied field, or alternatively, a bachelor's degree in agriculture, natural resource science, or any closely allied field; and, at least three years of supervisory and program management experience is required. Additional qualifying experience may substitute year-for-year for the education requirement.

The applicant must have a demonstrated ability to manage multiple, diverse issues and a proven commitment to agriculture and land stewardship.

Required knowledge, skills, and abilities

1. Ability to utilize administration, personnel, and analytical skills to act independently in directing district operations.
2. Ability to meet deadlines and attend frequent meetings.
3. Skilled in mediation and negotiation.
4. Ability to delegate to other employees.
5. Ability to communicate (*both written and oral*) effectively; skilled in public relations.

Salary

Salary range: \$50,000-\$62,000 depending on experience

Application procedure

To receive an application packet, please contact _____ at _____
Conservation District, _____, _____, WA 98XXX.

Tel: 360-XXX-XXXX; Fax: 360-XXX-XXXX; email: xxxxxxxx@xxxxxx.com

Application deadline is 5 p.m. on _____, 200X

APPENDIX F – SAMPLE JOB APPLICATION FORM

Application for Employment

Conservation District

1. Job title in announcement

2. Last name First name and middle initial

3. Mailing address

4. Phone numbers (include area code)

Daytime ()

City State ZIP Code

Evening ()

5. **WORK EXPERIENCE** – Beginning with the most recent, describe your paid and nonpaid work experience related to the job for which you are applying. Do not attach job descriptions.

a. **Job title**

From (MM/YY)	To (MM/YY)	Salary	per	Hours per week
		\$		

Employer's name and address

Supervisor's name and phone number

Name:
()

Describe your duties and accomplishments

b. **Job title**

From (MM/YY)	To (MM/YY)	Salary	per	Hours per week
		\$		

Employer's name and address

Supervisor's name and phone number

Name:
()

Describe your duties and accomplishments

c. Job title

From (MM/YY)	To (MM/YY)	Salary \$	per	Hours per week
--------------	------------	--------------	-----	----------------

Employer's name and address

Supervisor's name and phone number

Name:

()

Describe your duties and accomplishments

6. Have you been previously employed by the district?

7. List any relatives now officially associated with the district:

8. EDUCATION – Mark highest level completed

Some HS HS/GED Associate Bachelor's Master's Doctoral

Colleges and universities attended

a. Name			Total credits earned	Major(s)	Degree	Yr Earned
City	State	ZIP Code				
b. Name			Total credits earned	Major(s)	Degree	Yr Earned
City	State	ZIP Code				
c. Name			Total credits earned	Major(s)	Degree	Yr Earned
City	State	ZIP Code				

9. OTHER QUALIFICATIONS – List job-related skills, training courses (give title & year), and

certificates and licenses. Do not attach documents unless requested.

10. GENERAL

a. Have you ever been convicted of a crime? Yes No

b. Have you ever been convicted of driving under the influence of alcohol or drugs? Yes No

If your answer to either question 8.a. or 8.b. is "yes" please explain on a separate sheet of paper, reporting all cases except minor traffic violations, sealed or juvenile convictions.

11. APPLICANT CERTIFICATION

I certify, to the best of my knowledge and belief, that all of the information on and attached to this application is true, correct, complete, and made in good faith. I understand that any false or fraudulent information on or attached to this application may be grounds for not hiring me or firing me after I begin work. I understand that any information may be investigated.

Signature _____ Date signed _____

APPENDIX G – SAMPLE APPOINTMENT LETTER

Conservation District

Aniceplacetolive, Washington 99999

[Date]

Dear _____:

I am pleased that you have accepted the position of [job title] at the _____ Conservation District.

This letter confirms your probationary appointment to this position, effective [date]. Your normal work hours will be from 8:00AM to 5:00PM, Monday through Friday. Your new position is full-time, permanent, and is designated as a non-exempt. This means, that prior authorization to work outside of your regular, daily work shift must be granted in writing by your supervisor.

Your salary will be \$[amount] per month, and is subject to required payroll deductions and taxes, including Social Security, Industrial Insurance, Income Tax Withholding, and Unemployment Insurance. You are also eligible to participate in the District’s health care program [if available] and retirement program [if available].

Beginning with the effective date of your appointment, you will begin a six-month probationary period. If for any reason your job performance is deemed unsatisfactory during this time period, you can be dismissed without appeal rights.

Both during and after your probationary period, your employment with the _____ Conservation District is terminable at-will by the District. You may be terminated at any time, with or without cause, and with or without notice, subject to applicable state and federal laws. Continued employment is at the discretion of the board of supervisors and is contingent upon factors determined by the board, including but not limited to available funding, job performance, changes in program directions, or reorganization.

The District will make available to you the District’s personnel policy manual. After reading it, you will be asked to acknowledge in writing that you have read and understood the manual.

If you have any questions regarding your employment, please let me know.

Welcome to the _____ Conservation District!

Sincerely,

Chair

_____ Conservation District

CONSERVATION DISTRICT OPERATING POLICIES & PROCEDURES**FIELD WATER MONITORING PROCEDURES**

When possible, two people will work together while sampling. If both people need to be in the water at the same time and the water is greater than two (2) feet in depth, both must wear, personal floatation devices (pfd). If a person needs to work alone and water is greater than knee deep, the person must wear a pfd. A safety rope must be attached to the person and to a secure point on the bank when the estimated velocity times the depth is equal to or greater than six (6). Safety helmets will be worn in all situations where personnel need to use a safety rope. Training shall be provided in how one should conduct themselves in swift water situations prior to working in situations where the depth times the velocity is equal or greater than eight (8).

Each sampling point should be approached with care as grass and vegetation often obscure the stream bank. The edges of the channel are often deeper than the center portion of the channel due to scour and disposition patterns. The water at the edge of the bank should be probed with a rod or similar device to determine if deep areas are present. Once it is deemed safe to enter the water, great care should be used to avoid becoming entangled in submerged materials. Facing upstream, the sampler should slowly move across the channel feeling for possible obstructions.

When flow depths or velocities do not allow for safely wading a stream, grab samples and flow measurements will be obtained from secure areas along the bank or on a bridge. When working off a bridge, traffic cones will be used to demark the work zone. Cones will be placed in such a position that vehicles will have ample warning of the work zone ahead and workers will have sufficient room to work between the edges of the bridge and the cones. Grab samples may be obtained using an extendable pole. When the pole is made of material that conducts electricity, care will be taken to locate and avoid any electrical wires near sampling point.

When approaching a sampling site, consideration should be given to potential fire conditions and the presence of fuels such as grass or dry woody material. Where the fire potential is high and there is a significant amount of fuel, vehicles shall be parked in a safe area and the sampling approached on foot.

When arriving at a sampling site, care will be taken parking to make sure that the vehicle is not hindrance to traffic along the road. Care will also be exercised when exiting the vehicle. The driver must look for traffic approaching in the lane closest to the vehicle. The passengers should be aware of the presence of a road ditch and should take care in exiting.

GENERAL SAFETY RULES

1. Personal protective equipment suitable for each job will be worn.
2. Alcoholic beverages and illegal drugs will not be permitted on the job or in District or government owned vehicles.
3. Seat belts shall always be worn.

4. Safety meetings will be held at least monthly. All meetings must have subjects and attendance documented.
5. Unsafe conditions or practices will be reported to the District Administrator as soon as possible so action can be taken to eliminate the hazard.
6. Report all job related injuries or illnesses to the District Administrator before the end of the day.
7. Safe driving procedures for highway and logging roads:
 - valid driver's license
 - frequently inspect vehicle
 - headlights on and drive at a safe speed for conditions
 - stay to the right and don't tailgate other vehicles
 - on blind curves be able to stop in one-half the visible distance
8. Work as a good team member and always warn fellow workers or volunteers who are in danger.
9. When in the field, employees will wear either high visibility vest or high visibility rain gear, as appropriate.
10. Any violation of this policy or applicable safety standard may result in disciplinary action or termination.

AUTOMOBILE/DRIVER SAFETY

Every employee will have a valid driver's license and personal auto insurance before driving any District or government vehicles. Each employee will sign a **CERTIFICATION STATEMENT FOR OPERATION OF GOVERNMENT OWNED OR LEASED VEHICLES** as required for drivers of government vehicles (see page 28). Each employee will have completed at least two hours of Defensive Driving, Driving Refresher Training, or Driver Responsibility Review every five years.

The District may initiate Motor Vehicle Record (MVR) checks on any employee that may be driving a District or government vehicle.

Copies of each employee's Drivers License and personal insurance card will be kept on file at the District Office.

VEHICLE MAINTENANCE

Regular checks or inspections of District owned vehicle condition will be conducted. Use form found on page __.

Preventative maintenance of all District vehicles will be ongoing. A written record of maintenance schedules and documentation of damage or needed repairs will be kept.

VEHICLE USAGE

Personal use of District or government vehicles strictly prohibited.

Natural Resource Conservation Service (NRCS) owned vehicles may be used only by District staff with a valid driver's license, a good driving record, and a current NRCS driving form signed by the District Conservationist (NRCS) and the vehicle should only be used for District business. NRCS vehicle use regulations apply whenever NRCS vehicles are used by the District.

District staff with a valid driver's license and a good driving record may use vehicles. Vehicles should only be used for official District business. The Board of Supervisors will determine garaging location of District Vehicles.

Personal Vehicle Insurance: Any employee or volunteer using personal vehicles on District business must first provide proof of insurance coverage on their vehicle. In those instances where District staff or volunteers are authorized to use their personal cars on District business, reimbursement will be made at the current Washington State rate. Use of private vehicle must receive prior written approval from the District Administrator.

Per Diem, when authorized will be at the current Washington State Rate. A travel reimbursement form should be filled out and submitted at least one day before the closing of each month.

All vehicle accidents should be reported immediately to the District Administrator.

OFFICE/COMPUTER EQUIPMENT

All computer equipment will be inspected annually. Power cords and power supplies will be inspected for wear, obvious signs of overheating, or damage. Any questionable equipment will be removed from service and/or replaced.

An inventory list of district equipment will be kept current and reviewed by the Board of Supervisors in August of each year. A copy will be sent to the Washington Governmental Entity Pool. The District Secretary shall add non-consumption items with a purchase price over \$125.00 to the inventory list at time of purchase. SURPLUS or OBSOLETE items shall only be removed from the inventory list and properly disposed of by official action of the Board of Supervisors.

HAZARD COMMUNICATION PROGRAM

Purpose:

The purpose of the Hazard Communication Program is to ensure that the hazards of all chemicals produced or imported by chemical manufacturers or importers are evaluated, and the information concerning their hazards is transmitted to affected employers and employees before they use the product.

Procedures:

- Inventory Lists: The hazardous chemicals in the work place that are a potential physical or health hazard will be inventoried and the list kept on file.
- MSDS: A material safety data sheet (MSDS) for each chemical on the inventory list shall be kept on file.
- Labeling System: Each container entering the workplace must be properly labeled with the identity of the product, the hazard warning, the name and address of the manufacturer.
- Information/training: Inform and train employees on the specific chemicals in the workplace and their hazards.
- Written Program: Develop, implement and maintain a comprehensive written hazard communication program that includes provisions for container labeling, material safety data sheets, and an employee-training program.

Employees must be made aware of where hazardous chemicals are used in their work areas. They also must be informed of the requirements of the Hazardous Communication Standard, the availability and location of the written program, the list of hazardous chemicals, and the material safety data sheets.

The code specifically requires employers to train employees in the protective practices implemented in their workplace, the labeling system used, how to obtain and use MSDS's, the physical and health hazards of the chemicals, and the recognition, avoidance and prevention of accidental entrance of hazardous chemicals into the work environment.

General: It is District policy to provide and maintain a safe and healthy workplace for all employees and volunteers, including those who work with potentially hazardous chemicals. This written program will be available at the District office.

Container Labeling: All containers of chemical products received by the District, and all containers used as secondary containers, will contain a label listing their hazards, both physical and health hazards.

DO NOT ATTEMPT TO USE ANY CHEMICAL THAT IS NOT READILY IDENTIFIABLE

Material Safety Data Sheets (MSDS): The District Administrator has the MSDS on file from the various chemical manufacturers for all hazardous chemicals used in connection with this workplace. The MSDS sheets list information available about any particular chemical: health hazards, emergency and first aid procedures, how the chemical could enter the body, the safe handling and use of the chemical, name of the manufacturer, etc. The MSDS file is kept in the Risk Management Plan Manual.

Employee Information and Training:

The District Administrator will provide training to all employees and new hires on the proper use of hazardous chemicals and potential hazards. The following information will be given to all employees:

1. Hazardous chemicals present in the workplace.
2. Location of the various chemicals. What to use. What to avoid.
3. Emergency procedures in case of contact with hazardous chemicals.
4. How to read labels.
5. Location of the MSDS files and how to read MSDS.
6. Symptoms of over-exposure and personal protective measures to be used.

RESPECTING PRIVATE PROPERTY

To avoid trespassing, district employees shall obtain written permission from landowners before conducting water quality sampling.

For other sites visits, verbal permission shall be obtained from landowners before accessing their property.

To avoid possible injury, employees will not enter fields or pasture if livestock is present.

The District shall be responsible for its own staff and volunteers and not for others who may accompany or join staff in the field.

ERRORS AND OMISSIONS

The District will put forth its best effort in all dealings both public and private. The District assumes no responsibility for failed practices or projects. All designs utilized by the District must meet or exceed NRCS technical standards. However, alternative practices not consistent with the NRCS "Practice Standards and Specifications" may be used if deemed suitable by a licensed professional engineer.

All District Board of Supervisors decisions are documented and adhere to state law with respect to the Open Public Meetings Act. All records are retained and maintained by the District.

The District has written personnel and procedures policies, and all employees have been trained and informed regarding drug free workplace, sexual harassment, wrongful termination, and hiring and firing procedures.

The District has designated a Risk Management Coordinator and has a written Risk Management Plan approved and available to all staff, volunteers, and Board of Supervisors.

INSPECTION PROGRAM AND SCHEDULE

All equipment, facilities, policies, and procedures will be reviewed and inspected per the following schedule:

District Owned Equipment:

Vehicles: Daily, conducted by driver Semi-annually, conducted by local garage. (Inspection Form page __.)

Safety: Daily, conducted by user.

Computer/Office: Daily, conducted by user. Annually, conducted by District Administrator. Inspection Form page __.)

Equipment Inventory: Annually, conducted by District Administrator.

Equipment: During the District internal audit held in December each year, the audit committee shall physically locate and verify the existence of the items listed on the equipment inventory list.

Facilities:

Offices: Yearly, conducted by Fire Marshall or other, or as requested by the Board of Supervisors (Inspection Form page __.)

Security System /
Smoke Alarms: Yearly, conducted by Advanced Alarms.

Policy/Procedures: (Inspection Forms pages __, __, & __)

1. Personnel Policy:
2. Safety Policy:
3. Risk Management:
4. Money Management:
5. Cost-Share:
6. Trespass/
7. Private Property Access:

The above policies shall be revised, amended as needed, and approved by the Board of Supervisors annually.

NOTE: All reviews and inspections will be conducted more frequently if the need arises.

COST-SHARE POLICY

The District shall have a written policy for administrating cost-share to private landowners. Policy shall be specific for each watershed, grant, or program. The Board of Supervisors shall review policy annually.

General Cost Share Policy

Project Priorities:

The District will give highest priority for cost sharing to projects that:

- Have the greatest likelihood of improving water quality;
- Are located within an approved watershed plan area;
- Are located within Endangered Species Act (ESA) listed areas. (The state-prepared Salmon and Steelhead Stock Inventory (SASSI) may be used for this purpose where ESA listings do not apply.)
- Are located in a watershed where water quality monitoring will be done during the life of the project.

BMP Priorities:

The District will give highest priority for cost sharing BMP's that are part of a:

- Complete conservation plan; or Dairy Nutrient Management Plan; or
- Watershed or riparian management plan or project.

Landowners utilizing District cost-share as match for other funding sources, such as EQIP, will be given high priority.

If cost share BMP's are not part of a conservation plan, the BMP's should be designed to fit into the conservation needs of the whole operation or parcel, and not be detrimental to a possible future conservation plan.

Cost Share Rates and Limits:

Cost share rates are based on total project costs.

If District cost-share is the sole source of landowner's financial assistance, the District's cost-share rate shall not exceed 75% of total project costs.

If District cost-share funds are utilized as "landowner match" for other state, local, or federal funds, the District's cost-share rate, combined with the other funding sources shall not exceed 90% of the total project costs.

Cost share limit per landowner is \$100,000.

Availability:

The District shall utilize local newspapers, KCVL Radio, watershed newsletters, and the District newsletter, to announce the availability of cost share funds. Requests for cost sharing shall be considered on a first-come, first-served basis. Complete applications will be reviewed by the

District, submitted using forms provided by the District on or before the established deadline. Proposed projects must satisfy all granting agency (e.g. Washington Department of Ecology) requirements in order to be eligible for cost-share funding.

The District shall abide by the Washington State Department of Ecology and the Washington State Conservation Commission cost share guidelines.

The Chairman of the Board of Supervisors is authorized to approve cost-share payments or partial payment requests, on District approved contracts, without additional prior Board approval. The Chairman shall only sign the payment requests after the NRCS District Conservationist and District employee have certified the work has been completed for which the payment is requested. This action shall be reviewed and ratified at the next Board meeting.

Dairy Cost Share Policy

Project Priorities:

The District shall give priority for cost sharing to dairies that:

- Have a District-approved dairy nutrient management plan;
- Successful completion of the project will lead to a complete dairy nutrient management system.

Cost Share:

All known dairy producers within the District's jurisdiction shall be notified when cost share funds become available. Request for cost sharing shall be considered on a first-come, first-served basis.

Cost share limit per dairy operator per funding cycle is \$100,000

The District shall abide by the Washington State Conservation Commission cost-share guidelines.

The Chairman of the Board of Supervisors is authorized to approve dairy cost-share payments or partial payment requests, on District approved contracts, without additional prior Board approval. The Chairman shall only sign the payment requests after the NRCS District Conservationist and District employee have certified the work has been completed for which the payment is requested. This action shall be reviewed and ratified at the next Board meeting.

MONEY MANAGEMENT

The District complies with the Money Management Standards set by the Washington State Conservation Commission. In addition, the District established the following internal controls for handling money:

Purchases: The Administrative Assistant, with prior approval of the District Administrator and or Board of Supervisors, will handle all purchasing.

Receipts : The Administrative Assistant shall endorse checks "For Deposit Only" immediately upon receiving and make out the customer

receipt and bank deposit slip. The Administrator will verify the receipt and deposit by initialing the bank deposit slip. After verification, the Administrative Assistant will deposit the funds in the bank. All funds will be deposited within 24 hours. Effective in 2000, use a cash register for all tree sales.

Accounts Receivable: The tracking and billing of all accounts receivable (including grant vouchering) will be done jointly by the District Administrator and Administrative Assistant and or Secretary.

Accounts Payable: Accounts payable are tracked by the Administrative Assistant, confirmed by the District Administrator and approved for payment by the Board of Supervisors.

Bank Account Reconciliation: The District Administrator will reconcile all bank accounts monthly.

Receipt/Disbursement Reconciliation: The Administrative Assistant and/or Secretary will prepare Internal reconciliation monthly. It will be reviewed by the District Administrator, used by the Internal Audit Committee and filed for use by the State Auditor.

Quick Books: The Administrative Assistant and Secretary will utilize Quick Books to record all financial transactions and to prepare the Receipt, Disbursement, and Net Worth Statements for monthly Board Meetings.

Quick Pay: The Administrative Assistant and Secretary will utilize Quick Pay for payroll transactions. The District Administrator will approve employee monthly time sheets. The District Administrative Assistant and/or Secretary will print the payroll checks.

Pre-Authorization: Board of Supervisors may pre-authorize the District Administrator to pay specific on going accounts i.e. payroll, taxes, utilities. The list of pre-approved accounts shall be approved during January Board meeting each year.

Net Worth, Receipts, Disbursements, & Bills to pay: A statement of the District's net worth, bills to pay for that month, and a complete list of receipts and disbursements in numerical order for the previous month shall be approved at each Board meeting. All of the above are for the first day through the last day of the appropriate month.

Tree Sale Policy: The Administrative Assistant will check and confirm inventory of ordered trees as they arrive. Use these numbers as the beginning inventory.

The Administrative Assistant will accompany contractors to the van and verify tree orders when contractors pick up the trees. Obtain signature of contractor verifying order before leaving.

Use a locked cash register to collect all money. Initial and record whether cash or check on the District's copy of the tree receipt. Each user will have an identification number to use with the cash register. Never leave the cash register unlocked.

Use the "Daily Tree Sales Reconciliation Checklist" (page __) form at the end of each day. Deposit checks and cash collected and/or received promptly (once every 24 hours, if possible). The Administrative Assistant will receive and collect the money and the Secretary or the District Administrator will receipt the money at the end of each business day.

At the end of the sales program, use the "Year End Tree Sales Income Reconciliation Checklist." (page __). The Secretary and Administrative Assistant will complete the reconciliation checklist, explain and account for all variances, then sign. Report to District Administrator.

A beginning and ending inventory is calculated by Access. Use this program to calculate the expected revenue and verify this amount with actual sales records and QuickBooks reports.

PROGRAM MANAGEMENT

The District complies with the Program Management Standards set by the Washington State Conservation Commission.

MANAGEMENT OF OBSOLETE FILES

Grant files and vouchers from Department of Ecology may be shredded after four (4) years from the date the last payment request was submitted. Grant files from the Conservation Commission may be shredded after seven (7) years from the date the last payment request was submitted. District financial records and Board meeting Minutes will be kept into perpetuity.

INVESTMENT POLICY

Scope:

This investment policy applies to the investment of available public funds under the control of the _____ Conservation District.

Policy Statement:

It is the policy of the _____ Conservation District to invest temporary cash surpluses in a manner which will provide the highest investment return with the maximum security while meeting the monthly cash flow demands and conforming to all Washington statutes governing the investment of public funds.

Investment Objective:

The primary objective of _____ Conservation Districts' investment activities is the preservation and safety of capital. The District's investments shall be sufficiently liquid to enable the District to reasonably meet all operating requirements.

Delegation of Authority and Investment Procedures:

The Board of Supervisors, by Resolution No. ___ dated _____, _____, designated the district employee primarily tasked with financial accounting as District Treasurer, and the board member elected to serve as Secretary/Treasurer the District Auditor for purposes of RCW 89.08.210.

The District Treasurer and Auditor shall deposit all funds as the Board of Supervisors, by official action, designates.

Authorized Investments:

Federal Deposit Insurance Corporation and the Washington Public Deposit Protection Commission cover the District deposits and certificates of deposit. The _____ Conservation District may invest funds in the following:

1. Investment deposits, including certificates of deposits, with qualified public depositories authorized to do business in, and located within, Washington.
2. Washington State Local Government Investment Pool.

Maturities:

To the extent possible, the District will attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the District will not directly invest in securities maturing more than two years from the date of purchase.

Ethics and Conflict of Interest:

Conducting a competitive "bid" process and selecting an investment is usually a matter of selecting the highest yielding security. Exceptions are quality and liquidity. The District Treasurer and Auditor shall report to the District Board of Supervisors kinship relations with employees of firms with which the District places investments, and shall report any meals, entertainment, gifts, or other items of monetary value received from any person employed by a firm with which the District places investments.

Internal Controls:

This policy shall be reviewed annually during the fourth quarter, during the internal audit conducted during the first quarter and by the State Auditor during his/her regular audit. These controls shall help to prevent loss of public funds due to fraud, error, or misrepresentation.

Reporting:

The status of investments shall be part of every monthly financial report to the Board.

Bonds:

The _____ Conservation District shall purchase and maintain a blanket dishonesty bond from a company authorized to do business in the state of Washington. The bond shall cover the Board of Supervisors and District employees in an amount, and under terms and conditions, adequate to protect the District against financial loss.

Investment Policy Adoption:

The _____ Conservation District Investment Policy may be modified on an annual basis, or as necessary. The Board of Supervisors must approve any amendments to this policy.

The Investment Policy of _____ Conservation District as set forth in this document has been reviewed and is hereby approved and adopted, _____, _____.

APPENDIX I – MANAGEMENT STANDARDS CERTIFICATION FORM

WASHINGTON STATE CONSERVATION COMMISSION
CONSERVATION DISTRICT MANAGEMENT STANDARDS
CERTIFICATION

Instructions: Enter a “Y” in the spaces below if your District meets a Standard. If your District cannot or will not meet a Standard, enter a “D” and request a deviation on the form “Request for Deviation from Management Standards” (Exhibit 340, Section 1-A, 340-11). After completing the entire Standards list, check the appropriate boxes at the bottom of the form; then sign.

CAPACITY*

_____ **MEETING MINUTES (RCW 89.08.210) ~ The District maintains a full and accurate record of all District business (proceedings, resolutions, regulation and orders issued or adopted), and makes this record available to the Commission for review.**

_____ **SURETY BONDS (RCW 89.08.210) ~ The District has secured surety bonds for supervisors and employees who handle money.**

_____ **ANNUAL INTERNAL AUDIT (RCW 89.08.210) ~ The District has completed an annual internal audit of the accounts of receipts and disbursements. The last annual audit was completed on _____.**

_____ **LONG RANGE PLAN (RCW 89.08.220 [7]) ~ The District has prepared and kept current (within the last five years) a comprehensive Long Range Plan. The Long Range Plan was updated by the District on _____.**

_____ **ANNUAL WORK PLAN (RCW 89.08.220 [7]) ~ The District has prepared an Annual Work Plan. The Annual Work Plan was prepared by the District on _____.**

_____ **MOA's, MOU's, and AGREEMENTS (RCW 89.08.220 [4] & RCW 89.08.341) ~ The District has written agreements with all of its Conservation Partners, and the Board has reviewed them within the last year.**

_____ **CONSERVATION DISTRICT LAW - RCW 89.08 ~ The District Board has reviewed RCW 89.08 since the last District Operations Review. 89.08 was reviewed by the Board on _____.**

OPERATIONS*

_____ **CLAIMS AGENT (RCW 4.96.020) ~ The District has designated a Claims Agent with the County Auditor. The Claims Agent is _____.**

_____ **DISTRICT AUDITOR (RCW 89.08.215) ~ The District has designated by resolution a District Auditor. The District Auditor is _____.**

_____ **ADA (42 USC, Sec. 12101 et seq) ~ The District believes its facilities meet appropriate Americans with Disabilities Act requirements.**

** Note: Bolded Standards are mandatory under the cited law and Non-bolded Standards (or portions of Standards) are Commission policy intended to strengthen District capacity and increase accountability.*

_____ **DISTRICT TREASURER (RCW 89.08.215) ~ If the District does not use the treasurer of the county in which the District is located as the ex officio treasurer of the District, the District has designated by resolution _____ as District Treasurer.**

_____ **INSURANCE COVERAGE ~ The District has reviewed its insurance coverage during the past year.**

_____ **COST SHARE POLICY ~ The District has developed and utilizes a written Cost Share Policy that establishes policies and procedures to award cost share to landowners.**

BIG FOUR LAWS*

_____ **CONSERVATION DISTRICTS LAW (RCW 89.08) ~ The District complies with the Conservation Districts Law.**

_____ **OPEN PUBLIC MEETINGS ACT (RCW 42.30) ~ The District complies with the Open Public Meetings Act.**

_____ **PUBLIC RECORDS ACT (RCW 42.17.250-348) ~ The District complies with the Public Records Act.**

_____ **CODE OF ETHICS (RCW 42.23) ~ The District complies with the Code of Ethics for Municipal Officers.**

PERSONNEL POLICIES*

_____ **EMPLOYMENT POSTERS ~ The District has the following required employment posters displayed:**

WASHINGTON STATE DEPARTMENT OF LABOR POSTERS:

- ◆ **“Notice to Employees – If a Job Injury Occurs” (RCW 51.14.100) ~ Washington Industrial Insurance Act. Outlines the steps a worker should take if a job-related injury or illness occurs. Also briefly describes the benefits available through Washington workers’ compensation system.**
- ◆ **“Job Safety and Health Protection” (RCW 49.17.220(1) ~ Describes important parts of the Washington Industrial Safety and Health Act (WISHA) which provides for job safety and health of Washington employees.**
- ◆ **“Your Rights as a Non-agricultural Worker” ~ The poster includes the following information:**
 - **Family Care Act (RCW 49.12.275, WAC 296-130-050)**
 - **Family Leave Act (RCW 49.78.200)**
 - **Child Labor, Minor Work Permit (WAC 296-126-020, 296-126-050, 296-126-080)**
- ◆ **“Unemployment Compensation/Workers Compensation Notice to Employees” (RCW 50.20.140) ~ Employment Security Act**

U. S. DEPARTMENT OF LABOR POSTERS:

- ◆ **“Your Rights under FLSA” (29 CFR.516.4) ~ Fair Labor Standards Act (FLSA)**

** Note: Bolded Standards are mandatory under the cited law and Non-bolded Standards (or portions of Standards) are Commission policy intended to strengthen District capacity and increase accountability.*

- ◆ “Your Rights under the Family Medical Leave Act (FMLA)” (29 CFR 825.300)
- ◆ “Notice to All Workers Working on Federal Financed Construction Projects” (40 USC 276a) ~ Davis-Bacon Act
- ◆ “Equal Opportunity is the Law” ~ Equal Employment Opportunity. The poster includes the following information:
 - Employers Holding Federal Contracts or Subcontracts:
 - Race, Color, Religion, Sex, National Origin (Executive Order 11246, as amended)
 - Individuals With Disabilities (Section 503 of the Rehabilitation Act of 1973, as amended)
 - Vietnam Era, Special Disabled, Recently Separated, and Other Protected Veterans (38 USC 4212 of the Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended)
 - Private Employment, State and Local Governments, Education Institutions:
 - Race, Color, Religion, Sex, National Origin (Title VII of the Civil Rights Act of 1964, as amended)
 - Disability (The Americans with Disabilities Act of 1990, as amended)
 - Age (The Age Discrimination in Employment Act of 1967, as amended)
 - Sex (The Equal Pay Act of 1963, as amended)
 - Programs or Activities Receiving Federal Financial Assistance:
 - Race, Color, Religion, National Origin, Sex (Title VI of the Civil Rights Act)
 - Individuals With Disabilities (Sections 501, 504, and 505 of the Rehabilitation Act of 1973, as amended)

_____ BOARD REVIEW OF PERSONNEL POLICIES ~ The District Board has reviewed its Personnel Policies during the last year. The Personnel Policies were reviewed by the Board on _____.

_____ EMPLOYEE REVIEW OF PERSONNEL POLICIES ~ The District Employees have reviewed the District’s Personnel Policies during the last year.

FINANCES*

_____ **ANNUAL FINANCIAL REPORT (RCW 43.09.230) ~ The District prepares, certifies and files an Annual Financial Report with the state Auditor.**

_____ **BARS (RCW 89.08.070, RCW 43.09.200) ~ The accounting records of the District are maintained in accordance with methods prescribed by the State Auditor in the “Budgeting, Accounting and Reporting System (BARS) for Conservation Districts”.**

_____ **DISTRICT CHECKS (RCW 89.08.215) ~ The District Auditor and a second authorized signatory sign all checks after Board approval.** Checks are always filled out before being signed

_____ RECEIPT BOOKS ~ The District uses a pre-printed, numbered receipt book to record all incoming transactions.

_____ ** Note: Bolded Standards are mandatory under the cited law and Non-bolded Standards(or portions of Standards) are Commission policy intended to strengthen District capacity and increase accountability.*

_____ TREASURER'S REPORTS ~ The District receives, understands, and approves monthly District Treasurer's Reports that include all deposits and checks by number, payee, and purpose.

_____ TRACKING OF BENEFIT HOURS ~ The District tracks overall and individual employee liability for payment of sick, vacation, and holiday hours.

REPORTS*

The District submits the following reports to the Commission by the Due Date or the required frequency.

<u>Report</u>	<u>Due Date</u>
_____ Schedule 04 of the Annual Financial Report-----	May 1
_____ Annual Work Plan-----	May 1
_____ Internal Audit Report -----	May 1
_____ Management Standards & Certification -----	May 1
_____ Basic Funding Application -----	May 1
_____ Annual Report of Accomplishments-----	September 1
_____ All Commission Grant Reports -----	Frequency dictated by Grant Program
_____ All Commission Grant Vouchers --- No more frequently than monthly, no less frequently than quarterly	
_____ District Boundary Changes -----	When changes occur
_____ Employee Roster-----	When changes occur
_____ Supervisor Appointments & Elections -----	When changes occur

** Note: Bolded Standards are mandatory under the cited law and Non-bolded Standards(or portions of Standards) are Commission policy intended to strengthen District capacity and increase accountability.*

MANAGEMENT STANDARDS CERTIFICATION STATEMENT	
I certify that the _____ Conservation District	
<input type="checkbox"/>	Has met the above listed standards.
<input type="checkbox"/>	Has included request(s) for deviation from standards.
_____	_____
District Chair Signature	Date
_____	_____
District Auditor Signature	Date
_____	_____
District Treasurer Signature (Not applicable if the county Treasurer is used)	Date

**WASHINGTON STATE CONSERVATION COMMISSION
REQUEST FOR DEVIATION FROM MANAGEMENT STANDARDS**

Instructions: Complete the top part of the form. Send one copy to the Commission Office and one copy to your Field Operations Manager. Use separate forms for each request. Deviation decisions will be made by the Commission at the May meeting, after which you will receive written notification.

To: Conservation Commission
From: _____ Conservation District
Subject: Request for approval of deviation from standards for:
Category: _____ (Capacity, Operations, Big Three Laws, Personnel Policies, Finances, or Reports)
Standard Title: _____

Reasonable Alternative Action Plan

Describe the reasonable alternative or action plan on the back of this page.

Authorized Signature

Date

↓ *This Section To Be Completed by Conservation Commission* ↓

To: _____ Conservation District
From: Conservation Commission
Subject: Request for approval of deviation from standards:

Your request is: Approved Denied More Information Needed

Comments:

Conservation Commission

Date

WASHINGTON STATE CONSERVATION COMMISSION REQUEST FOR DEVIATION FROM MANAGEMENT STANDARDS

_____ Conservation District _____ Date

REASONABLE ALTERNATIVE TO STANDARD *(Use this space to describe your proposed alternative. Attach additional pages, if needed.)*

ACTION PLAN TO MEET STANDARD *(Use this space to describe your action plan. Include an end date and a review date. If the end date is more than three months away, include date(s) progress reports will be submitted.)*

Task	End Date	Review Date

APPENDIX J – DISTRICT OPERATIONS REVIEW CHECKLIST

The District Operations Review checklist is currently being updated and will be added to this Appendix when available.

APPENDIX K – REQUEST FOR PUBLIC RECORDS FORM



Washington State
Conservation
Commission

WASHINGTON STATE CONSERVATION
COMMISSION
PO BOX 47721
OLYMPIA WA 98504-7721

REQUEST FOR PUBLIC RECORD

Name of Requester: _____

Phone Number: _____

Mailing Address: _____

Date Requested: _____

PUBLIC RECORDS OR INFORMATION REQUESTED

Public record(s) or information requested:

REQUESTER READ AND SIGN

I understand that if a list of individuals is provided to me by the Washington State Conservation Commission, it will neither be used to promote the election of an official or promote or oppose the ballot proposition as prohibited by RCW 42.17.130 nor for commercial purposes or give or provide access to material to others for commercial purposes as prohibited by RCW 42.17.260(7)

I understand that I will be charged _____ cents per copy for all standard size copies I desire and that other size publications are available at cost.

Requester's Signature: _____

APPENDIX K – REQUEST FOR PUBLIC RECORDS FORM

AGENCY PUBLIC RECORDS OFFICER		ACKNOWLEDGMENT OF RECEIPT	
Number of Copies	Amount Received \$	Date of Receipt	Time of Receipt
Public Records Officer		Recipient's Signature	

request.doc
revised 11/95

Open Records and Open Public Meetings Desktop

- Chapter 1 – History and Background
- Chapter 2 – Open Public Meetings – Executive Sessions
- Chapter 3 – Public Records Act – Procedural Issues
- Chapter 4 – Public Records Act - Exemptions
- Chapter 5 – Public Disclosure Act – Public Records Exemptions



Open Records & Open Meetings

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Chapter 4
Public Records Act - Exemptions

Chapter 5
Public Disclosure Act - Public Records Exemptions

Chapter 1

<ul style="list-style-type: none"> 1.1 Introduction 1.2 What Entities Are Subject To The Act <ul style="list-style-type: none"> a. Public Agencies b. Governing Body 1.3 What Is A "Meeting" <ul style="list-style-type: none"> a. General b. What Is "Action" c. Exempt Activities d. Who May Attend Public Meeting e. What Minutes Must Be Maintained? 	<ul style="list-style-type: none"> 1.4 What Public Notice Is An Agency Required To Provide <ul style="list-style-type: none"> a. Agencies Must Adopt A Schedule Of Regular Meetings b. Agencies Must Give Notice Of Each Special Meeting c. No Notice Is Required For Emergency Meetings 1.5 Remedies For Violations
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1.1 Introduction

The Open Public Meetings Act was passed by the legislature in 1971 as a part of a nationwide effort to make government affairs more accessible and, in theory, more responsive. It was modeled on a California law known as the "Brown Act" and a similar Florida statute. *See*, Cal. Governmental Code 54950-61 and 11120 *et seq.*; Fla. Stat. 286.011 *et seq.* While the legislature has clarified some of its provisions, the law is substantially unchanged. There has been relatively little litigation regarding its interpretation, with the result that many gray areas exist. Soon after its passage, the Attorney General issued a comprehensive opinion which continues to be a useful resource. *See*, AGO 1971 No. 33.

As with all laws, the courts will attempt to interpret the Act to accomplish the legislature's intent. The Act declares its purpose in a

strongly worded statement.

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.
RCW 42.30.010.

Together with the Public Disclosure Act, the legislature has created important and powerful tools enabling the public to inform themselves about their government.

1.2 What Entities Are Subject To The Act

A. Public Agencies

The Open Public Meetings Act requires that the public receive notice of the meetings of the governing body of a "public agency".

Statutory provision: "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.
RCW 42.30.020**

The Act does not apply to an entity simply because it receives public funds. The Attorney General has suggested a four-part test to be used in determining whether an entity is a state agency and subject to the Act:

A four-part analysis is used to determine if an organization or entity is the functional equivalent of a state agency: (1) whether the organization performs a governmental function; (2) the level of government funding; (3) the extent of government involvement or regulation; and (4) whether the organization was created by the government.

AGO 1991 No. 5.

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B. Governing Body

Statutory provision: "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. RCW 42.30.020(2).

Because the Act is directed to meetings of governing bodies, it does not apply to the activity of an agency which is governed by an individual. In *Salmon for All v. Department of Fisheries*, 118 Wn.2d 270, 821 P.2d 1211 (1992), the court held that the Department of Fisheries was not subject to the Act because it was governed by an individual, the Director. Many state agencies are governed by individuals and, therefore, not subject to the Act, e.g. Labor and Industries, Licensing, Social and Health Services, State Patrol, Employment Security, etc.

It is possible that a governing body will delegate its authority to another entity so completely that the entity itself can become a governing body required to comply with the Act. Although the University of Washington is statutorily governed by the Board of Regents, the Supreme Court held that the law school faculty was, in fact, a governing body of a public agency, the law school. It reasoned that the faculty effectively made the decisions for the law school because the Board of Regents had routinely accepted its recommendations. Its meetings, therefore, resulted in "action" and were subject to the notice requirements of the Act. *Cathcart v. Andersen*, 85 Wn.2d 102, 530 P.2d 313 (1975).

The Act also applies to a "committee" of the governing body when it "acts on behalf of" the governing body. The Attorney General has opined that this occurs when the committee exercises actual or de facto decision-making authority or when it conducts hearings, takes public testimony or comment. AGO 1986 No. 16. There is an ongoing dispute as to whether it is necessary that a member of the governing body be a member of the committee. It is conceivable that a governing body could designate a "blue ribbon" committee consisting solely of private citizens to conduct a study of an important issue and seek public input. Arguably, it is acting "on behalf of" the appointing entity because it would be taking public comment. However, the statute uses the language, "a committee thereof," implying that some member of the governing body would be included.

Some agencies create "standing committees" which routinely deal with particular issues, such as a finance or budget committee that meets to determine fiscal priorities or the development of the agency's budget and then reports back to the governing body regarding its findings. It seems clear that such committees are subject to the Act. *See*, AGO 1986 No. 16.

Case example: *The seven-member Council adopts an ordinance establishing three "standing committees" designated as the Land Use Committee, the Budget Committee and the Personnel Committee. Each Committee consists of three members of the Council, chosen on an annual basis. Each Committee is to "study the relevant subject, obtain public input and report monthly to the Council recommending action, if any, within their area of expertise." At the same time, the Council creates a task force to study the possible impact of federal legislation that will not come into effect for six months. It is directed to report*

back when it has determined that the impact will be significant. The chair of the Council will select three knowledgeable citizens and two other council members to serve on the task force. No schedule of meetings is adopted for either the standing committees or the task force.

Resolution: *The purpose of this example is to illustrate the interplay between the Act's inclusion of both "subagencies" and "committees." The Committees are probably "subagencies" because they were created as relatively permanent entities by ordinance, charged with the formal responsibility of gathering information about matters of significance. The three members of each study group make up the "governing body" for each standing committee.*

Even if they had not been created with the formality of an ordinance, they would probably be "committees" of the Council and subject to the Act because they are charged with the task of obtaining public input regarding their assigned subject and would be perceived to act on behalf of the Council. Because they report monthly to the Council, a schedule of their regular meetings should have been included as part of the ordinance. No other notice of the regular meetings would be required. If regular meetings are not scheduled, then the special meeting notice would be required for each meeting. See, AGO 1971 #33

The task force, on the other hand, is probably not subject to the Act. It was not created by ordinance or other formal process. Its charge is to study a single matter that may not have any impact.

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1.3 What Is A "Meeting"

A. General

Statutory provision: "Meeting" means meetings at which action is taken. RCW 42.30.020(4).

Statutory provision: 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. RCW 42.30.060(1).

Statutory provision: 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. RCW 42.30.070.

A meeting occurs whenever the governing body of a public agency takes "action". If the required notice has not been given, the action taken is null and void, that is, as if it had never occurred. The Act expressly permits the members of the governing body to travel together or engage in other activity so long as they do not take action.

It is generally agreed that an agency may conduct its meeting where one of the members of the governing body attends by telephone and a speaker phone is available at the official location of the meeting so as to afford the public the opportunity to hear the member's input. This should occur only when a member is unable to travel to the meeting site and would not include "telephone trees" where the members repeatedly call each other to form a majority decision.

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B. What Is "Action"

Statutory provision: "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. RCW 42.30.020(3).

It is important to realize that the Act declares that a meeting occurs whenever there is action, including the discussion, deliberation or evaluation that may lead to a final decision.

The notice requirements of the act are not limited to meetings at which a final official vote is taken, which is intended to authorize or memorialize the policy of the governing body. *Protect the Peninsula's Future v. Clallam County*, 66 Wn. App. 671, 833 P.2d 406 (1992), review denied, 121 Wn.2d 1011 (1993). That is "final action" under the Act and is important for deciding what decisions can be made during an executive session. "Final action" refers to the final vote by the governing body on the matter. One court held that a decision by fire district commissioners to terminate a fire chief was not final action because it was not a decision upon a motion, proposal, resolution, order or ordinance. *Slaughter v. Snohomish County Fire Protection Dist. No. 20*, 50 Wn. App. 733, 750 P.2d 656 (1988), review denied, 110 Wn.2d 1031 (1988). However, in 1989 the legislature amended the statute to require such action to be taken in an open public meeting. See, RCW 42.30.110(1)(g).

A meeting occurs if a majority of the members of the governing body were to discuss or consider, for instance, the budget, personnel, or land use issues no matter where that discussion or consideration might occur. The Act does not allow for "study sessions", "retreats", or similar efforts to discuss agency issues without the required notice. Notice must be given just as if a formally scheduled meeting was to be held.

In one case, the court held that it was not "action" for members of the governing body to individually review material in advance of a meeting at which a public contract was awarded. *Equitable Shipyards, Inc. v. State of Wash.*, 93 Wn.2d 465, 611 P.2d 396 (1980).

Statutory provision: 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. RCW 42.30.060(3).

"Secret" votes are prohibited and any votes taken in violation of the Act are null and void. Presumably, the members of the governing body are required to publicly announce their vote at the time it is taken, and that vote would be recorded in the minutes of the meeting for future reference.

***Case example:** The five member School Board attend the annual convention of the State School Association. Over dinner, three members discuss some of the ideas presented during the convention, but refrain from any conversation about how they might apply them to the school district. All five travel together to and from the convention and the only discussion is over whether they are lost.*

***Resolution:** No violation occurred. The example is offered to highlight the level of awareness members of a governing body must have. It is not unusual for such situations to arise. For instance, the dinner discussion was between a majority of the members and a discussion about school district business would have been "action" and, without the required notice, would be in violation of the Act.*

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C. Exempt Activities

Statutory provision: 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.

RCW 42.30.130

The Act provides that certain activities that would otherwise be meetings, are exempt from its notice requirements. When an agency engages in those activities, it is not required to comply with the Act, although other public notice requirements may apply. *Responsible Urban Growth Group v. City of Kent*, 123 Wn.2d 376, 868 P.2d 861 (1994). Generally, this provision applies to activities that already require public notice, such as quasi-judicial matters or hearings governed by the Administrative Procedure Act (chapter 34.05 RCW). Quasi-judicial matters are those where the governing body is required to determine the rights of individuals based on legal principles. The court has held that a decision by a school board to not renew teacher's contracts is quasi-judicial in nature and can properly be discussed outside of public view. *Pierce v. Lake Stevens School Dist. No. 4*, 84 Wn.2d 772, 529 P.2d 810 (1974)

The courts have employed a four-part test to determine whether administrative action is quasi-judicial: (1) Whether a court could have been charged with making the agency's decision; (2) whether the action is one which historically has been performed by courts; (3) whether the action involves the

application of existing law to past or present facts for the purpose of declaring or enforcing liability; and (4) whether the action resembles the ordinary business of courts as opposed to that of legislators or administrators. *Protect the Peninsula's Future v. Clallam County*, 66 Wn. App. 671, 833 P.2d 406 (1992), *review denied*, 121 Wn.2d 1011 (1993); *Dorsten v. Port of Skagit County*, 32 Wn. App. 785, 650 P.2d 220 (1982), *review denied*, 98 Wn.2d 1008 (1982).

***Case example:** During a break in the regular meeting, the Council gets together in the chambers to decide what they should do with regard to the union's latest offer. They authorize the negotiator to accept the offer on wages if the union will accept the seniority amendments. When they return to the meeting, nothing is said about the discussion or decision.*

***Resolution:** The Act specifically exempts the discussion and decision about the collective bargaining strategy or position from its requirements. Since it was exempt, the discussion could have occurred at any time or place. It was unnecessary to announce the fact that the discussion took place.*

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D. Who May Attend Public Meetings

Statutory provision: 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. RCW 42.30.040.

The Act provides that any member of the public may attend the meetings of the governing body of a public agency. The agency may not require people to sign in, complete questionnaires or establish other conditions to attendance. For instance, an agency could not limit

attendance to those persons subject to its jurisdiction. The Act does not address whether an agency is required to hold its meeting at a location that would permit every person to attend. However, it seems clear that the courts would discourage any attempt to deliberately schedule a meeting at a location that was too small to permit full attendance. RCW 42.30.050

Statutory provision: 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.

If those in attendance are disruptive and make further conduct of the meeting unfeasible, those creating the disruption may be removed. Or the meeting may be adjourned to another place; however, members of the media are entitled to attend the adjourned meeting and the governing body is limited to act only on those matters on the agenda.

Although the Act does not specifically address whether the public may record (audio/video) a meeting, there is general agreement that recording is permitted so long as it does not interfere with the orderly conduct of the meeting.

Case example: The Board schedules a special meeting to discuss a controversial policy question. It becomes obvious that the regular meeting room is too small for all of those trying to attend the meeting. The

Board announces that the meeting will be adjourned to the auditorium which is in the same building. The chair announces that those who wish to speak should sign in on the sheet on the table. She states that given the available time, speakers will be limited to 10 minutes each. Several people are video taping the meeting and the chair admonishes them to remain seated in order to avoid disrupting others. At one point, the meeting is adjourned to remove an apparently intoxicated person who had been interrupting the comments of speakers.

Resolution: *While the Act allows the public to attend all meetings, it does not allow for the possibility of insufficient space. Presumably, if a nearby location is available, the governing body should move there to allow attendance. The chair can have those who wish to speak to sign in. The sign in does not restrict attendance, only participation. Since the Act does not require the governing body to allow public participation, the time for each speaker can also be limited. Recording the meeting should be permitted. However, the governing body can maintain order by removing those who are disruptive.*

E. What Minutes Must Be Maintained?

Under RCW 42.32.010, agencies must maintain minutes of their meetings and make them available upon request. The law does not specify the format or content of the required minutes. In order to satisfy the need to memorialize certain actions such as the adoption of a budget, the minutes should, at a minimum, recite the significant actions of the agency.

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1.4 What Public Notice Is An Agency Required To Provide

A. Agencies Must Adopt A Schedule Of Regular Meetings

Statutory provisions: 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. RCW 42.30.070. 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. RCW 42.30.075.

The Act requires agencies to identify the time and place they will hold their regular meetings, that is, "recurring meetings held in accordance with a periodic schedule declared by statute or rule." State agencies must publish their schedule in the Washington state register, while local agencies, such as cities and counties, must adopt the schedule "by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body." Although an agency is not required to meet inside the boundaries of its jurisdiction, there is general agreement that agencies should not schedule meetings at locations that effectively exclude the public. Other statutes may require certain entities to hold their meetings at particular locations, such as RCW 36.32.080, which requires a Board of County Commissioners to hold regular meetings at the county seat.

The Act does not require an agency to notify the public of anything other than the time and place that it will hold its regular meetings, although other laws may require additional notice or an agenda, e.g., RCW 35.23.221, RCW 35A.12.160. No agenda or other description of the business to be transacted is required for regular meetings. *Hartman v. Washington State Game Comm'n*, 85 Wn.2d 176, 532 P.2d 614 (1975); *Dorsten v. Port of Skagit County*, 32 Wn. App. 785, 650 P.2d 220 (1982), *review denied*, 98 Wn.2d 1008

(1982).

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B. Agencies Must Give Notice Of Each Special Meeting

Statutory provision: 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 personally or by mail written notice to each member of the governing body; and to each local newspaper of general circulation and to each local radio or television station which has on file with the governing body a written request to be notified of such special meeting or of all special meetings. Such notice must be delivered personally or by mail at least twenty-four hours before the time of such meeting as specified in the notice. The call and notice 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. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the governing body a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. RCW 42.30.080.

Whenever an agency has a meeting at a time other than a scheduled regular meeting, it is conducting a "special meeting." The Act requires that the members of the governing body be notified, in writing, at least 24 hours in advance of the unscheduled special meeting and, in addition, those media representatives that have filed a written request for that notice. The Act does not provide any guidance as to whether the media's written request for notice must be renewed; it is advisable, however, to periodically renew such requests to insure that they are not misplaced or inadvertently overlooked due to changes in personnel.

The notice must specify the time and place of the

meeting and "the business to be transacted", usually an agenda. At a special meeting, final disposition by the agency is limited to the matters identified as the business to be conducted in the notice. There is a dispute as to whether the governing body could discuss, but not finally dispose of, matters not included in the notice of the special meeting. A member of the governing body may waive the required notice by filing a written waiver or simply appearing at the special meeting. *Estey v. Dempsey*, 104 Wn.2d 597, 707 P.2d 1338 (1985). The failure to provide notice to a member of the governing body can only be asserted by the person who should have received the notice, not by any person affected by action at the meeting. *Kirk v. Pierce County Fire Protection Dist. No. 21*, 95 Wn.2d 769, 630 P.2d 930 (1981); *Henry v. Town of Oakville*, 30 Wn. App. 240, 633 P.2d 892 (1981), *review denied*, 96 Wn.2d 1027 (1982).

It is notable that these are the only notice requirements of the Act. There is no requirement to provide notice to the local media unless the required written request has been filed. Nor are agencies required to publish information through the media or to post notice at public locations. However, local jurisdictions may adopt additional notice requirements according to their own rules of procedure or other laws may require notice.

Case example: *The Superintendent of the School District announced her retirement. The five member School Board passed a motion at its regular meeting to direct the staff to announce the vacancy, seek applicants, screen them and select the three most qualified candidates for presentation to the Board for their final selection. The three candidates were identified together with a description of their qualifications. The letter was released to the public and the local newspaper. Controversy arose over which of the candidates was most qualified. At the next regular meeting, the Board decided to schedule a special meeting the following week to consider the three candidates, receive public comment and select the new Superintendent. No particular agenda was created other than the comments at the meeting which were reported by the media. The newspaper published the various points of view and the stories described the time and place of the special meeting. The entire Board attended the special meeting. No other notice was given.*

***Resolution:** The notice of the meeting was sufficient, unless the media had filed a written request for notice of special meetings. The only notice required of a special meeting is to the members of the governing body and only the members of the governing body may raise the lack of that notice. Here, the members of the governing body all attended the meeting, waiving any objection to the lack of notice. The media is only entitled to notice if the written request is filed.*

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C. No Notice Is Required For Emergency Meetings

The Act provides that no notice need be given if the jurisdiction has suffered a natural disaster or similar emergency:

Statutory provision: 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. RCW 42.30.070.

The courts have found that the agency must be confronted with a true emergency that requires immediate action, such as a natural disaster. It has been held that a strike by teachers did not justify an "emergency" meeting by the school board. *Mead School Dist. No. 354 v. Mead Education Ass'n*, 85 Wn.2d. 140, 530 P.2d 302 (1975).

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1.5 Remedies For Violations

The loss of credibility suffered by an agency as a result of a judicial finding that the Act has been violated may be the most severe consequence. Once damaged, that credibility can be very difficult to regain. In addition, any action taken in violation of the Act is void. RCW 42.30.060. It is unclear how an agency may cure an action taken in violation of the Act, other than repeating the steps found to violate the Act. In addition, the Act provides for financial penalties.

Statutory provision: (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, 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 one hundred dollars. 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.

(2) 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 attorney fees, incurred in connection with such legal action. Pursuant to RCW 4.84.185, any public agency who 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. RCW 42.30.120

A member of the governing body is personally liable for the \$100 penalty only if he or she is aware that the meeting is in violation of the Act. The court must award attorney fees to a successful party. If the court finds that the lawsuit against the agency is frivolous, the agency may recover its attorney fees and expenses. The only statutory remedy is an action filed in superior court. No agency has the authority to sanction violations or to issue regulations interpreting the "gray areas" of the Act.

If a person seeks to void an election based upon a violation of

the Act, the lawsuit must be initiated as soon as possible or the court may bar that relief based on the delay in filing. *Lopp v. Peninsula School Dist. No. 401*, 90 Wn.2d 754, 585 P.2d 801 (1978).

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2.1 Introduction

Statutory Provision: Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting. RCW 42.30.110(1).

"Executive session" is not expressly defined in the Open Public Meetings Act, but the term is commonly understood to mean that part of a regular or special meeting of the governing body that is closed to the public. A governing body may hold an executive session only for specified purposes, which are identified in RCW 42.30.110(1)(a)-(k), and only during a regular or special meeting. Nothing, however, prevents a governing body from holding a meeting, which complies with the Act's procedural requirements, for the sole purpose of having an executive session.

Attendance at an executive session need not be limited to the members of the governing body. Persons other than the members of the governing body may attend the executive session at the invitation of that body. Those invited should have some relationship to the matter being addressed in the closed session, or they should be in attendance to otherwise provide assistance to the governing body. For example, staff

of the governing body or of the governmental entity may be needed to present information or to take notes or minutes. However, minutes are not required to be taken at an executive session. See RCW 42.32.030.

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2.2 Procedures For Holding An Executive Session

Statutory Provision: 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. RCW 42.30.110(2).

The announcement by the presiding officer of the executive session must state two things: (1) the purpose of the executive session, and (2) the time when the executive session will end. The announcement is to be given to those in attendance at the meeting.

The announced purpose of the executive session must be one of the statutorily-identified purposes for which an executive session may be held. The announcement therefore must contain enough detail to identify the purpose as falling within one of those identified in RCW 42.30.110(1). It would not be sufficient, for example, for a mayor to declare simply that the council will now meet in executive session to discuss "personnel matters." Discussion of personnel matters, in general, is not an authorized purpose for holding an executive session; only certain specific issues relating to personnel may be addressed in executive session. See RCW 42.30.110(1)(f), (g).

Another issue that may arise concerning these procedural requirements for holding an executive session involves the estimated length of the session. If the governing body concludes the executive session *before* the time that was stated it would conclude, it should not reconvene in open session until the time stated. Otherwise, the public may, in effect, be excluded from that part of the open meeting that occurs between the close of the executive session and the time when the presiding officer announced the executive session would conclude.

If the executive session is not over at the stated time, it

may be extended only if the presiding officer announces to the public at the meeting place that it will be extended to a stated time.

***Case Example:** Three members of a five-member school board meet privately, without calling a meeting, to exchange opinions of candidates for the school superintendent position. They justify this private meeting on the ground that the board may meet in executive session to discuss the qualifications of applicants for the superintendent position, under RCW 42.30.110(1)(g). Have these school board members complied with RCW 42.30.110?*

***Resolution:** Clearly, they have not. Although a governing body may discuss certain matters in closed session under this statute, that closed session must occur during an open meeting and it may be commenced only by following the procedures in RCW 42.30.110(2). The public must know the board is meeting in executive session and why. Although, as discussed above, some matters are not subject to the Open Public Meetings Act under RCW 42.30.140, this is not one of them.*

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2.3 Purposes For Holding An Executive Session

An executive session may be held only for one of the purposes identified in RCW 42.30.110(1), as follows:

(a) To consider matters affecting national security;

It is not clear what multimember governing body would have jurisdiction to address matters affecting national security. The Washington National Guard is, for example, headed by an adjutant general appointed by the governor; there is no governing body of the National Guard to which the Act applies. See chapter 38.12 RCW. This subsection may, thus, cover a matter that no governing body in this state would ever address.

(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;

This provision has two elements:

- (1) the governing body must be considering either selecting real property for purchase or lease or it must be considering purchasing or leasing specific property; and
- (2) public knowledge of the governing body's consideration would likely cause an increase in the price of the real property.

The consideration of the purchase of real property can, for purposes of RCW 42.30.110, involve condemnation of the property, including the amount of compensation to be offered for the property. *Port of Seattle v. Rio*, 16 Wn. App. 718, 724, 559 P.2d 18 (1977).

Since this subsection recognizes that the process of purchasing or leasing real property or selecting real property to purchase or lease may, in some circumstances, justify an executive session, it implies that the governing body may need to reach some consensus in closed session as to the price to be offered or the particular property to be selected. See *Port of Seattle v. Rio*, *supra* at 723-25. The purpose of an executive session under this subsection would be defeated if the governing body would be required to vote in open session to select the property or to decide how much it would be willing to pay for the property, where public knowledge of these matters would likely increase its 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;

This subsection, the reverse of the previous one, also has two elements:

- (1) the governing body must be considering the minimum price at which real property belonging to the agency will be offered for sale or lease; and
- (2) public knowledge of the governing body's

consideration will likely cause a decrease in the price of the property.

The second sentence of the subsection, concerning final action selling or leasing the property, may seem unnecessary, since all final actions must be taken in a meeting open to the public. However, its possible purpose may be to indicate that, although the decision to sell or lease the property must be in open session, the governing body may decide in executive session the minimum price at which it will do so. A contrary interpretation would defeat the purpose of this subsection.

However, governing bodies should exercise caution when meeting in closed session under this and the preceding provision so that they are not doing so when there would be no likelihood of increased price if the matter were considered in open session.

(d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;

This subsection indicates that when a public agency and a contractor performing a publicly bid contract are negotiating concerning how the contract is being performed, the governing body may "review" those negotiations in executive session if public knowledge of the review would likely cause an increase in contract costs. Presumably, difficulties or disputes concerning contract performance have arisen in some contexts that require confidentiality to avoid increased costs where the nature of the difficulties or disputes would become public knowledge.

(e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;

This provision applies to export trading companies that can be created by port districts under chapter 53.31 RCW. Under RCW 53.31.050, financial and commercial information supplied by private persons to an export trading company must be kept confidential.

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(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;

This subsection should be distinguished from subsection (g), discussed below, concerning reviewing the performance of a public employee in executive session. For purposes of meeting in executive session under this provision, a charge or complaint must have been brought against a public officer or employee. The complaint or charge could come from within the agency or from the public. The bringing of the complaint or charge triggers the opportunity of the officer or employee to request that the discussion be in open session.

(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;

There are two different purposes under this provision for which a governing body may meet in executive session. For both purposes, the references to "public employment" and to "public employee" include within their scope public offices and public officials, so that a governing body may evaluate in executive sessions persons who apply for appointive office positions, such as state university president or city manager, as well as for employee positions.

The first purpose involves evaluating the qualifications of applicants for public employment. This could include personal interviews with an applicant, discussions concerning an applicant's qualifications for a position, and discussions concerning salaries, wages, and other conditions of employment personal to the applicant.

The authority to "evaluate" applicants in closed session allows a governing body to discuss the qualifications of applicants, not to choose which one to hire. However, since

the subsection expressly mandates that "final action hiring" an applicant for employment be taken in open session, it can be argued that a governing body may take something less than final action in executive session to eliminate applicants from or to choose applicants for further consideration. That interpretation may be difficult to defend, however, on the basis that the purpose of meeting in closed session under this subsection would be undermined or that some harm would occur from public knowledge. Nevertheless, this issue is one that will need to be resolved by the courts or the legislature.

The second part of this provision concerns reviewing the performance of a public employee. This provision would be used typically either where the governing body is considering a promotion or a salary or wage increase for an individual employee or where it may be considering disciplinary action based on an employee's performance. It should be distinguished from subsection (f), which concerns specific complaints or charges brought against an employee and which, at the request of the employee, must be held in open session.

The result of a governing body's closed session review of the performance of an employee may be that the body will take some action either beneficial or adverse to the officer or employee. That action, whether raising a salary or disciplining an officer or employee, must be made in open session.

When a discussion involves salaries, wages, or conditions of employment to be "generally applied" in the agency, it must take place in open session. However, if that discussion involves collective bargaining negotiations or strategies, it is not subject to the Open Public Meetings Act and may be held in closed session without being subject to the procedural requirements for an executive session in RCW 42.30.110(2). See RCW 42.30.140(4)

***Case Example:** A city council meets in executive session to consider two applicants for the city manager position. During the discussion of the applicants' qualifications, particularly their past city manager experience, it becomes clear that a majority of the council members are not happy with the qualifications of either candidate. The discussion then turns to the search process and whether it was broad enough or sufficiently advertised to attract all interested and qualified candidates. A number of council members express dissatisfaction with the*

process and express a desire to begin the search for a city manager anew, with a more comprehensive search process. The council then closes the executive session and reconvenes the open session. A motion is made and a vote is taken to reject both of the candidates for the city manager position the council had evaluated in closed session. Then a second motion is made and approved to authorize city staff to develop a new search procedure that is broader and more extensively advertised than the original search. Did the council meet improperly in executive session?

Resolution: *Yes and no. The council was consistent with subsection (g) in discussing the merits of the two applicants. It did not vote on either of the applicants. That it became clear from the individual council members' expressions of opinion that neither applicant was sufficiently qualified from the council's point of view does not mean that it took any final action in closed session. The vote taken to reject both applicants took place in open session.*

However, the discussion concerning the search process should have taken place in open session, because it did not involve evaluating the qualifications of any applicant for the city manager position.

(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;

This provision applies when an elected governing body is filling a vacant position on that body. Examples of such bodies include a board of county commissioners, a city council, a school board, and the boards of special purpose districts, such as fire protection and water districts. Under this provision, an elected governing body may evaluate the qualifications for an applicant for a vacant position on that body in executive session. However, unlike when it is filling other positions, the governing body may interview an applicant for a vacancy in an elective office only in open session. As with all other appointments, the vote to fill the position must also be in open session.

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(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. RCW 42.30.110(1)(i).

This provision for holding an executive session is based on the legislative recognition that the attorney-client privilege between a public agency governing body and its legal counsel can co-exist with the Open Public Meetings Act. See *Final Legislative Report, Forty-Ninth Legislature, 1985 Regular and 1st Special Sessions*, at 270-71; see also *Port of Seattle v. Rio*, 16 Wn. App. 718, 724-25, 559 P.2d 18 (1977); AGO 1971 No. 33, at 20-23. However, that privilege is not necessarily as broad as it may be between a private party and legal counsel.

Three basic requirements must be met before this provision can be used by a governing body to meet in closed session. First, "legal counsel representing the agency" must attend the executive session to discuss the enforcement action, or the litigation or potential litigation. This is the only executive session provision that requires the attendance of someone other than the members of the governing body. The legal counsel may be the "regular" legal counsel for the agency, such as a city attorney or the county prosecutor, or it may be legal counsel hired specifically to represent the agency in particular litigation.

Second, the discussion with the legal counsel either must concern an agency enforcement action or it must concern litigation or potential litigation to which the agency, the governing body, or one of its members acting in an official capacity is or is likely to become a party. Discussions concerning enforcement actions or existing litigation could, for example, involve matters such as strategy or settlement.

Application of this provision to discussions of "potential litigation" is less straightforward. This is an unsettled area subject to a range of interpretations. A narrow interpretation is that the discussion must actually involve the potential litigation. For example, a governing body could meet in closed session to discuss whether the agency itself may want

to initiate a lawsuit or to discuss a possible response to a suit that will likely be brought against the agency. Under this interpretation, simply discussing a controversial action it is proposing to take for which it may be sued does not mean a governing body is discussing potential litigation.

A broader interpretation of the "potential litigation" provision is that it encompasses discussions by an agency of actions that involve a genuine legal risk to the agency. Under this interpretation, the likelihood that an agency may be sued for taking a certain action would allow the agency to discuss with its legal counsel in executive session the legal risks of that action. Discussion of such risks in closed session would permit the governing body to freely consider the legal implications of a proposed decision without the attendant concern that it might be jeopardizing some future litigation position. This interpretation is more consistent with the evident intent of this provision to protect the attorney-client privilege.

One approach to interpreting the potential litigation provision is to use an analogy to the public disclosure law cases concerning the disclosure exemption in RCW 42.17.310(1)(j) for records relevant to a "controversy" that would not be available under the rules governing pretrial discovery. In *Dawson v. Daly*, 120 Wn.2d 782, 791, 845 P.2d 995 (1993), the state supreme court interpreted this exemption as intended to protect attorney work product and the attorney-client privilege relating to a controversy, which the court defined as "completed, existing, or reasonably anticipated litigation." See also *Overlake Fund v. City of Bellevue*, 60 Wn. App. 787, 795-96, 810 P.2d 507 (1991).

Ultimately, the scope of the potential litigation provision will need to be clarified by the legislature or interpreted by the courts. The basic issue as to that scope is the tension between the attorney-client privilege as it applies to a governing body and its legal counsel and the public's right to know consistent with the policy of the Open Public Meetings Act.

The third requirement for meeting in closed session under this subsection is that public knowledge of the discussion would likely result in adverse legal or financial consequence to the agency. It is probable that public knowledge of most discussions of existing litigation to which the agency, the governing body, or one of its members in an official capacity is a party would result in adverse legal or financial consequence to the agency. Knowledge by one party in a lawsuit of the communications between the

opposing party and its attorney concerning that lawsuit will almost certainly give the former an advantage over the latter. The same probably can be said of most discussions that qualify as involving potential litigation.

Since the purpose of this executive session provision is only to allow the governing body to *discuss* litigation or enforcement matters with legal counsel, the governing body is not authorized to take final action regarding such matters in an executive session. It is an open question as to whether or to what extent the governing body in closed session may make certain decisions in the context of such a discussion in order to advance the litigation or enforcement action. However, since one purpose of shielding these discussions from public view is to protect the secrecy of strategic moves concerning litigation, the interpretation of the scope of the governing body's authority to take some actions in executive session under this provision should afford that protection. For example, may a city council informally vote or reach a consensus in executive session to authorize the city attorney to settle a case for no higher than a certain amount? Although this may be an issue that will need judicial resolution or legislative clarification, an interpretation supporting the council's authority to take such action appears warranted. Nevertheless, it is clear that the council's vote to give final approval to a settlement agreement must occur in an open meeting.

This provision is, in practice, often used as a justification for executive sessions, particularly because "potential litigation" is susceptible to a broad reading. Indeed, many things a public agency does will subject it to the possibility of a lawsuit. To avoid a reading of this subsection that may be broader than that intended by the legislature, it is important to look at the facts of each situation in the context of all the requirements of this subsection.

Case Example: *A board of county commissioners is considering adopting a stringent adult entertainment ordinance, and a company that had announced its intention to locate a nude dancing establishment in the county has stated that it will sue the county if it passes this ordinance. The commissioners call an executive session to discuss with the prosecuting attorney this "potential litigation." Specifically, they intend to discuss with the prosecuting attorney her opinion as to the proposed ordinance's*

constitutionality. May the commissioners meet in executive session to discuss this?

Resolution: *The county commissioners may discuss with their legal counsel in executive session the constitutionality of the proposed ordinance, particularly in light of the threatened legal challenge. They want to have a strong position coming into the litigation. The company's knowledge of their discussion would give it an unfair advantage in framing the constitutional theories in support of its threatened suit against the county. Also, the prosecuting attorney may not feel she can be totally candid with the commissioners in open session.*

The company, on the other hand, may argue that the commissioners are not discussing the potential litigation, but rather are only discussing the ordinance. The commissioners should always be aware of the constitutionality of the actions they take. But, that does not mean the commissioners have the authority to meet in executive session any time they are proposing legislation that may implicate constitutional issues. However, given the circumstances here, the commissioners' position should prevail.

(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;

The Western Library Network, formerly the Washington Library Network, is established and governed by chapter 27.26 RCW. The State Library Commission has responsibility for the network. This provision allows the commission or its advisory bodies to meet in executive session to consider network prices, products, equipment or services *when* open discussion of these matters "would be likely to adversely affect the network's ability to conduct business in a competitive economic climate."

(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.

This provision clearly is designed to protect the integrity of public trust or retirement funds. It allows the state investment board, established and governed by chapter 43.33A RCW, to consider commercial and financial information relating to the investment of such funds in closed session, if discussion in open session would result in loss to those funds or to the private providers of the information.

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OPEN RECORDS & OPEN MEETINGS



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The public records act was enacted to provide the people with broad rights of access to public records. The act provides that it shall be "liberally construed" to promote the public policy of providing information regarding the activities of government:

The people of this state do not yield their sovereignty to the agencies that 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 maintain control over the instruments that they have created. The public records subdivision of this chapter shall be liberally construed and its exemptions narrowly construed to promote this public policy.

RCW 42.17.251.

3.1 What Is A Public Record

A. General Overview

Statutory Provision: "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." RCW 42.17.020(36).

The definition of a public record (other than a legislature-related record) contains three elements. First, the

record must be a "writing," which is broadly defined in RCW 42.17.020(29) to include any means of recording any form of communication or representation. A writing includes not only conventional letters and memoranda, but also graphic representations and computer data, as discussed below.

Second, the writing must relate to the conduct of government or the performance of any governmental or proprietary function. *Dawson v. Daly*, 120 Wn.2d 782, 845 P.2d 995 (1993), gives examples of documents which do and do not meet this element. Documents in a prosecutor's files relating to an expert witness, and performance evaluations of a prosecutor, are public records because they relate to the performance of prosecutorial functions. Requests for verification of employment in a prosecutor's personnel file do not relate to such performance and are not public records.

Third, the writing must be either prepared, owned, used or retained by the agency. It may include data compiled for the issuance of a report (as well as the report itself), even though the agency had not intended to make the data compilation public. *See Yacobellis v. City of Bellingham*, 55 Wn. App. 706, 780 P.2d 272 (1989), *rev. den'd.*, 114 Wn.2d 1002, 788 P.2d 1077 (1990), *on remand*, 64 Wn. App. 295, 825 P.2d 324 (1992). Although this element is broad, it is not limitless. *Compare* AGO 1983 No. 9 (list of customers of public utility district is public record) *with* AGO 1989 No. 11 (registry of municipal bondholders is not public record because list compiled by trust company and never prepared, possessed or used by county issuer). There is some authority that personal notes, daily appointment calendars and other records used to refresh the writer's memory are personal, not public, records. *Yacobellis*, 55 Wn. App. at 712 (dictum). If documents are sent to an agency by mistake, and later returned, they are probably not public records. However, documents which are "used" or "prepared" by the agency do not lose public record status by transfer to a third party.

The determination of whether or not a document is a "public record" is a critical first step in determining whether or not the public records act has any application. *Oliver v. Harborview Med. Ctr.*, 94 Wn.2d 559, 565 n. 1, 618 P.2d 76 (1980). The definition of "public record" is to be liberally construed to promote full access to public records. *Id.* at p. 566.

The legislature added in 1995 additional language to the definition of "public record" to include certain records relating to the legislature.

***Case Example:** A public agency hires a consultant to assist it in resolving a specific problem. The consultant prepares a report and transmits the report to the agency. After receiving a public records request for the report, all copies are returned to the consultant. Is the report a public record?*

***Resolution:** It is unsettled whether records prepared and possessed by private persons are "public records" if the information contained in those records is utilized by the agency. However, given the liberal construction of the Act, it would appear in this example that the report was "used" by the agency and is likely a "public record."*

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B. What Is An "Agency" To Whom The Act Applies

Statutory Provision: "'Agency' includes all state and 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." RCW 42.17.020(1).

As noted above, only the records of a "state or local agency" are covered by the Act. The Act's definition of "agency" in RCW 42.17.020(1) is broad. Courts have interpreted that definition to include a city's design and development department, *Overlake Fund v. City of Bellevue*, 60 Wn. App. 787, 810 P.2d 507 (1991), *appeal after remand*, 70 Wn. App. 789, 855 P.2d 706, *review denied*, 123 Wn.2d 1009, 869 P.2d 1084 (1994); a county prosecutor's office, *Dawson v. Daly*, 120 Wn.2d 782, 845 P.2d 995 (1993), and a city's parks department, *Yacobellis v. City of Bellingham*, 55 Wn. App. 706, 780 P.2d 272 (1989), *appeal after remand*, 64 Wn. App. 295, 825 P.2d 324 (1992).

The Act does not apply to court case files; but such files are available through common law rights of access. *Nast v. Michels*, 107 Wn.2d 300, 307, 730 P.2d 54 (1986); see also *Cowles Publishing Co. v. Murphy*, 96 Wn.2d 584, 637 P.2d 966 (1981). The records of the Judicial Qualification

Commission are also exempt from disclosure. See *Garner v. Cherberg*, 111 Wn.2d 811, 765 P.2d 1284 (1988) (records not obtainable by subpoena). Accordingly, there is authority for the proposition that the Act does not apply to the judiciary, but there is no clear decision on that point.

Similarly, the application of the Act to the legislature was not clear until recent legislation limited access to most legislative records. RCW 42.17.020(36).

C. A "Writing" Includes Graphics and Computer Records

Statutory Provision: "'Writing' means handwriting, typewriting, printing, photostatting, 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." RCW 42.17.020(42).

The broad definition of "writing" includes by its terms graphic and computer records of an agency. There is little doubt that e-mail is a "means of recording any form of communication", and, therefore, a "writing." Open issues include whether and to what extent an agency is required to retrieve computer data in a particular format for the requesting party. The Act requires agencies to provide the "fullest assistance to inquirers." RCW 42.17.290. An agency may have the burden of demonstrating why it cannot put requested records in either a particular format (i.e., the category of assembly, such as by name or time period) or a particular medium (i.e., disk or hard copy). These issues may be resolved by a court under RCW 42.17.340.

The Act requires an agency to produce an "identifiable public record;" therefore, an agency is not required to create records which do not exist at the time of the request. RCW 42.17.270. However, it may not be considered a "new" record if a computer program allows the production of the

requested record with little or no change to the agency's method of producing the data. The cost of producing the record (discussed below) may also be unclear when the request involves significant efforts in location and production in a specific format. The Act provides that records be made available for inspection and, upon request, that copies be made. RCW 42.17.270 (discussed below).

Inspection of computer records appears to imply making available a terminal for review or supplying hard copies. Whether a computer record may be requested in a particular format (e.g., on a disk) is not yet specified by the Act, but the "fullest assistance" requirement of RCW 42.17.290 may impose such a duty when practical. The impracticality of copying certain computer data onto paper may guide the courts in determining the appropriate format(s).

D. Record Retention Duties Of Agencies

Statutory Provision: 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 shall retain possession of the record, and may not destroy or erase the record until the request is

resolved. RCW 42.17.290.

The first paragraph of RCW 42.17.290 requires agencies to adopt and enforce reasonable rules to protect public records from damage or disorganization. Such rules must provide for the "fullest assistance to inquirers" and the "most timely possible action" on requests. These rules may not be used by an agency to create either an exemption or other basis for withholding a record. *Hearst Corp. v. Hoppe*, 90 Wn.2d 123, 129-30, 580 P.2d 246 (1978). Agencies should have in place reasonable practices which allow them to promptly locate and produce requested documents if they are reasonably identified. The second paragraph addresses the limited situation when a record scheduled for destruction is the subject of a pending request. Presumably, the reasonable rules required in the first paragraph for the "protection of public records from damage" include rules relating to the agency's policy of records destruction.

Specific statutory requirements for the preservation, storage and destruction of *state* agency records are set forth in RCW 40.14. 010 *et seq.* Legislative records and the records of local agencies may be stored in the state archives. RCW 40.14.070 and .110.

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3.2 Procedures For Making A Request

A. No Statement Of Reasons Is Necessary

Statutory Provision: 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 42.17.260(5) or other statute which exempts or prohibits disclosure of specific information or records to certain persons. RCW 42.17.270.

A person making a public records request is not required by the Act to state a reason for the request. With one exception, release of information may not be conditioned

upon the purpose of the request. *Dawson v. Daly*, 120 Wn.2d 782, 845 P.2d 995 (1993); *In re Rosier*, 105 Wn.2d 606, 611, 717 P.2d 1353 (1986); *Yacobellis v. City of Bellingham*, 55 Wn. App. 706, 710, 780 P.2d 272 (1989), *review denied*, 114 Wn.2d 1002 (1990). The only limitation is that the Act may not be employed to obtain "lists of individuals requested for commercial purposes." RCW 42.17.260 (9). *See also* AGO 1988 No. 12 (access to list of individuals may be conditioned upon non-commercial use). The Act does not cover expressly whether an individual may obtain a list of individuals for someone else's commercial purpose, or whether a list of entities or organizations may be obtained for commercial purposes; but the intent of the limitation would be frustrated by such a construction. Agencies should refrain from seeking the inquirer's reasons for disclosure on a public records request form; a refusal to respond to such a question on a form may not be the basis for either delay or denial of the response.

B. No Particular Form Of Request Is Required

Statutory Provisions: "Agencies shall honor requests received by mail for identifiable public records unless exempted by provisions of this chapter." RCW 42.17.270.

"Such rules and regulations [to prevent public records from damage or disorganization] 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. . .from honoring requests received by mail for copies of identifiable public records." RCW 42.17.290.

No particular form of request is required by the Act. Although an agency is allowed to make its own reasonable rules for providing records, such rules shall provide for the "fullest assistance to inquirers" and for the "most timely action" in response to requests for records. RCW 42.17.290. The Act specifically allows for submission of requests by mail. *Id.*

The submission of a written request is advisable for several reasons. It confirms the date on which the record is

requested, and it also clarifies what is being requested. A written identification of the requesting party, with address and telephone number, will also facilitate a request for clarification by the agency of any ambiguous request.

***Case Example:** An agency receives via telefax a written request for identifiable public records. The agency responds by stating that the requesting party must come to the agency's offices and complete a form which includes, among other things, the reason(s) why the information is requested. The requesting party refuses to do so, and resubmitted the request by mail.*

***Resolution:** The agency must honor the request for identifiable public records when submitted by mail. Although not expressly provided by statute, the telefax request would probably be determined by a court to be the equivalent of a mailed request. The requesting party may refuse to state reasons for the requested records.*

A similar issue may arise with email requests. The Act has not yet been updated to address the technology of email requests. Some agencies may respond to such requests; other require a "hard copy" request that can be tracked for date of receipt and can be "delivered" to a designated employee.

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C. Agencies Must Establish Procedures For Assistance

Statutory Provisions: 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. RCW 42.17.250(1).

Agencies shall adopt and enforce reasonable rules and regulations. . . [which] shall provide for the fullest assistance to inquirers and the most timely possible action on requests for information. RCW 42.17.290.

An agency is required to adopt its own rules and regulations providing assistance to the public in obtaining information concerning that agency. The agency may have an official trained to respond to public records requests.

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D. Indexes Available to the Public

Statutory Provision:

(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(1) 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(8) that were entered after June 30, 1990; and

(e) Policy statements as defined in RCW 34.05.010(14) 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. RCW 42.17.260(3) - (5)

The requirements for the maintenance of indices of public records set forth in RCW 42.17.260(3) is excused if an agency makes an affirmative finding that maintaining such an index would be "unduly burdensome." However, a public record may be "relied on, used, or cited as precedent by an agency against a party" only if that record has been included in an index available to the public or the party affected thereby has timely actual or constructive notice of

the terms of the record. RCW 42.17.260(6).

E. Records Must Be Identifiable

Statutory Provision: 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. RCW 42.17.270.

An agency is required to respond to a request for "identifiable public records." This limitation on an agency's duty to respond has two components:

- (1) the request must be for a public record, and
- (2) the record must be "identifiable."

Accordingly, a public agency does not have broad duties under the Act to respond to questions or to furnish information that is not the subject of an identifiable public record. The requirement that a record be "identifiable" indicates that the identification need not be made with precision by the requesting party. A member of the public may not know the name of a specific record, but may be able to request the inspection of documents which relate to a specific topic. An agency has a duty to "provide for the fullest assistance to inquirers," RCW 42.17.290, which may include assisting inquirers in clarifying requests to fairly identify the documents which are intended to be requested.

***Case Example:** A person submits to an agency a request for the following: (a) the salaries of agency employees; (b) records stating the salaries of agency employees; and (c) records containing employment expenses for the agency. Which of these requests are for "identifiable public records."*

***Resolution:** A request for information, such as item (a), is not a request for a public record. The request in item (c) is so broad that it may be difficult for such records to be identifiable; but the agency may clarify the scope of this request with the requesting party. The request in item (b) is both for "records" and those which are "identifiable," even though the requesting party may not know the precise name of the record(s).*

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3.3 Agency Duties In Responding To Requests

A. Agencies Must Make Documents Available

Statutory Provision: 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 [RCW 42.17.260(6)], RCW 42.17.310, 42.17.315, or other statute which exempts or prohibits disclosure of specific information or records. RCW 42.17.260(1).

The Act provides broadly that an agency shall make available for inspection and copying all public records, unless covered by a specific exemption. A requesting party has a right to inspect and copy, but is not required to do both. For example, a person may choose to inspect all public records on a certain subject but copy only a portion of those records. The exemptions from disclosure are discussed below with more specificity.

B. Facilities Shall Be Made Available for Copying

Statutory Provision: 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. RCW 42.17.270.

A public agency is required to make public records available for copying. A limitation on the time and extent of copying required is when the request would "unreasonably disrupt the operations of the agency." Typically, a request for copies of documents is processed promptly by the agency and the requesting party is notified when the documents are available. If the amount of requested documents is not voluminous, the documents are often copied while the requesting party waits.

C. Times For Inspection And Copying

Statutory Provision: 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: *Provided*, That if the entity does not have customary office hours of at least thirty hours per week, the public records shall be available from nine o'clock

a.m. to noon and from one o'clock p.m. to four o'clock p.m. Monday through Friday, excluding legal holidays, unless the person making the request and the agency. . agree on a different time. RCW 42.17.280.

Public records must be made available for inspection and copying during the ordinary business hours of the agency. An agency which does not maintain ordinary business hours at least 30 hours per week must make such records available from 9 a.m. to noon and from 1 p.m. to 4 p.m., unless the requesting party and the agency agree on a different time. The time available for copying documents is affected by RCW 42.17.270, which provides that copying should not "unreasonably disrupt the operations of the agency."

D. Charges For Copying Records

Statutory Provisions: No fee shall be charged for the inspection of public records. No fee shall be charged for locating public documents and making them available for copying. A reasonable charge may be imposed for providing copies of public records and for the use by any person of agency equipment. . .to copy public records, which charges shall not exceed the amount necessary to reimburse the agency. . .for its actual costs directly incident to such copying. Agency charges for photocopies shall be imposed in accordance with the actual per page cost or other costs established and published by the agency. In no event may an agency charge a per page cost greater than the actual per page cost as established and published by the agency. To the extent the agency has not determined the actual per page cost for photocopies of public records, the agency may not charge in excess of fifteen cents per page. RCW 42.17.300

* * *

(7) Each agency shall establish, maintain, and make available for public inspection and copying a statement of the actual per page cost or other costs, if any, that it charges for providing photocopies of public records and a statement of the factors and manner used to determine the actual per page cost or other costs, if any.

(a) In determining the actual per page cost for providing photocopies of public records, an agency may include all costs directly incident to copying such public records including the actual costs of the paper and the per page cost for use of agency copying equipment. In determining other actual costs for providing photocopies of public records, an agency may include all costs directly incident to shipping such public records, including the cost of postage or delivery charges and the cost of any container or envelope used.

(b) In determining the actual per page cost or other 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 mail the requested public records may be included in an agency's costs.

(8) An agency need not calculate the actual per page cost or other costs it charges for providing photocopies of public records if to do so would be unduly burdensome, but in that event: The agency may not charge in excess of fifteen cents per page for photocopies of public records or for the use of agency equipment to photocopy public records and the actual postage or delivery charge and the cost of any container or envelope used to mail the public records to the requester. RCW 42.17.260(7) and (8).

No one may be charged a fee for the mere inspection of public records. Consequently, no agency may charge a person for the time involved in searching for records to be made available for inspection. Expenses for copying records must be limited to "actual" costs as determined by the agency. Such costs may include the paper, ink and cost per page of the use of copying equipment, together with staff salary expense directly related to the actual cost of copying. The actual cost of postage and any container necessary for shipping may also be included. General administrative or overhead charges may not be included in copying costs. If an agency has not calculated its actual copying cost per page, it is limited to a charge of 15 cents per page. An agency is not required to charge a fee for copying records; it may waive any fee for copying either on

its own initiative or at the invitation of the requesting party.

***Case Example:** A party requests the opportunity to inspect and copy certain documents from an agency. The agency responds that some of the information in the documents is covered by an exemption. The agency offers to allow inspection of redacted documents (i.e., with the exempt information deleted) if the party will pay the costs of copying the redacted documents and the cost of the employee who must locate, redact and copy the documents. Is the agency's offer consistent with RCW 42.17.260 and .300?*

***Resolution:** No agency may charge for the right to inspect a document. Accordingly, the costs of locating, redaction and copying a redacted document for inspection may not be charged to the inspecting party.*

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E. Prompt And Specific Written Responses Are Required

Statutory Provisions: 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 by either (1) providing the record; (2) 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; or (3) denying the public record request. 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 requests, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request. 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 requester to clarify what information the requester is seeking. If the

requester fails to clarify the request, 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. Denials of requests must be accompanied by a written statement of the specific reasons therefore. 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 of 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.

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 exemptions applies to the record withhold. RCW 42.17.310(4)

A response to a request for public records must be made within five business days of receipt of the request. The response must either be a production of the record, an acknowledgment of receipt of the request and a reasonable estimate of the time necessary for a response, or a denial of the request. The additional time needed to respond to a request may be based upon either: (1) the need to clarify a request; (2) additional time necessary to locate and respond to the request; (3) the need to contact a third party or agency affected by the request (see RCW 42.17.330--rights of third parties to enjoin disclosure); or (4) additional time necessary to determine whether certain information is covered by an exemption (see RCW 42.17.310(1)) and should not be disclosed in whole or in part. RCW 42.17.320. A request for voluminous records does not excuse an agency response within five days, even if the actual production of the records may take longer.

The failure to respond within the five-day time requirement was one factor considered in *DOE I v. Washington State Patrol*, 80 Wn. App. 296, 303, 908 P.2d 914 (1996) as a basis for determining that a requesting party "prevailed" against a state agency for the purposes of an award of attorneys' fees and statutory penalties (see RCW 42.17.340(4)).

If an agency response seeks clarification of a request, the

requesting party must clarify the intent of the request. A requesting party's failure to respond to a request for clarification excuses the agency from responding to the unclarified request. RCW 42.17.320.

Denials of requests must be made in writing and state specifically the reasons for the denial. RCW 42.17.320. The written response must identify the specific exemption on which the agency relies and a brief explanation of how that exemption applies to the records requested. RCW 42.17.310(4). In order to ensure compliance with the Act and to provide an adequate record for a reviewing court, the agency's response to a request for documents must include a means of identifying any individual records being withheld in their entirety. *Progressive Animal Welfare Soc'y v. University of Wash.*, 125 Wn.2d 243, 884 P.2d 592 (1994). An agency is not limited by the grounds stated in its initial written denial; it may argue additional bases for nondisclosure on judicial review. *Id.*

F. Duty To Redact Exempt Materials

Statutory Provision: Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section 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. RCW 42.17.310(2)

Agencies are not relieved of their obligations to respond to requests for public records because a portion of the document contains information covered by an exemption. An agency has a duty to delete or redact specific information covered by an exemption and disclose the remainder of the document. See *Hearst Corp. v. Hoppe*, 90 Wn.2d 123, 133, 580 P.2d 246 (1978).

G. No Liability for Good Faith Response

Statutory Provision: 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. RCW 42.17.258.

A good faith response by a public agency in releasing a public record absolves the agency or any public official or employee from liability arising from the disclosure. For example, an individual named in a public record may not hold a public agency liable for a good faith release of that record on the ground, for example, that disclosure violates the subject's privacy. Whether an agency acts in "good faith" may be at issue, however, when release of a record with clear privacy implications is made without an attempt to contact the subject

The protection afforded by RCW 42.17.258 does not apply to the non-disclosure of information; penalties and attorneys' fees may be awarded under RCW 42.17.340(4) to a prevailing party even if the non-disclosure is made in good faith. *See Amren v. City of Kalama*, 131 Wn.2d 25, 36, 929 P.2d 389 (1997).

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3.4 Review Of Agency Decision

A. Review By Agency Of Its Own Denial

Statutory Provision: Agencies. . .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. . .for the purposes of judicial review. RCW 42.17.320.

Final agency action for the purpose of granting a party the right to seek judicial review is deemed complete at the end of the second business day following denial of the right to inspect any portion of a record.

B. Informal Attorney General Review Of Denial By State Agency

Statutory Provision: 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. RCW 42.17.325.

When a state agency denies a requesting party the opportunity to inspect or copy a record, the party may request a review by the state attorney general. The attorney general will respond in writing whether the record is exempt. RCW 42.17.325. The right of review by the attorney general does not extend to denials of requests by local agencies. The statute does not clarify whether a state agency is bound by the determination of the attorney general, or whether statutory penalties and the right of judicial review are stayed during the attorney general review.

C. Third-Party Action To Enjoin Disclosure

Statutory Provision: 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. RCW 42.17.330

A third party named in a record, or to whom a record pertains, may seek injunctive relief to enjoin disclosure of a record. RCW 42.17.330. The action may be commenced in the superior court where that person resides or where the record is maintained. *Id.* The agency may notify persons named in a record, or to whom a record pertains, that the record is subject to a pending record request under the Act, unless the agency is required by law to give such notice, and in that event the notice is mandatory. The right to maintain a third-party action to enjoin disclosure of a public record does not

eliminate the requirement that a specific exemption from disclosure must exist to prevent disclosure of the public record. *Progressive Animal Welfare Soc'y v. University of Wash.*, 125 Wn.2d 243, 884 P.2d 592 (1994).

D. Judicial Review Of Agency Actions

Statutory Provisions:

(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, 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 is provided is reasonable.

(3) Judicial review of all agency actions taken or challenged under RCW 42.17.250 through 42.17.320 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. RCW 42.17.340(1), (2) and (3).

Inspection or copying of any specific records exempt under the provisions of this section 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. RCW 42.17.310(3)

Judicial review of any denial of the opportunity to inspect and copy a record requested under the Act may be had in the superior court of the county in which a record is maintained. RCW 42.17.340(1). The agency has the burden of proof that a specific exemption applies to the record(s) withheld from disclosure. *Id.*; *Hearst Corp. v. Hoppe*, 90 Wn.2d 123, 130, 580 P.2d 246 (1978). Even if a record is covered by an exemption, a superior court may nonetheless determine, after a hearing, that the exemption is not necessary to protect any right of privacy or any vital governmental function, and order disclosure of the record. RCW 42.17.310(3).

A superior court may also adjudicate the reasonableness of an agency's estimate of time for making the determination on a request for public records. RCW 42.17.340(2).

The review of an agency action is de novo (i.e., the matter is subject to a complete review of all facts and factors). RCW 42.17.340(3). Courts shall take into account the public policy under the Act (see e.g., RCW 42.17.251) to permit free and open examination of records; the inconvenience or embarrassment to public officials or others shall not be the basis for nondisclosure. *Id.*

The procedure for judicial review is set forth in RCW 42.17.340. The Act contemplates a show cause hearing to require an agency to appear and show cause why it has refused the right to inspect and copy records. RCW 42.17.340(1); see also, *Cowles Publishing Co. v. City of Spokane*, 69 Wn. App. 678, 683, 849 P.2d 1271, review denied, 122 Wn.2d 1013 (1993). The agency may argue at the show cause hearing bases for exemptions other than those stated at the agency level. *Id.*, 69 Wn. App. at 683. Courts may hold hearings based solely on affidavits, or they may hear live testimony. RCW 42.17.340(3). Records for which an agency asserts an exemption may be reviewed by the court in camera (i.e., reviewed by the judge's eyes only). *Id.* The court's decision whether to review the documents in camera is reviewed only for abuse of discretion. *Yakima Newspapers, Inc. v. City of Yakima*, 77 Wn. App. 319, 890 P.2d 544 (1995). There is authority to allow the requesting party's attorney to review the documents under a protective order. *Seattle Firefighters v. Hollister*, 48 Wn. App. 129, 131, 737 P.2d 1302 (1987).

E. Attorneys' Fees And Statutory Penalty

Statutory Provision: 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 less than five dollars and not to exceed one hundred dollars for each day that he was denied the right to inspect or copy said public record. RCW 42.17.340(4).

A party who "prevails" against an agency in a lawsuit seeking either the disclosure of a record or the right to receive a response within a reasonable time may recover costs and reasonable attorneys' fees. RCW 42.17.340(4). In addition, the court shall have the discretion to award a statutory penalty of between \$5 and \$100 per day for each day that the requesting party was denied the right to inspect and copy a public record. *Id.*

A "prevailing party" is one who has the affirmative judgment rendered in its favor at the conclusion of the entire case. *Overlake Fund v. City of Bellevue*, 70 Wn. App. 789, 855 P.2d 706, review denied, 123 Wn.2d 1009 (1993); *Yacobellis v. City of Bellingham*, 64 Wn. App. 295, 825 P.2d 324 (1992). Award of attorneys' fees, when appropriate, includes attorneys' fees incurred on appeal. *Progressive Animal Welfare Soc'y v. University of Wash.*, 125 Wn.2d 243, 884 P.2d 592 (1994). The court may award fees even where an agency provides a record when no judgment is entered if the existence of the lawsuit had a causative effect on the disclosure. *Coalition of Government Spying v. Department of Public Safety*, 59 Wn. App. 856, 801 P.2d 1009 (1990).

The award of attorneys' fees and the award of the statutory penalty is mandatory, although the amount is within the court's discretion. *Progressive Animal Welfare Soc'y v. University of Wash.*, 114 Wn.2d 677, 683-84, 790 P.2d 604 (1990); *DOE I v. Washington State Patrol*, 80 Wn. App. 296, 302, 908 P.2d 914 (1996); *Lindberg v. Kitsap Cy.*, 82 Wn. App. 566, 574, 919 P.2d 89 (1996) *Amren v. City of Kalama*, 131 Wn.2d 25, 36-37, 929 P.2d 389 (1997). The principal factor to be considered in setting the amount of the statutory penalty is whether the agency acted in bad faith, *Amren*, 131 Wn.2d at 37-38, *Yacobellis v. City of Bellingham*, 64 Wn. App. 295, 303, 825 P.2d 324 (1992), but bad faith is not required. No showing of actual loss by the requesting party is required. See *Yacobellis*, 64 Wn. App. at 303. At least one court has determined that when an award of a statutory penalty is appropriate, a separate penalty should be awarded for each person denied access to a public record "for each record . . . requested." *Lindberg*, 82 Wn. App. at 575. The court did not clarify whether multiple records contained

within a single document request would result in the imposition of multiple penalties or a single penalty.

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4.1 Introduction - Privacy and Vital Governmental Interest

The Public Records Act lists thirty-four categories of public records that are exempt from disclosure. RCW 42.17.310. These are exemptions, not prohibitions, from disclosure; therefore, to the extent that no person's right to privacy would be invaded by disclosure of the information contained in a record, an agency may waive an exemption if it chooses to do so. AGO 1980 No.1. None of the exemptions may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons. RCW 42.17.310(2). Also, many documents contain some information that is exempt along with other information that is not exempt. Generally a record is not exempt to the extent that exempted material can be expurgated from it, leaving

the remainder of the document available for inspection and copying. RCW 42.17.310(2); *Hearst Corp. v. Hoppe*, 90 Wn.2d 123, 580 P.2d 246 (1978).

Under RCW 42.17.310(2), agencies should only remove information that violates personal privacy or a vital governmental interest. The courts first defined this right of "personal privacy" in *Hearst v. Hoppe, supra*, to only include information that is:

- (1) highly offensive to a reasonable person, and
- (2) of no legitimate public concern.

Following the discussion of personal privacy in *In re Rosier*, 105 Wn.2d 606, 717 P2d. 1353 (1986), the legislature incorporated that definition in the statute, RCW 42.17.255. The court in *Hearst* described the right as including matters that one only shares with their family or closest friends, such as sexual or marital matters. It is notable that the agency must satisfy both elements of the test. While the information may be offensive, it may not be exempt if there is a legitimate public concern.

The term "vital governmental interest" is, in some ways, self-defining. Through the adoption of exemptions to disclosure, the legislature has found some information is exempt to preserve the necessary functions of the government. An example is the exemption for investigative records which exempts those records during the investigation, preserving the ability of agencies to thoroughly ascertain the facts without interference; however, when the investigation is completed, the exemption no longer applies because the release would not impair a vital governmental interest.

A. Student And Institutional Records

Statutory Provision: Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients is exempt from disclosure. RCW 42.17.310(1)(a).

Nondisclosure of personal information contained in these records is not conditioned upon violation of any person's right to privacy. *See* section 4.1, *supra*, for a discussion on the right to privacy. Certain records are exempt from disclosure upon the condition that disclosure would violate the right to privacy of an individual. Under the Public Disclosure Act, a person's right to privacy is violated if disclosure of information about a person would be highly offensive to a reasonable person and the information is not of legitimate concern to the public. RCW 42.17.255.

There are two statutory exceptions to this exemption: (1) the

public may have access to a jail register of jail inmates, RCW 70.48.100; criminal history record information of past convictions and information pertaining to an incident for which a person is currently being processed in the criminal justice system, Chapter 10.97 RCW.

***Case example:** A claims investigator requests records and a roster of participants in a summer jobs program designed to provide work training for at-risk youth. The request is denied because the files contain data regarding juveniles along with such social information as school, criminal, and welfare status of the participants.*

***Resolution:** The agency may provide program information such as handbooks, job descriptions, and rosters of participants to the extent that identifying information is deleted.*

B. Employee Records

Statutory Provision: "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." RCW 42.17.310(1)(b)

Washington courts have not defined precisely what information in personnel records is deemed to violate a right of privacy; however, applications for public employment, resumes and related material, and the residential addresses and telephone numbers of employees are specifically exempt under other sections of the statute. RCW 42.17.310(1)(t), -.310(1)(u). *See also Yakima Newspapers, Inc. v. City of Yakima*, 77 Wn. App. 319, 890 P.2d 544 (1995) (information is exempt from disclosure as personal if it concerns intimate details of employee's personal and private life); *Washington State Human Rights Comm'n v. City of Seattle*, 25 Wn. App. 364, 607 P.2d 332 (1980) (information requested by employment application that elicits personal and confidential information pertaining to the applicant's life and past activities are matters of personal privacy). Disclosure of information revealing an employee's disability would not be highly offensive to a reasonable person unless the disability is of a disgraceful or humiliating nature. *Seattle Fire Fighters Union, Local No. 27, v. Hollister*, 48 Wn. App. 129, 737 P.2d 1302 (1987), *review denied*, 108 Wn.2d 1033 (1987). *Compare* RCW 42.17.312 (medical and health care records shall be

disclosed pursuant to Chapter 70.02 RCW).

Information in employee files about public job performance is of legitimate interest to the public. Except to the extent that they discuss specific incidents of misconduct, however, disclosure of an employee's performance evaluations would be highly offensive to a reasonable person. *Dawson v. Daly*, 120 Wn.2d 782, 845 P.2d 995 (1993); *Brown v. Seattle Public Schools*, 71 Wn. App. 613, 860 P.2d 1059 (1993). In *Dawson v. Daly*, the court held that there was no legitimate public concern in disclosure of the performance evaluations of a deputy prosecutor to a potential defense expert witness because it would impair employee morale if employees thought that their evaluations would be made public to anyone who requested them and because supervisors would be reluctant to write candid evaluations of their subordinates. The requester in *Brown* was a PTA president who sought access to an elementary school principal's performance evaluations. The court upheld denial of the request, citing *Dawson v. Daly*. The decision also stated: "There is no discussion of specific instances of **misconduct** on Brown's part, only shortcomings and performance criticisms, as well as praises." The implication of this statement is that "specific instances of misconduct" are instances that lead to disciplinary action as opposed to only criticism from a supervisor.

Washington courts have found certain specific instances of misconduct to be of legitimate interest to the public, despite the embarrassing nature of the disclosure. *See Brouillet v. Cowles Publishing Co.*, 114 Wn.2d 788, 791 P.2d 526 (1990) (records of teacher certificate revocation records are of legitimate public interest); *Columbian Publishing Co. v. City of Vancouver*, 36 Wn. App. 25, 671 P.2d 280 (1983) (the investigative agency exemption did not apply to shield the job performance investigation of police chief). *But cf. Tacoma v. Tacoma News, Inc.*, 65 Wash. App. 140, 827 P.2d 1094, *review denied*, 119 Wn.2d 1020, 838 P.2d 692 (1992) (unsubstantiated claims are not specific instances of misconduct).

This exemption includes records in files for current and former employees, whether held by an employing agency or other agency, such as a retirement system. *Seattle Fire Fighters Union, Local No. 27, v. Hollister*, 48 Wn. App. 129, 737 P.2d 1302 (1987), *review denied*, 18 Wn.2d 1033 (1987).

Case Example: *A caller, claiming to be the widower of a deceased employee, requests that the personnel agency provide him with a copy of the deceased employee's personnel records so that he can determine the identity of the beneficiary of the employee's life insurance policy.*

Resolution: *The agency insists that the request be made in writing and accompanied by such information as would assure them of the identity and status of the requester, since information identifying an insurance beneficiary is private and does not pertain to job performance. The status of the employee as deceased or of the personnel file as archived does not relieve the agency of the obligation to provide access to a file.*

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C. Taxpayer Information

Statutory Provision: Information required of any taxpayer in connection with the assessment or collection of any tax is exempt from disclosure if the disclosure would be prohibited pursuant to RCW 82.32.330 or would violate any taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer. RCW 42.17.310(1)(c).

See Van Buren v. Miller, 22 Wn. App. 836, 592 P.2d 671 (1979), review denied, 92 Wn.2d 1021 (1979) (information relied upon by the assessor to make valuation is not private); Hearst Corp. v. Hoppe, 90 Wn.2d 123, 580 P.2d 246 (1978).

D. Investigative Information

Statutory Provision: "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." RCW 42.17.310(1)(d).

"Specific . . . investigative records" are those which are the result of an investigation focusing on a particular party, *Laborers Int'l Union of North America, Local No. 374 v. City of Aberdeen*, 31 Wn. App. 445, 642 P.2d 418 (1982), *review denied*, 97 Wn.2d 1024 (1982), or an investigation to ferret out criminal activity or to shed light on specific misconduct. *Dawson v. Daly*, 120 Wn.2d 782, 845 P.2d 995 (1993); *Columbian Publishing v. City of Vancouver*, 36 Wn. App. 25, 671 P.2d 280 (1983). If a law enforcement agency

maintains reports as part of a routine administrative procedure, not as the result of a specific complaint or allegation of misconduct, the reports are not investigative reports within the terms of this exemption. For example, "Use of Force Administrative Reports" prepared by police whenever there is contact between a K-9 unit dog and a person were held not within the investigative information exemption. *Cowles Publishing v. City of Spokane*, 69 Wn. App. 678, 849 P.2d 1271 (1993), *review denied*, 122 Wn.2d 1013 (1993).

"Investigative, law enforcement, and penology agencies" are agencies vested with authority to investigate and penalize, such as the police, the police internal affairs investigation unit, the Public Disclosure Commission, or a local health department. An investigative agency which is not acting in its investigative capacity may exempt only those records made in its investigative function. *Columbian Publishing Co. v. City of Vancouver*, 36 Wash. App. 25, 671 P.2d 280 (1983) (a general inquiry into agency personnel matters is not an "investigation," as contemplated by the Public Disclosure Act, even if it's performed by law enforcement officers).

The contents of an open, ongoing investigation are generally exempt from disclosure because premature disclosure of information could jeopardize the investigation. *Ashley v. Washington State Public Disclosure Comm'n*, 16 Wn. App. 830, 650 P.2d 1156 (1977), *review denied*, 89 Wn.2d 1010 (1977). Once the investigation is completed, the records can be made available. *Hearst v. Hoppe*, 90 Wn.2d 123, 580 P.2d 246 (1978). However, specific records of completed investigations can be withheld if their disclosure would jeopardize witnesses or discourage potential sources of information from coming forward in the future. *Cowles Publishing Co. v. State Patrol*, 109 Wn.2d 712, 748 P.2d 597 (1988); *Tacoma News, Inc. v. Tacoma-Pierce County Health Dep't*, 55 Wn. App. 515, 778 P.2d 1066 (1989), *review denied*, 113 Wn.2d 1037 (1990).

The names of complainants, witnesses and officers contained in police Internal Investigation Unit (IIU) files of completed investigations of sustained complaints, but not the substance of the files, are exempt from disclosure because the IIU process is vital to law enforcement and officers would be reluctant to be candid if they thought their identities or that of other officers would be disclosed. *Cowles Publishing v. State Patrol*, 109 Wn.2d 712, 748 P.2d 597 (1988). Where the identity of the officer who was the subject of the investigation is well known through other sources, nondisclosure of his name is not essential to effective law enforcement. *Ames v. City of Fircrest*, 71 Wn. App. 284, 857 P.2d 1083 (1993). *But see Brouillet v. Cowles Publishing Co.*, 114 Wn.2d 788, 791 P.2d 526 (1990) (in dicta, the court encouraged a narrow view of what constitutes law enforcement purposes, holding that revocation of teacher certificates was not contemplated by the exemption). The

Cowles court held that the nondisclosure of officers' names contained in the IIU files was not necessary for the protection of their privacy.

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**E. Identity Of Complainants,
Witnesses And Victims**

Statutory Provision: "Information revealing the identity of witness to or victims of a crime or a person who files a complaint with an investigative, law enforcement or penology agency is exempt 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 public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath." RCW 42.17.310(1)(e).

An agency need not verify the accuracy of the alleged endangerment, but the desire for nondisclosure must be based upon endangerment rather than mere embarrassment at the prospect of disclosure. Agencies should inquire at an early stage of the complaint process to preserve confidentiality.

F. Examination Materials

Statutory Provision: "Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination." RCW 42.17.310(1)(f).

G. Real Estate Appraisals

Statutory Provision: "Except as provided by chapter 8.26 RCW, the contents of real estate appraisals made for or by an agency relative to the acquisition or sale of property are exempt from disclosure until all of the property has been acquired or has been sold or three years from the date of appraisal, whichever occurs first."

RCW 42.17.310(1)(g).

H. Research Data And Intellectual Property

Statutory Provision: "Valuable formulae, designs, drawings, and research data data obtained by an agency within five years of the request for disclosure are exempt from disclosure when disclosure would produce private gain and public loss." RCW 42.17.310(1)(h).

The purpose of this exemption is to prevent appropriation by private concerns of potentially valuable intellectual property held by an agency. *Progressive Animal Welfare Soc'y v. University of Wash.*, 125 Wn.2d 243, 884 P.2d 592 (1994), *partial reconsideration denied*. Valuable formula or research data may include material in an unfunded university grant proposal, including raw data and guiding hypotheses that structure data, *Id.*, and a cash flow analysis prepared by a consultant to assist an agency in negotiating lease rates for potential developers of agency properties. *Servais v. Port of Bellingham*, 127 Wn.2d 820, 904 P.2d 1124 (1995). In *Servais*, the cash flow analysis was held to be exempt within this exemption because private developers would benefit by insight into the port's negotiating position to the detriment of the public if the cash flow analysis were disclosed. Research data, which is not restricted to scientific or technical information, means a body of facts and information collected for a specific purpose and derived from close careful study or from scholarly or scientific investigation or inquiry, the disclosure of which would result in private gain and public loss.

In addition to the protections of this exemption, intellectual property may also be covered by the Washington Trade Secrets Act, Chapter 19.108 RCW. *Servais v. Port of Bellingham*, 127 Wn.2d 820, 904 P.2d 1124 (1995).

4.2 Other Public Records Exemptions In chapter 42.17 RCW

The 33 exemptions in .310(1) are the most easily identified exemptions. However, chapter 42.17 RCW contains other sections that discuss or provide for certain exemptions. Why these matters were not made subsections .310(1) is not clear. In some cases, the wording of the exemption does not fit the format of .310(1) and it is more convenient to have a separate section. In other cases, it appears to be a decision of the code reviser, or perhaps a legislative directive to create a new "section" without recognizing that the exemption

could have been designated as a new subsection of .310(1). There are at least 14 such provisions.

A. Health Care Provider Records

Chapter 70.02 RCW applies to public inspection and copying of health care information of patients. RCW 42.17.312.

There are no reported concerning a controversy or interpretation of this exemption.

B. Check Cashier/Seller

Information and an application for licensing or 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. RCW 42.17.313.

There are no reported cases concerning a controversy or interpretation of this exemption.

C. Electrical Utility Records

A law enforcement authority may not request inspection or copying of records of any person, which belong 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 rule is inadmissible in any criminal proceeding. RCW 42.17.314.

This exemption only applies to a specific requester, namely, a law enforcement agency. It was passed in response to the decision in *In re Rosier*, 105 Wn.2d 606, 717 P.2d 1353 (1986), which limited the ability of law enforcement to engage in "fishing expeditions" through utility records while investigating marijuana growing

operations. A telephone request not sufficient. *State v. Maxwell*, 114 Wn.2d 761, 791 P.2d 223 (1990). Voluntary production of information about power consumption does not violate the statute. *State v. Maxfield*, 125 Wn.2d 378, 886 P.2d 123 (1994). *See also State v. Cole*, 128 Wn.2d 262, 906 P.2d 925 (1995).

D. State Colleges, Libraries, And Archives

Notwithstanding the provisions of RCW 42.17.260 through 42.17.340, as now or hereafter amended, no state college, university, library, or archive shall be required by chapter 42.17 RCW to make available for public inspection and copying any records or documents obtained by said college, university, library, or archive through or concerning any gift, grant, conveyance, bequest, or devise, the terms of which restrict or regular public access to such records or documents: PROVIDED, That this section shall not apply to any public records as defined in RCW 40.14.010. RCW 42.17.315.

There are no reported cases concerning a controversy or interpretation of this exemption.

E. Impaired Physician Program

The disclosure requirements of this chapter shall not apply to records of the committee obtained in an action under RCW 18.71.300 through 18.71.340. RCW 42.17.316.

There are no reported cases concerning a controversy or interpretation of this exemption.

F. Commercial Fertilizer Distribution

Information provided under RCW 15.54.362 is exempt from disclosure under this chapter. RCW 42.17.317.

There are no reported cases concerning a controversy or interpretation of this exemption.

G. Concealed Pistol Applications

The license applications under RCW 9.41.070 are exempt

from the disclosure requirements of this chapter. Copies of license applications or information on the applications may be released to law enforcement or corrections agencies. RCW 42.17.318.

There are no reported cases concerning a controversy or interpretation of this exemption.

H. Investment Opportunities Office

Notwithstanding the provisions of RCW 42.17.260 through RCW 42.17.340, no financial or proprietary information supplied by investors or entrepreneurs under chapter 43.330 RCW shall be made available to the public. RCW 42.17.319.

There are no reported cases concerning a controversy or interpretation of this exemption.

I. Child Sexual Assault Victims

Information revealing the identity of child victims of sexual assault who are under age eighteen is confidential and not subject to public disclosure. Identifying information means the child victim's name, address, location, photograph, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator. RCW 42.17.31901.

There are no reported cases concerning a controversy or interpretation of this exemption.

J. Infant Mortality Review

Notwithstanding the provisions of RCW 42.17.250 through 42.17.340, no local health department may be required under this chapter to make available for public inspection or copying any records or documents obtained, prepared, or maintained by the local health department for the purposes of infant mortality review conducted by the department pursuant to RCW 70.05.170. This section shall not apply to published statistical compilations and

reports relating to the infant mortality review studies that do not identify individual cases and sources of information. RCW 42.17.31902.

There are no reported cases concerning a controversy or interpretation of this exemption.

K. Insurance Commission Viator Identification

The names and individual identification data of viators regulated by the insurance commissioner under chapter 48.102 RCW are exempt from the disclosure and reporting requirements of this chapter. RCW 42.17.31903.

There are no reported cases concerning a controversy or interpretation of this exemption.

L. Insurance Antifraud Plans

Information provided under RCW 48.30A.045 through 48.30A.060 are exempt from disclosure under this chapter. RCW 42.17.31904.

There are no reported cases concerning a controversy or interpretation of this exemption.

M. Insurance Information

Any 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 48.46.425 is exempt from disclosure under this Chapter. RCW 42.17.31905.

There are no reported cases concerning a controversy or interpretation of this exemption.

N. Fireworks Records

All records obtained and all reports produced, as required under chapter 70.77 RCW, are not subject to the disclosure requirements under this chapter. RCW 42.17.31906.

There are no reported cases concerning a controversy or interpretation of this exemption.

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Open Records & Open Meetings

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5.1 Exemptions In § .310(1)

(i) Deliberative Process Exemption

Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action. RCW 42.17.310(1)(i).

Preliminary notes or recommendations may be withheld by an agency but only if they pertain to the agency's deliberative process, i.e., the exchange of predecisional opinions within an agency. The purpose of this exemption severely limits its scope. *Progressive Animal Welfare Soc'y v. University of Wash.*, 125 Wn.2d 243, 256, 884 P.2d 592 (1994); *Hearst Corp. v. Hoppe*, 90 Wn.2d 123, 580 P.2d 246 (1978). Its purpose is to "protect the give and take of deliberations necessary to formulation of agency policy." *Hearst Corp. v. Hoppe*, at 123; *Progressive Animal Welfare Soc'y v. University of Wash.*, at 256.

The exemption applies only to documents that are part of the deliberative or policy-making process; documents concerning the implementation of policy are not covered. *Cowles Publishing v. City of Spokane*, 69 Wn. App. 678, 849 P.2d 1271 (1993), *review denied*, 122 Wn.2d 1013 (1993). For this reason, inter-agency discussions probably are not covered by the exemption. *Columbian Publishing Co. v. City of Vancouver*, 36 Wash. App. 25, 671 P.2d 280 (1983).

Matters that are factual, or that are assumed for purposes of agency discussion to be factual, must be disclosed. *Brouillet v. Cowles Publishing Co.*, 114 Wn.2d 788, 791 P.2d 526 (1990); *Hearst Corp. v. Hoppe*, 90 Wn.2d 123, 580 P.2d 246 (1978) (description of a taxpayer's home by a field assessor treated as fact by agency appraisers). Thus, unless disclosure would reveal or expose the deliberative process, as distinct from the facts upon which a decision is based, the exemption does not apply. *Hearst*

under this exemption. *Progressive Animal Welfare Soc'y v. University of Wash.*, 125 Wn.2d 243, 257, 884 P.2d 592 (1994). An evaluation of real property site requested by the City Attorney was not deliberative process material where it was cited as the basis for a final action. *Overlake Fund v. City of Bellevue*, 60 Wn. App. 787, 810 P.2d 507 (1991), *appeal after remand*, 70 Wn. App. 789, 855 P.2d 706, *review denied*, 123 Wn.2d 1009 (1994) (study ultimately withheld on other grounds).

In order to rely on this exemption, an agency must show that the records contain predecisional opinions or recommendations of subordinates expressed as part of a deliberative process; that disclosure would be injurious to the deliberative or consultative function of the process; that disclosure would inhibit the flow of recommendations, observations, and opinions; and finally, that the materials covered by the exemption reflect policy recommendations and opinions and not raw factual data on which a decision is based. *Progressive Animal Welfare Soc'y v. University of Wash.*, 125 Wn.2d at 256.

Subjective evaluations are not exempt under (1)(i) if they are treated as raw factual data and not subject to further deliberation and consideration. *Progressive Animal Welfare Soc'y v. University of Wash.*, 125 Wn.2d at 256-57; *Hearst Corp. v. Hoppe*, 90 Wn.2d at 134.

Case example: *A public agency conducts an internal review of a specific problem. A report is prepared consisting of an overview of the problem, information collected or reviewed, and recommendations as to policy changes.*

Resolution: *The latter is the only information that is likely to be exempt, unless the agency can show that the remainder of the report contains information that is inextricably intertwined with the recommendation, i.e., release of the factual or discussion portions would be tantamount to releasing the recommendations. This is the seldom the case and, for that reason, portions of predecisional memos are usually accessible even before a public agency makes a final decision.*

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(j) Information Protected In Litigation

Records which 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. RCW 42.17.310(1)(j).

If an agency is a party to a controversy, the agency may withhold documents that normally would be privileged under litigation discovery rules. A "controversy" includes threatened, actual, or completed litigation. *Dawson v. Daly*, 120 Wn.2d 782, (1993).

This exemption includes both the attorney-client privilege, *Port of Seattle v. Rio*, 16 Wn. App. 718, 559 P.2d 18 (1977), and attorney work product, *FTC v. Grolier, Inc.*, 462 U.S. 19, 76 L. Ed. 2d 387, 103 S. Ct. 2209 (1983). A document is work product if an attorney prepares it in confidence and in anticipation of litigation and if the requester could obtain substantially equivalent information by other means. For example, a study of the economic viability of hotels of various sizes, commissioned by a city attorney's office to determine the city's potential liability for a constitutional takings claim qualified as work product and was insulated from disclosure. *Overlake Fund v. City of Bellevue*, 70 Wn. App. 789, 855 P.2d 706 (1993), *review denied*, 123 Wn.2d 1009 (1994).

A similar federal Freedom of Information Act (FOIA) exemption has been interpreted to include materials not "routinely available" in discovery during litigation, but if those materials are cited by an agency as the basis for agency action, the exemption is lost, *NLRB v. Sears*, 421 U.S. 132, 95 S. Ct. 1504, 44 L.Ed.2d 29 (1975).

(k) Archaeological Site Protection

Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites. RCW 42.17.310(1)(k).

There are no reported cases concerning a controversy regarding this exemption.

(l) Library Records

Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose

the identity of a library user. RCW 42.17.310(1)(I).

There are no reported cases concerning a controversy regarding this exemption. The exemption is designed to allow public libraries to protect the anonymity of library users.

(m) Construction Bidders

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 (i) ;a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (ii) ;highway construction or improvement as required by RCW 47.28.070. RCW 42.17.310(1).

There are not reported cases regarding a controversy concerning this exemption.

(n) Railroad Contracts

Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter. RCW 42.17.310(1).

There are no reported cases regarding a controversy concerning this exemption. However, RCW 81.34.070 was repealed by the Legislature in 1991.

(o) Export Services

Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 43.163 RCW and chapter 53.31 RCW. RCW 42.17.310(1).

There are no reported cases regarding a controversy concerning this exemption. The cited statutes deal with the Economic

(p) Private Vocational Schools

Financial disclosures filed by private vocational schools under chapter 28C.10 RCW. RCW 42.17.310(1).

There are no reported cases regarding a controversy concerning this exemption.

(q) Utilities And Transportation Records

Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095. RCW 42.17.310(1).

There are no reported cases regarding a controversy concerning this exemption.

(r) Economic Development Loan Information

Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 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. RCW 42.17.310(1).

There are no reported cases regarding a controversy concerning this exemption.

(s) Timeshare Condominiums

Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department. RCW 42.17.310(1).

There are no reported cases regarding a controversy concerning this exemption.

(t) Applicants For Public Employment

All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant. RCW 42.17.310(1).

There has been no case law construction of the phrase "other related materials submitted with respect to an applicant." If, however, an applicant is hired, most agencies do not consider that this exemption applies to the records mentioned therein. Instead, public agencies look to exemptions such as (1)(b) and (u) to decide whether or not to disclose personal information.

(u) Residential Addresses/Phone Numbers Of Employees Or Volunteers

The residential addresses and residential telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers. RCW 42.17.310(1).

A public agency may, however, be required to provide addresses of its employees to unions under WAC 356-42-045 and WAC 251-14-056. See RCW 42.17.311.

(v) Residential Addresses/Phone Numbers Of Public Utility Customers

The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers. RCW 42.17.310(1).

this exemption.

(w) Personal Information In Department Of Health Files

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(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentiality, investigatory, disciplinary, and examination organizations; (ii) ;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, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January ;1, 1995, the current residential address and residential telephone number of a health care provider governed under RCW 18.130.140 maintained in the files of the department shall automatically be withheld from public inspection and copying if the provider has provided the department with an accurate alternative or business address and telephone number. RCW 42.17.310(1).

There are no reported cases regarding a controversy concerning this exemption.

(x) Board Of Pharmacy

Information obtained by the board of pharmacy as provided in RCW 69.45.090.

There are no reported cases regarding a controversy concerning this exemption.

(y) Board Of Pharmacy/Department Of Health

Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420. RCW 42.17.310(1).

There are no reported cases regarding a controversy concerning this exemption.

(z) Industrial Development Corporations

Financing information, business plans, examination reports, and any information produced or obtained in evaluating or examining business and industrial development corporation organized or seeking certification under chapter 31.24 RCW. RCW 42.17.310(1).

There are no reported cases regarding a controversy concerning this exemption.

(aa) State Investment Board

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.

There are no reported cases regarding a controversy concerning this exemption.

(bb) Workers Compensation Contractors

Financial and valuable trade information under RCW 51.36.120.

There are no reported cases regarding a controversy concerning

(cc) Domestic Violence Client Records

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 rape crisis center as defined in RCW 70.125.030.

There are no reported cases regarding a controversy concerning this exemption.

(dd) Internal Anti-Discrimination Inquiries

Information that identifies a person who, while an agency employee: (i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (ii) ;requests his or her identity or any identifying information not be disclosed. RCW 42.17.310(1).

There are no reported cases regarding a controversy concerning this exemption.

(ee) Internal Investigation Of Discrimination Charges

Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal state, or local laws prohibiting discrimination in employment. RCW 42.17.310(1).

There are no reported cases regarding a controversy concerning this exemption.

(ff) Organic Food Products

Business related information protected from public inspection and copying under RCW 15.86.110. RCW 42.17.310(1).

There are no reported cases regarding a controversy concerning this exemption.

(gg) Clean Washington Center Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or deliver of, program services under chapter 70.95H RCW. RCW 42.17.310(1).

There are no reported cases regarding a controversy concerning this exemption.

(hh) Health Care Quality Improvement Programs Information and documents created specifically for, and collected and maintained by a quality improvement committee pursuant to RCW 43.70.510, regardless of which agency is in possession of the information and documents. RCW 42.17.310(1).

There are no reported cases regarding a controversy concerning this exemption.

5.2 Other Statutes

A 1987 amendment to the Public Disclosure Act states that an agency can refuse public inspection and copying of public records based on exemptions found in Chapter 42.17 RCW or "other statute which exempts or prohibits disclosure of specific information of records." Thus, if other statutes mesh with the Act, they operate to supplement it. However, in the event of a conflict between the Act and other statutes, the provisions of the Act govern. RCW 42.17.920. Thus, if another statute: (1) does not conflict with the Act; and (2) either exempts or prohibits disclosure of specific public records in their entirety; then (3) the information may be withheld in its entirety notwithstanding the redaction requirements in RCW 42.17.310(2). *Progressive Animal Welfare Soc'y v. University of Wash.*, 125 Wn.2d 243, 261-62, 884 P.2d 592 (1994). The "other statutes" exception applies only to those exemptions explicitly identified in other statutes; it does not allow a court "to imply exemptions but

Progressive Animal Welfare Soc'y v. University of Wash., 125 W.2d. at 261-62).

5.3 Other Disclosure/Privacy Provisions

A. Criminal Records Privacy Act (Chapter 10.97 RCW)

This act deals with disclosure of "criminal history record information," which is defined as information contained in records collected by criminal justice agencies, other than courts, on individuals, consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges, and any dispositions arising therefrom, including sentences, correctional supervision, and release. "Criminal history record information" is divided into "conviction data," which may be disseminated freely, and "nonconviction data," which may be disclosed to other criminal justice agencies; to implement a statute, ordinance, executive order, or court rule; to those under contract with a criminal justice agency to provide services related to the administration of criminal justice; or for the purpose of research with an agreement limiting the use of the data. Investigative information does not fall within the definition of "criminal history record information." Release of police investigative information comes within the PDA. (See RCW 42.17.310(1)(d)).

B. Uniform Health Care Information Act (Chapter 70.02 RCW)

This act governs the disclosure of medical records. Of particular interest is RCW 70.02.060, which controls the disclosure of health care information through discovery. The attorney seeking discovery of health care information must give the health care provider and the patient or his or her attorney at least fourteen days notice before service of a discovery request or compulsory process.

C. Mental Health Records (RCW 71.05.390 - 420)

D. Mental Health Care Record of Juveniles (RCW 71.34.200)

E. Records of Juvenile Justice or Care Agencies (Chapter 13.50 RCW)

F. Release of Information Regarding Sex Offenders When Necessary for Public Protection (RCW 4.24.550)

G. Jail Records (RCW 70.48.100)

H. Autopsy Reports (RCW 68.50.105)

I. Traffic Accident Reports (RCW 46.52.080)

J. HIV/STD Information (RCW 70.24.105)

K. Communications Made to a Public Officer in Official Confidence, When the Public Interest Would Suffer by

L. Alcohol and Drug Treatment Records (42 C.F.R. Part 2)

[Public Records & Public Meetings](#)

[Chapter 1: History and Background](#)

[Chapter 2: Open Public Meetings - Executive Sessions](#)

[Chapter 3: Public Records Act - Procedural Issues](#)

[Chapter 4: Public Records Act - Exemptions](#)

Chapter 5: Public Disclosure Act - Public Records Exemptions

OPEN RECORDS & OPEN MEETINGS



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GUIDE FOR CONSERVATION DISTRICT EMPLOYEE SALARY SCHEDULE

Working Title <u>1/</u>	Salary Range <u>2/</u>	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Minimum Annual Rate	Maximum Annual Rate
Clerk Typist	23	1634 9.39/hr	1708 9.82/hr	1789 10.28/hr	1873 10.76/hr	1958 11.25/hr	2053 11.80/hr	19,608	24,636
Secretary 1	31	1958 11.25/hr	2053 11.80/hr	2148 12.34/hr	2249 12.93/hr	2354 13.53/hr	2468 14.18/hr	23,496	29,616
Secretary 2	35	2148 12.34/hr	2249 12.93/hr	2354 13.53/hr	2468 14.18/hr	2586 14.86/hr	2712 15.59/hr	25,776	32,544
Resource Technician 1 (Env. Tech.)	32	2005 11.52/hr	2100 12.07/hr	2198 12.63/hr	2303 13.24/hr	2413 13.87/hr	2365 14.52/hr	24,060	30,312
Resource Technician 2 (Env. 1)	38	2303 13.24/hr	2413 13.87/hr	2526 14.52/hr	2645 15.20/hr	2775 15.95/hr	2911 16.73/hr	27,636	34,932
Resource Technician 3 (Env. 2)	43	2586 14.86/hr	2712 15.59/hr	2841 16.33/hr	2984 17.15/hr	3134 18.01/hr	3291 18.91/hr	31,032	39,492
District Manager 1 (Env. Tech.)	32	2005 11.52/hr	2100 12.07/hr	2198 12.63/hr	2303 13.24/hr	2413 13.87/hr	2365 14.52/hr	24,060	30,312
District Manager 2 (Env. 1)	38	2303 13.24/hr	2413 13.87/hr	2526 14.52/hr	2645 15.20/hr	2775 15.95/hr	2911 16.73/hr	27,636	34,932
District Manager 3 (Env. 2)	43	2586 14.86/hr	2712 15.59/hr	2841 16.33/hr	2984 17.15/hr	3134 18.01/hr	3291 18.91/hr	31,032	39,492
District Manager 4 (Env. 3)	49	2984 17.15/hr	3134 18.01/hr	3291 18.91/hr	3460 19.89/hr	3637 20.91/hr	3818 21.94/hr	35,808	45,816
District Manager 5 (Env. 4)	55	3460 19.89/hr	3637 20.91/hr	3818 21.94/hr	4013 23.06/hr	4216 24.23/hr	4428 25.45/hr	41,520	53,136

1/ Job description may be developed as a combination of the above depending on the job being performed, such as Secretary-Manager or Technician-Manager. Minimum Qualifications are given on the back of this page. Job descriptions may be found under Exhibits 600C through 600E of your Procedure Manual.

2/ Salary rates were taken from state salary schedule for related work. You can find these rates at the Dept. of Personnel's website: <http://hr.dop.wa.gov/lib/hrdr/salary.htm>

Minimum Qualifications Guide for Conservation District Employee Positions

Clerk Typist	High school graduation or GED equivalent.
Secretary 1	Two years of clerical, typing, or stenographic experience. One year of college or business school course work may be substituted for one year of experience.
Secretary 2	Three years of clerical, typing, or stenographic experience, one of which must be at a level involving administration of an office and / or supervision of other office workers. One year of college or business school work may be substituted for one year of experience. There is no substitution for the one year of administrative and / or supervisory experience.
Resource Tech 1	High school graduation or GED equivalent; AND two years of technical or senior clerical level experience in an environmental agency or office. College-level course work in environmental, physical or natural sciences, or closely related field may be substituted, year for year, for the required experience.
Resource Tech 2	A Bachelor's degree involving major study in environmental or physical science, or one of the natural sciences, planning or other closely allied field. Experience at or above the Resource Technician 1 level or equivalent may be substituted, year for year, for education.
Resource Tech 3	A Bachelor's degree involving major study in environmental or physical science, or one of the natural sciences, planning or other closely allied field; AND one year of experience in environmental analysis or control, environmental planning, equal to or above that of Resource Technician 2. Additional qualifying experience may be substituted, year for year, for education; OR one year of experience at the Environmentalist 1 level; OR A Master's degree in one of the above fields.
District Manager 1	High School graduation or GED equivalent; AND two years of technical or senior clerical level experience in an environmental agency or office. College-level course work in environmental, physical or natural sciences, or closely related field may be substituted, year for year, for the required experience.
District Manager 2	A Bachelor's degree involving major study in environmental or physical science, or one of the natural sciences, planning or other closely allied field. Experience at or above the District Manager 1 level or equivalent may be substituted, year for year, for education.
District Manager 3	A Bachelor's degree involving major study in environmental or physical science, or one of the natural sciences, planning or other closely allied field; AND one year of experience in environmental analysis or control, environmental planning, equal to or above that of District Manager 1. Additional qualifying experience may be substituted, year for year, for education; OR one year of experience at the District Manager 2 level; OR a Master's degree in one of the above fields.
District Manager 4	A Bachelor's degree involving major study in environmental or physical science, one of the natural sciences, planning or other closely allied field; AND three years of professional level experience in environmental analysis or control, environmental planning, equal to or above that of District Manager 1. Additional qualifying experience may be substituted, year for year, for education. A Master's degree in one of the above fields may be substituted for two years of the required experience. A Ph. D. in one of the above fields may be substituted for three years of the required experience; OR one year of experience at the District Manager 3 level.
District Manager 5	A Bachelor's degree involving major study in environmental or physical science, planning, one of the natural sciences, planning or other closely related field; AND four years of professional level experience in environmental analysis or control, environmental planning, equal to or above that of District Manager 1. Additional qualifying experience may be substituted, year for year, for education. A Master's degree in one of the above fields may be substituted for two years of the required experience. A Ph. D. in one of the above fields may be substituted for three years of the required experience; OR one year of experience at the District Manager4 level.

Conservation District

Election Forms

- Notice of Election Date
- Nomination Petition for Elected Supervisor
- Proof of Due Notice
- Oath of Office for Polling Officers
- Poll List
- Ballot Results
- Official Ballot template

TEMPLATE

Conservation Districts shall utilize this information and procedure to set an election date and notify the Conservation Commission.

Complete and mail the original to the Conservation Commission by December 31st.

FORMAL RESOLUTION

BY _____ CONSERVATION DISTRICT
BOARD OF SUPERVISORS
Resolution # _____ (recommended)

NOTICE OF ELECTION DATE

The _____ Conservation District Board of Supervisors met on

_____ and resolved that the election for District Supervisor will be held on:
date

Use additional sheets as necessary.

<u>Date</u>	<u>Location (address/city)</u>	<u>Time(s)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

District Supervisors are provided the discretion on establishing polling hours. However, the polls must be open a minimum of two (2) hours.

SUPERVISOR SIGNATURE TITLE DATE

NOMINATION PETITION FOR ELECTED SUPERVISOR

ELIGIBILITY: "District elector" or "voter" means a registered voter in the county where the district is located who resides within the district boundary or in the area affected by a petition.

I, _____ residing at _____ do hereby state that I am
(Printed Name)
eligible for the office of District Supervisor for the _____ Conservation District and meet the requirements of RCW 89.08. I am am not a landowner or operator of a farm. _____
(Signature)

Received by _____, District Supervisor on behalf of _____ Conservation District on _____.

I attest to being an eligible elector defined per RCW 89.08.020. An eligible elector is defined as a registered voter in the county where the district is located who resides within the district boundary and hereby support the nomination for Conservation District Supervisor.

	<u>NAME - PRINTED</u>	<u>NAME - SIGNATURE</u>	<u>ADDRESS & CITY</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

11. _____

12. _____

13. _____

14. _____

15. _____

16. _____

17. _____

18. _____

19. _____

20. _____

21. _____

22. _____

23. _____

24. _____

25. _____

26. _____

27. _____

28. _____

29. _____

30. _____

31. _____

32. _____

33. _____

CANDIDATE: You must return this form to the Conservation District Office for certification a minimum of 15 days before the election.



The above individuals have been verified as qualified district electors as defined in RCW

89.08.020 by _____ of _____
name Conservation District

(by Conservation District Supervisor) on _____
date

**CONSERVATION DISTRICT BOARD OF
SUPERVISORS ELECTION
PROOF OF DUE NOTICE**

The election of the _____ Conservation District was held on

Date:

Between the Hours of:

At this address:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The _____ Conservation District advertised the election by the following means:

on the following dates: _____ .

The Conservation District shall submit a copy of all documents and transcripts used in notifying the public of the election, i.e. posters, ads, transcripts.

Guidelines for Due Notice are on the reverse of this form as well as in Section 500 of the Policies and Procedure Manual.

Signed by the Chair of the Board of Supervisors

Date

Guidelines for Due Notice

Conservation Districts shall provide due notice within the area of interest.

The first notice must be at least 45 days before the election;

And, the second at least a week before the election within the district.

As defined in RCW 89.08, "**Due notice**" means a notice published at least twice, with at least six days between publications, in a publication of general circulation within the affected area, or if there is no such publication, by posting at a reasonable number of public places within the area, where it is customary to post notices concerning county and municipal affairs.

While the exact language to be used in the public notice and the look of the public notice is up to each Conservation District, the content must include the following:

1. The fact that there is an upcoming vacant or un-expired appointed supervisor position.
2. Eligibility requirements.
3. A brief description of the duties and time commitment involved with the position.
4. A statement indicating that a Conservation District supervisor serves without compensation.
5. Address and phone number of the District Office.
6. Any costs incurred will be paid by the Conservation District.



Conservation District Board of Supervisor Election

OATH OF OFFICE FOR POLLING OFFICERS

Each of us, as indicated by our signature, and in the presence of each other as witnesses, do solemnly swear that we will uphold the Constitution of the United States and the Constitution of the State of Washington and that we will faithfully discharge the duties as Polling Officers for the _____ Conservation District.

Subscribed and sworn this _____ day of _____, 20__.

Minimum of two (2) Polling Officers required.

Polling Officer

Polling Officer

Polling Officer

Oath Administered by:

District Board Member Signature

Date

Conservation District Board of Supervisors Elections and Appointments

This form and any associated material due to the Conservation Commission, 3 working days after the election.

FORM IV

Revised 11/02

POLL LIST

_____ Conservation District Supervisor Election

Date: _____

Polling Place and Address:

I attest, under penalty of law, that I meet the definition of a qualified elector as defined in RCW 89.08.020: A "district elector" or "voter" is a registered voter in the county where the district is located who resides within the district boundary.

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	Polling Officer - Eligible to Vote? CIRCLE ONE
	Yes No Contested

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	Polling Officer - Eligible to Vote? CIRCLE ONE
	Yes No Contested

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	Polling Officer - Eligible to Vote? CIRCLE ONE
	Yes No Contested

We have verified all the voters as eligible based upon the Poll List. Also, the number of ballots matches the number of signatures. *If there is a variance, please explain on the back of this form.*

Polling Officer Signature Polling Officer Signature Polling Officer Signature

Conservation District Board of Supervisors Elections and Appointments

Return this form and any associated material to the Conservation Commission 3 working days after the election.

FORM V

Revised 11/02

Voter - PRINT NAME	ADDRESS & CITY
Voter - SIGNATURE	<div style="background-color: #cccccc; padding: 2px;"><i>Polling Officer - Eligible to Vote?</i> CIRCLE ONE</div> <div style="display: flex; justify-content: space-around; font-weight: bold; font-size: small;"> Yes No Contested </div>

Voter - PRINT NAME	ADDRESS & CITY
Voter - SIGNATURE	<div style="background-color: #cccccc; padding: 2px;"><i>Polling Officer - Eligible to Vote?</i> CIRCLE ONE</div> <div style="display: flex; justify-content: space-around; font-weight: bold; font-size: small;"> Yes No Contested </div>

Voter - PRINT NAME	ADDRESS & CITY
Voter - SIGNATURE	<div style="background-color: #cccccc; padding: 2px;"><i>Polling Officer - Eligible to Vote?</i> CIRCLE ONE</div> <div style="display: flex; justify-content: space-around; font-weight: bold; font-size: small;"> Yes No Contested </div>

Voter - PRINT NAME	ADDRESS & CITY
Voter - SIGNATURE	<div style="background-color: #cccccc; padding: 2px;"><i>Polling Officer - Eligible to Vote?</i> CIRCLE ONE</div> <div style="display: flex; justify-content: space-around; font-weight: bold; font-size: small;"> Yes No Contested </div>

Voter - PRINT NAME	ADDRESS & CITY
Voter - SIGNATURE	<div style="background-color: #cccccc; padding: 2px;"><i>Polling Officer - Eligible to Vote?</i> CIRCLE ONE</div> <div style="display: flex; justify-content: space-around; font-weight: bold; font-size: small;"> Yes No Contested </div>

Conservation District Board of Supervisors Elections and Appointments

Return this form and any associated material to the Conservation Commission 3 working days after the election.

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	<u>Polling Officer - Eligible to Vote?</u> CIRCLE ONE
	Yes No Contested

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	<u>Polling Officer - Eligible to Vote?</u> CIRCLE ONE
	Yes No Contested

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	<u>Polling Officer - Eligible to Vote?</u> CIRCLE ONE
	Yes No Contested

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	<u>Polling Officer - Eligible to Vote?</u> CIRCLE ONE
	Yes No Contested

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	<u>Polling Officer - Eligible to Vote?</u> CIRCLE ONE
	Yes No Contested

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	<u>Polling Officer - Eligible to Vote?</u> CIRCLE ONE
	Yes No Contested

Conservation District Board of Supervisors Elections and Appointments

Return this form and any associated material to the Conservation Commission 3 working days after the election.

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	<u>Polling Officer - Eligible to Vote?</u> CIRCLE ONE
	Yes No Contested

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	<u>Polling Officer - Eligible to Vote?</u> CIRCLE ONE
	Yes No Contested

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	<u>Polling Officer - Eligible to Vote?</u> CIRCLE ONE
	Yes No Contested

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	<u>Polling Officer - Eligible to Vote?</u> CIRCLE ONE
	Yes No Contested

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	<u>Polling Officer - Eligible to Vote?</u> CIRCLE ONE
	Yes No Contested

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	<u>Polling Officer - Eligible to Vote?</u> CIRCLE ONE
	Yes No Contested

Conservation District Board of Supervisors Elections and Appointments

Return this form and any associated material to the Conservation Commission 3 working days after the election.

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	<u>Polling Officer - Eligible to Vote?</u> CIRCLE ONE
	Yes No Contested

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	<u>Polling Officer - Eligible to Vote?</u> CIRCLE ONE
	Yes No Contested

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	<u>Polling Officer - Eligible to Vote?</u> CIRCLE ONE
	Yes No Contested

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	<u>Polling Officer - Eligible to Vote?</u> CIRCLE ONE
	Yes No Contested

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	<u>Polling Officer - Eligible to Vote?</u> CIRCLE ONE
	Yes No Contested

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	<u>Polling Officer - Eligible to Vote?</u> CIRCLE ONE
	Yes No Contested

Conservation District Board of Supervisors Elections and Appointments

Return this form and any associated material to the Conservation Commission 3 working days after the election.

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	<u>Polling Officer - Eligible to Vote?</u> CIRCLE ONE
	Yes No Contested

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	<u>Polling Officer - Eligible to Vote?</u> CIRCLE ONE
	Yes No Contested

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	<u>Polling Officer - Eligible to Vote?</u> CIRCLE ONE
	Yes No Contested

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	<u>Polling Officer - Eligible to Vote?</u> CIRCLE ONE
	Yes No Contested

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	<u>Polling Officer - Eligible to Vote?</u> CIRCLE ONE
	Yes No Contested

Voter - PRINT NAME	ADDRESS & CITY
_____	_____
Voter - SIGNATURE	<u>Polling Officer - Eligible to Vote?</u> CIRCLE ONE
	Yes No Contested

Conservation District Board of Supervisors Elections and Appointments

Return this form and any associated material to the Conservation Commission 3 working days after the election.

At the conclusion of the election, Polling Officers will tally votes cast and complete this form. Immediately following the election mail the original of this form to the Conservation Commission.

BALLOT RESULTS

Date: _____

<u>NAME</u>	<u>VOTES RECEIVED</u>
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____

Was the unofficial winner the result of a write-in ballot? Yes No

If the answer is yes, the unofficial winner has 30 days to submit a District verified Nomination Petition to the Conservation Commission.

We, the undersigned Polling Officers, attest:

**that the number of ballots cast match the number of voters listed on the Poll List;
the ballots cast did not leave the Polling Officers' supervision;
were counted by the Polling Officers; and,
the information above is full, correct and a true accounting of the
_____ Conservation District Supervisor Election.**

Polling Officer

Polling Officer

Polling Officer

Conservation District Board of Supervisors Elections and Appointments

This form and any associated material due to the Conservation Commission, 3 working days after the election.

FORM VI

Revised 11/02

TEMPLATE

Conservation Districts are to print the ballots necessary to conduct the election based upon the verification of candidates. The name of the district, date and polling location should be pre-printed on the ballot.

Candidates must be listed alphabetically.

Lines must be provided for write-in candidates.

At the conclusion of the election the Polling Officers turn the ballots, the Ballot Results and Poll List over to the District.

The ballots must be held by the Conservation District a minimum of 60 days after the election.

In addition, the ballots cannot be destroyed before official action to certify the election has been taken by the Conservation Commission.

OFFICIAL BALLOT

_____ *Conservation District*
Board of Supervisor

Date: _____

Polling Location: _____

-
1. You may vote only once.
 2. Insert an X in the square before the candidate of your choice.
 3. If you wish to vote for someone not listed on the ballot, write in the name of a candidate on the space provided.

- Doe, Jane
 Farmer, John



About Conservation District Supervisor Eligibility: Elected conservation district supervisors must be “a registered voter in the county where the district is located who resides within the district boundary.” Two of the three elected supervisors must be “landowners or operators of a farm.”

Conservation District Internal Audit Checklist

A. CHECK REGISTER

1. Checks present and accounted for _____
2. Register up to date and balanced _____
3. Balances correspond to bank statements _____
4. Deposits identified to source of funding _____

B. SAVINGS ACCOUNTS

1. Money Market _____
2. Certificates of Deposit _____
3. Other _____

C. PETTY CASH

1. Balance Book _____
2. Receipts _____
3. Cash _____

D. RECEIPTS

1. Regulation receipts used _____
2. Numerical sequence on monthly statement _____

E. TAX RECORDS

1. Quarterly reports to:
 - a. Labor & Industries _____
 - b. Employment Security _____
 - c. I.R.S. Withholding _____
 - d. Department of Revenue _____
2. BARS Accounting Showing:
 - a. Sales Tax collected on retail sales _____
 - b. Sales Tax charged on equipment rental & items sold at retail _____
 - c. Sales Tax documented as non-revenue _____
 - d. Sales Tax paid _____

F. BUDGETING, ACCOUNTING, AND REPORTING SYSTEM (BARS)

1. Disbursements Journal:

- a. All check expenditures _____
- b. All cash expenditures (not petty cash) _____
- c. Petty cash lump sum _____
- d. Service charges from bank _____
- e. Finance charges, interest and other fees _____
- f. All non-revenue in proper location and code _____
- g. All coding consistent with CD history of usage _____

2. Receipts Journal:

- a. All checking account deposits recorded _____
- b. All deposits made to savings or investments recorded _____
- c. Receipts numbered _____
- d. Savings transfers not listed as income _____

G. NON-REVENUE

- 1. Pass-through tax _____
- 2. Transfers of funds (savings to checking, etc.) _____

H. GRANTS

- 1. Vouchers numbered and in sequence _____
- 2. Records showing in-kind and cash match _____
- 3. Documentation with Contract Officer _____

I. ACCOUNTS RECEIVABLE

- 1. All billings compared to bank deposit slips _____
- 2. Past due account list kept current _____
- 3. Interest on past due accounts charged _____

J. PAYROLL RECORD

1. Accurate time records _____
2. No duplication of payment _____
3. Draws are properly accounted _____
4. Current rates used for Withholding Taxes _____

K. DISTRICT MINUTES

1. Expenses approved before payment _____
2. Quorums documented _____
3. Proper parliamentary procedure _____
4. Recap of motions recorded _____
5. Complete monthly Treasurer's Report included in minutes _____

L. OTHER

1. Bonding for all supervisors and employees handling district funds _____

REPORT OF INTERNAL AUDIT

Conservation District

FOR THE YEAR ENDING _____

We, the audit committee, have examined the financial records of the _____ Conservation District for the year ending _____. Our examinations were made in accordance with generally accepted auditing standards and the audit requirements prescribed by the Washington State Conservation Commission.

The district's policy is to prepare its financial statements on the basis of accounting practices prescribed by the Conservation Commission for local conservation districts. These practices differ in some respects from generally accepted accounting principles. Accordingly, the accompanying financial statements are not intended to present financial position and results of operations in conformity with generally accepted accounting principles.

In our opinion, the accompanying financial statements present fairly the assets, liabilities, and fund balances arising from cash transactions of the _____ Conservation District as of January _____, and the cash receipts and disbursements for the year then ended.

Our examinations were made for the purpose of forming an opinion on the basic financial statements taken as a whole. The supplemental schedules and supporting information are presented for the purposes of additional analysis and have been subjected to the auditing procedures applied in our examination of the basic financial statements and, in our opinion, are fairly stated in all material respects in relation to the basic financial statements taken as a whole.

DATE

AUDIT COMMITTEE

Board Representative

Local Representative
