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No. 87188-4

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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

WASHINGTON ASSOCIATION FOR SUBSTANCE ABUSE AND
VIOLENCE PREVENTION, a Washington non-profit corporation;
DAVID GRUMBOIS, an individual,
Appellants,

v.

The STATE OF WASHINGTON
Respondent,

and

COSTCO WHOLESALE CORP., *et al.*,
Respondent-Intervenors.

APPELLANTS' ANSWER TO BRIEFS OF AMICI CURIAE

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Table of Contents

I. INTRODUCTION 1

II. ARGUMENT..... 1

 A. I-1183’s \$10 Million Earmark for Public Safety Spending
 is Not Rationally Related to I-1183..... 1

 B. I-1183’s \$10 Million Earmark Epitomizes Logrolling.6

 C. There is No Precedent in Washington Liquor Law for
 1183’s \$10 Million Earmark.....7

 D. ESHB 2823 Does Not Cure the Earmark Problem.....9

 E. This Court Should Resolve This Case As Soon As
 Practicable Before June 1, 2012.....9

III. CONCLUSION10

Table of Authorities

State Cases

<i>Citizens for Responsible Wildlife Mgmt. v. State</i> , 149 Wn.2d 622, 71 P.3d 644 (2003).....	2, 6
<i>Fritz v. Gorton</i> , 83 Wn.2d 275, 517 P.2d 911 (1974).....	2, 6
<i>Morin v. Harrell</i> , 161 Wn.2d 226, 164 P.3d 911 (2007).....	9
<i>State v. Jenkins</i> , 68 Wn. App. 897, 847 P.2d 488 (1993).....	6
<i>Wash. Ass'n of Neighborhood Stores v. State</i> , 149 Wn.2d 359, 70 P.3d 920 (2003).....	5, 8

Statutes

RCW 36.27.020	4
RCW 43.135.060	4
RCW 66.08.180	7, 8
RCW 66.08.190	7, 8
RCW 66.08.210	7
RCW 66.24.065	9
RCW 66.44.010	4
RCW 66.44.180	4

Constitutional Provisions

Washington Constitution article II, § 19.....	1, 6
---	------

Other Authorities

Engrossed Substitute House Bill 2823, 62d Leg., 2d Sp. Sess.
(Wash 2012) 6, 8, 9

I. INTRODUCTION

The amici Local Government Officials' plea to preserve I-1183 seeks to establish an erroneous and toothless legal test.¹ No one denies that I-1183 could have, consistent with the single subject requirement, dedicated specific funds to address perceived problems that might result from increased access to hard liquor. Likewise, no one disputes that I-1183's \$10 million general public safety earmark is not dedicated to addressing those alcohol-related problems. That local governments might hypothetically spend some of the untethered public safety funds they would receive from I-1183 on alcohol-related impacts does not save the measure. This Court must rule on the constitutionality of the Initiative that the drafters of I-1183 actually wrote. Including an earmark for popular programs having no rational unity with the rest of an initiative is classic logrolling prohibited by Washington Constitution article II, § 19.

II. ARGUMENT

A. **I-1183's \$10 Million Earmark for Public Safety Spending is Not Rationally Related to I-1183.**

Earmarking funds within, but not tied to the purposes of, an initiative cannot survive the scrutiny applied in challenges under article II, §19's single subject rule. As Local Government amici admit, an initiative

¹ The brief of Amici is authored by Foster Pepper PLLC, which also represents Costco in this action.

containing subjects that lack rational unity with each other violates the single subject rule. Local Gov't Br. at 12 (citing *Citizens for Responsible Wildlife Mgmt. v. State*, 149 Wn.2d 622, 631, 71 P.3d 644 (2003) ("*Citizens*"). Local Government amici further admit that an initiative violates the single subject rule when it contains even one subject that does not bear a close interrelationship with the measure's dominant purpose. *Id.* at 14 (citing *Fritz v. Gorton*, 83 Wn.2d 275, 290, 517 P.2d 911 (1974)). Appellants agree with Local Government amici that I-1183 violates the single subject rule if rational unity does not exist among I-1183's many subjects or between its dominant purpose and the \$10 million earmark. *See* Appellants' Br. at 19 (describing I-1183's many purposes). I-1183's \$10 million public safety earmark no doubt fails on both fronts.

I-1183 is not a general public safety measure; it is a "hard liquor privatization initiative." *See* Appellants' Reply Br. at 2-3. Even if the measure could conceivably be seen as having a broader topic like "liquor" – which it does not – the \$10 million earmark would remain unrelated to I-1183 as a whole. Indeed, the public safety earmark has no connection whatsoever with the remainder of I-1183 except that the money is annually set aside from I-1183's spirits license revenues (I-1183 §§ 103, 105). The earmark is then distributed to local governments for unfettered public safety spending. *See* CP 185-86. By granting local governments

complete discretion to spend 100% of the money they receive from the earmark on projects that have no connection to hard liquor privatization or beverage alcohol, I-1183 fails the rational unity test.

In an effort to avoid the consequences of these facts, Local Government amici attempt to argue that the \$10 million earmark “addresses the possible increase in public safety expenditures” as a direct result of I-1183. Local Gov’t Br. at 14. Their efforts demonstrate only that I-1183 could have tethered the \$10 million earmark to liquor-related public safety issues, not that the Initiative did so in fact. Accordingly, their arguments are unavailing.

Local Government amici’s citations to the campaign arguments of Appellant WASAVP², “that increased access to alcohol through privatization . . . could ‘overburden[] police and first responders’ and other local government law enforcement,” prove nothing about the earmark. *Id.* at 14. If the \$10 million earmark were targeted to the burdens on local government specific to hard liquor privatization that concerned WASAVP, it wouldn’t lack rational unity with privatization. The Local Government amici concede that I-1183’s earmark is not dedicated to the “alcohol related expenses” that local governments may incur from the end of the State’s monopoly on hard liquor distribution and sale. *Id.* at 19.

² “WASAVP” is an acronym for Washington Association for Substance Abuse and Violence Prevention.

Much like Respondents, Local Government amici engage in a futile attempt to connect I-1183's general public safety earmark with beverage alcohol by latching onto provisions within Title 66 and other laws that only expose the earmark's fatal flaw. *See* Local Gov't Br. at 15 (citing *e.g.*, RCW 66.44.010(1), relating to investigating violations of liquor laws; RCW 36.27.20, requiring report of prosecutions under the state liquor laws; and RCW 66.44.180, relating to penalties for violating liquor laws); *see also* Appellants' Br. at 6 (citing Costco Br. at 22-23 (providing examples solely involving liquor-related public safety issues)). Local Government amici's arguments miss the point: I-1183's \$10 million general public safety earmark will not provide funding for any of these liquor-related RCWs.

Local Government amici make the additional flawed claim that I-1183 § 302 "addresses an otherwise unfunded legislative mandate on local government services" and is therefore rationally related to I-1183. Local Gov't Br. at 18. They contend I-1183 imposes new burdens and responsibilities on local governments that I-1183 will fund. *Id.* While it is true Washington requires funding in cases of legislative mandates to local governments to finance the burdens thereby created, RCW 43.135.060, I-1183's \$10 million general public safety earmark does not fund any particular public safety cost created by I-1183. Ironically, Local

Government amici suggest that the actual burden they face from implementation of I-1183 will greatly exceed \$10 million. The burdens I-1183 imposes on local governments are irrelevant because I-1183 does not tie the \$10 million earmark to ameliorating such additional costs. The Local Government amici's arguments again miss the point.

The real question before this Court is whether there is rational unity between a \$10 million earmark for general public safety *unrelated to alcohol* and the remainder of Initiative 1183. Such rational unity cannot be established by hypothetical local government public safety spending on alcohol-related purposes, spending that may never occur in fact. Hypotheticals and counterfactuals aside, Local Government amici fail to provide the Court with anything to support their claim that the \$10 million earmark is intended to offset the perils of increased access to hard alcohol. Nor could they provide such evidence. Nothing in the marketing materials that the pro I-1183 campaign produced supports this claimed linkage. *See* Appellants' Reply Br. at 7 (establishing that I-1183 campaign materials did not tie the \$10 million earmark to alcohol).

Local Government amici fail to address established Washington law holding that the inclusion of a monetary earmark within substantive legislation on an unrelated subject is per se a violation of the single subject rule. *See Wash. Ass'n of Neighborhood Stores v. State*, 149 Wn.2d 359,

370-371, 70 P.3d 920 (2003) (“*Neighborhood Stores*”). Indeed, their citation to ESHB 2823³, rather than supporting the Local Government amici’s argument, casts in sharp relief the legally correct way to enact appropriations and earmarks for general public purposes: in a funding bill.

There here is no rational unity between the \$10 million general public safety earmark and I-1183’s dominant purpose, or its other subjects. Thus, the earmark constitutes a second subject in violation of article II, § 19. *Fritz v. Gorton*, 83 Wn.2d at 290; *Citizens*, 149 Wn.2d at 631.

B. I-1183’s \$10 Million Earmark Epitomizes Logrolling.

Upholding I-1183’s logrolling of unrelated subjects would only encourage future abuses of the initiative process through “special interest legislation.” *See State v. Jenkins*, 68 Wn. App. 897, 902, 847 P.2d 488 (1993). That is exactly what the public safety earmark was.⁴ If this Court upholds I-1183 on the basis of a hypothesized connection between the general public safety earmark and beverage alcohol, nothing would prevent future initiative drafters from abusing the initiative process in a similar manner. Initiative drafters would have every reason to include any number of unrelated earmarks solely to curry favor with voting blocs who

³ Engrossed Substitute House Bill 2823, 62d Leg., 2d Sp. Sess. (Wash 2012) attached as an Appendix hereto.

⁴ Costco admitted that the \$10 million public safety earmark was utilized to garner votes from police and firefighters and the voting blocs for which they may be a proxy. *See* 4 CP 662-63.

otherwise oppose or are indifferent to the measure's dominant purpose. Only the deterrent of judicial invalidation will incentivize initiative drafters not to cobble together earmarks unrelated to the subject of a ballot measure to obtain majority support.

C. There is No Precedent in Washington Liquor Law for 1183's \$10 Million Earmark.

Recognizing that the general public safety earmark lacks any rational unity with the remainder of I-1183, Local Government amici contend that requiring local governments to spend their portion of I-1183 § 302's dedicated funds on alcohol related public safety programs would be "a burdensome departure from Washington[']s" practice of distributing funds from the Liquor Revolving Fund ("LRF") on a percentage basis. Local Gov't Br. at 19. But it is 1183's earmark of a specific monetary sum for purposes unrelated to beverage alcohol that is a complete departure from the previous operation of the LRF.

Local Government amici incorrectly contend that, "[w]ith the exception of funding for alcohol abuse programs, distributions from the [LRF is] contingent only on whether the sale of liquor is 'forbidden' in that jurisdiction." Local Gov't Br. at 19 (citing RCW 66.08.210). Distributions from the LRF are controlled by two RCWs. RCW 66.08.180 governs mandatory distributions from the LRF; RCW 66.08.190 governs

excess distributions from the LRF. Every single one of the RCW 66.08.180 mandatory distributions from the LRF are liquor related. *See* RCW 66.08.180(1)-(4). Distributions of excess funds under RCW 66.08.190 are contingent on there being excess funds to distribute. *Cf.* RCW 66.08.180. Until July 1, 2012, excess funds are distributed to the general fund, counties, local governments, and border areas strictly on a percentage basis. RCW 66.08.190(1). There was no assurance in any given year that any money (let alone a specific sum) would be allocated to non-liquor related purposes under RCW 66.08.190. ESHB 2823 eliminates effective July 1, 2012, most excess fund distributions from the LRF other than those I-1183 mandates. ESHB 2823, section 8, pp. 6-7, 9.

Local Government amici essentially assert that because Washington's practice until July 1, 2012, was to distribute excess funds on a percentage basis from the LRF to local governments without restrictions, when there were excess funds available to distribute, I-1183 can do the same with a guaranteed annual earmark. But this argument ignores the critical fact that the \$10 million general public safety earmark was attached to a ballot measure that substantively changed the State liquor laws. The combination of the two is unconstitutional logrolling. *See, e.g., Neighborhood Stores*, 149 Wn.2d at 370-71. No precedent exists in Washington law for I-1183's annual dedication of a specific monetary sum

from the LRF to general public safety purposes with no necessary connection to beverage alcohol.

D. ESHB 2823 Does Not Cure the Earmark Problem.

In a footnote, Local Government amici suggest that ESHB 2823 somehow cures I-1183's constitutional deficiencies. Local Gov't Br. at 18 n.25. This is not the case.

Contrary to what Local Government amici suggest, ESHB 2823 (which the Governor signed on May 2) neither reenacts nor amends section 302 of I-1183. See Local Gov't Br. at 17 n.25; cf. *Morin v. Harrell*, 161 Wn.2d 226, 231, 164 P.3d 495 (2007). The entirety of the reference to section 302 of I-1183 (codified as RCW 66.24.065) in section 8(2) of ESHB 2823 consists of the following: "When excess funds are distributed during the months of June, September, December and March of each year, all moneys subject to distribution must be disbursed to border areas, counties, cities, and towns as provided in RCW 66.24.065." ESHB 2823, pp. 6-7. A statutory reference is not a statutory reenactment. In short, the enactment of ESHB 2823 has no bearing on the invalidity of I-1183 under the single subject rule.

E. This Court Should Resolve This Case As Soon As Practicable Before June 1, 2012.

The amicus brief of General Teamsters Local Union No. 174 and Commercial Workers Local Union No. 21 ("Union Amicus Brief")

describes how I-1183 will take away the livelihoods of hundreds of hard-working men and women in this State. Appellants concur with the Unions' request that this Court render its decision in this case as soon as possible and no later than May 31, 2012.

III. CONCLUSION

Rather than supporting the constitutionality of I-1183, Local Government amici's brief demonstrates why the initiative is unconstitutional. Without support in Washington law, Local Government amici are forced to rely on a counterfactual relationship between the untethered \$10 million general public safety earmark and the subject of I-1183 because actual rational unity does not exist. Because rational unity does not exist among all of its various subjects, I-1183 violates the single subject rule and should be struck down in its entirety.

RESPECTFULLY SUBMITTED this 14th day of May, 2012.

FRANK FREED SUBIT & THOMAS LLP

By /s/ Michael C. Subit
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Dear Court Clerk:

Attached for filing and entry please find the Appellants' Answer to Briefs of Amicus Curiae and Certificate of Service in the above matter.

Sincerely,

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WASHINGTON ASSOCIATION FOR SUBSTANCE ABUSE AND
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Appellants,

v.

The STATE OF WASHINGTON
Respondent,

and

COSTCO WHOLESALE CORP., *et al.*,
Respondent-Intervenors.

CERTIFICATE OF SERVICE

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I, Susan Zimmerman, certify and state as follows:

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2. I caused to be served upon counsel of record at the addresses and in the manner described below, on May 14, 2012, the following documents: **APPELLANTS' ANSWER TO BRIEFS OF AMICI CURIAE**

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DATED at Seattle, Washington on this 14TH day of May, 2012.

/s/Susan Zimmerman
Susan Zimmerman

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CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 2823

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Chapter 5, Laws of 2012

62nd Legislature
2012 2nd Special Session

STATE GENERAL FUND--REVENUE REDIRECTION

EFFECTIVE DATE: 05/02/12 - Except sections 1 and 3 through 12,
which become effective 07/01/12.

Passed by the House April 11, 2012
Yeas 53 Nays 45

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 11, 2012
Yeas 25 Nays 21

BRAD OWEN

President of the Senate

Approved May 2, 2012, 2:05 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of
the House of Representatives of
the State of Washington, do hereby
certify that the attached is
ENGROSSED SUBSTITUTE HOUSE BILL
2823 as passed by the House of
Representatives and the Senate on
the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

May 2, 2012

Secretary of State
State of Washington

ORIGINAL

ENGROSSED SUBSTITUTE HOUSE BILL 2823

Passed Legislature - 2012 2nd Special Session

State of Washington 62nd Legislature 2012 2nd Special Session
By House Ways & Means (originally sponsored by Representative Hunter)
READ FIRST TIME 04/05/12.

1 AN ACT Relating to redirecting existing state revenues into the
2 state general fund; amending RCW 43.135.045, 82.18.040, 82.08.160,
3 82.08.170, 43.110.030, 66.08.190, 66.08.196, 66.08.200, 66.08.210, and
4 43.63A.190; creating a new section; repealing RCW 43.110.050 and
5 43.110.060; providing an effective date; and declaring an emergency.

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

7 **Sec. 1.** RCW 43.135.045 and 2011 1st sp.s. c 50 s 950 are each
8 amended to read as follows:

9 The education construction fund is hereby created in the state
10 treasury.

11 (1) Funds may be appropriated from the education construction fund
12 exclusively for common school construction or higher education
13 construction. During the 2007-2009 fiscal biennium, funds may also be
14 used for higher education facilities preservation and maintenance.
15 During the 2009-2011 and 2011-2013 fiscal biennia, the legislature may
16 transfer from the education construction fund to the state general fund
17 such amounts as reflect the excess fund balance of the fund.

18 (2) Funds may be appropriated for any other purpose only if
19 approved by a two-thirds vote of each house of the legislature and if

1 approved by a vote of the people at the next general election. An
2 appropriation approved by the people under this subsection (~~shall~~)
3 must result in an adjustment to the state expenditure limit only for
4 the fiscal period for which the appropriation is made and (~~shall~~)
5 does not affect any subsequent fiscal period.

6 (3) Funds for the student achievement program in RCW 28A.505.210
7 and 28A.505.220 (~~shall~~) must be appropriated to the superintendent of
8 public instruction strictly for distribution to school districts to
9 meet the provisions set out in the student achievement act.
10 Allocations (~~shall~~) must be made on an equal per full-time equivalent
11 student basis to each school district.

12 (4) After July 1, 2010, the state treasurer (~~shall~~) must transfer
13 one hundred two million dollars from the general fund to the education
14 construction fund by June 30th of each year. However, the transfers
15 may not take place in the fiscal biennium ending June 30, 2015.

16 **Sec. 2.** RCW 82.18.040 and 2011 1st sp.s. c 48 s 7034 are each
17 amended to read as follows:

18 (1) Taxes collected under this chapter (~~shall~~) must be held in
19 trust until paid to the state. Except as otherwise provided in this
20 subsection (1), taxes received by the state (~~shall~~) must be deposited
21 in the public works assistance account created in RCW 43.155.050 (+
22 PROVIDED, That during the fiscal year 2011)). For the period beginning
23 July 1, 2011, and ending June 30, 2015, taxes received by the state
24 under this chapter must be deposited in the general fund for general
25 purpose expenditures. For fiscal years 2016, 2017, and 2018, one-half
26 of the taxes received by the state under this chapter must be deposited
27 in the general fund for general purpose expenditures and the remainder
28 deposited in the public works assistance account. Any person
29 collecting the tax who appropriates or converts the tax collected
30 (~~shall be~~) is guilty of a gross misdemeanor if the money required to
31 be collected is not available for payment on the date payment is due.
32 If a taxpayer fails to pay the tax imposed by this chapter to the
33 person charged with collection of the tax and the person charged with
34 collection fails to pay the tax to the department, the department may,
35 in its discretion, proceed directly against the taxpayer for collection
36 of the tax.

1 (2) The tax (~~(shall be)~~) is due from the taxpayer within twenty-
2 five days from the date the taxpayer is billed by the person collecting
3 the tax.

4 (3) The tax (~~(shall be)~~) is due from the person collecting the tax
5 at the end of the tax period in which the tax is received from the
6 taxpayer. If the taxpayer remits only a portion of the total amount
7 billed for taxes, consideration, and related charges, the amount
8 remitted (~~(shall)~~) must be applied first to payment of the solid waste
9 collection tax and this tax (~~(shall have)~~) has priority over all other
10 claims to the amount remitted.

11 **Sec. 3.** RCW 82.08.160 and 2011 1st sp.s. c 50 s 969 are each
12 amended to read as follows:

13 (1) On or before the twenty-fifth day of each month, all taxes
14 collected under RCW 82.08.150 during the preceding month must be
15 remitted to the state department of revenue, to be deposited with the
16 state treasurer. Except as provided in subsections (2) and (3) of this
17 section, upon receipt of such moneys the state treasurer must credit
18 sixty-five percent of the sums collected and remitted under RCW
19 82.08.150 (1) and (2) and one hundred percent of the sums collected and
20 remitted under RCW 82.08.150 (3) and (4) to the state general fund and
21 thirty-five percent of the sums collected and remitted under RCW
22 82.08.150 (1) and (2) to a fund which is hereby created to be known as
23 the "liquor excise tax fund."

24 (2) During the (~~(2011-2013)~~) 2012 fiscal (~~(biennium)~~) year, 66.19
25 percent of the sums collected and remitted under RCW 82.08.150 (1) and
26 (2) must be deposited in the state general fund and the remainder
27 collected and remitted under RCW 82.08.150 (1) and (2) must be
28 deposited in the liquor excise tax fund.

29 (3) During fiscal year 2013, all funds collected under RCW
30 82.08.150 (1), (2), (3), and (4) must be deposited into the state
31 general fund.

32 **Sec. 4.** RCW 82.08.170 and 2002 c 38 s 3 are each amended to read
33 as follows:

34 (1) Except as provided in subsection (4) of this section, during
35 the months of January, April, July, and October of each year, the state
36 treasurer (~~(shall)~~) must make the transfers required under subsections

1 (2) and (3) of this section from the liquor excise tax fund and then
2 the apportionment and distribution of all remaining moneys in the
3 liquor excise tax fund to the counties, cities, and towns in the
4 following proportions: (a) Twenty percent of the moneys in the liquor
5 excise tax fund (~~shall~~) must be divided among and distributed to the
6 counties of the state in accordance with the provisions of RCW
7 66.08.200; and (b) eighty percent of the moneys in the liquor excise
8 tax fund (~~shall~~) must be divided among and distributed to the cities
9 and towns of the state in accordance with the provisions of RCW
10 66.08.210.

11 (2) Each fiscal quarter and prior to making the twenty percent
12 distribution to counties under subsection (1)(a) of this section, the
13 treasurer shall transfer to the (~~county research services account~~
14 ~~under RCW 43.110.050~~) liquor revolving fund created in RCW 66.08.170
15 sufficient moneys to fund the allotments from any legislative
16 appropriations (~~from the county research services account~~) for county
17 research and services as provided under chapter 43.110 RCW.

18 (3) During the months of January, April, July, and October of each
19 year, the state treasurer must transfer two million five hundred
20 thousand dollars from the liquor excise tax fund to the state general
21 fund.

22 (4) During calendar year 2012, the October distribution under
23 subsection (1) of this section and the July and October transfers under
24 subsections (2) and (3) of this section must not be made. During
25 calendar year 2013, the January, April, and July distributions under
26 subsection (1) of this section and transfers under subsections (2) and
27 (3) of this section must not be made.

28 **Sec. 5.** RCW 43.110.030 and 2010 c 271 s 701 are each amended to
29 read as follows:

30 (1) The department of commerce (~~shall~~) must contract for the
31 provision of municipal research and services to cities, towns, and
32 counties. Contracts for municipal research and services (~~shall~~) must
33 be made with state agencies, educational institutions, or private
34 consulting firms, that in the judgment of the department are qualified
35 to provide such research and services. Contracts for staff support may
36 be made with state agencies, educational institutions, or private

1 consulting firms that in the judgment of the department are qualified
2 to provide such support.

3 (2) Municipal research and services (~~shall~~) consists of:

4 (a) Studying and researching city, town, and county government and
5 issues relating to city, town, and county government;

6 (b) Acquiring, preparing, and distributing publications related to
7 city, town, and county government and issues relating to city, town,
8 and county government;

9 (c) Providing educational conferences relating to city, town, and
10 county government and issues relating to city, town, and county
11 government; and

12 (d) Furnishing legal, technical, consultative, and field services
13 to cities, towns, and counties concerning planning, public health,
14 utility services, fire protection, law enforcement, public works, and
15 other issues relating to city, town, and county government.

16 (3) Requests for legal services by county officials (~~shall~~) must
17 be sent to the office of the county prosecuting attorney. Responses by
18 the department of commerce to county requests for legal services
19 (~~shall~~) must be provided to the requesting official and the county
20 prosecuting attorney.

21 (4) The department of commerce (~~shall~~) must coordinate with the
22 association of Washington cities and the Washington state association
23 of counties in carrying out the activities in this section. (~~Services~~
24 ~~to cities and towns shall be based upon the moneys appropriated to the~~
25 ~~department from the city and town research services account under RCW~~
26 ~~43.110.060. Services to counties shall be based upon the moneys~~
27 ~~appropriated to the department from the county research services~~
28 ~~account under RCW 43.110.050.))~~

29 NEW SECTION. **Sec. 6.** The following acts or parts of acts are each
30 repealed:

31 (1) RCW 43.110.050 (County research services account) and 2002 c 38
32 s 1 & 1997 c 437 s 3; and

33 (2) RCW 43.110.060 (City and town research services account) and
34 2010 c 271 s 702, 2002 c 38 s 4, & 2000 c 227 s 1.

35 NEW SECTION. **Sec. 7.** All moneys remaining in the county research

1 services account and city and town research services account on July 1,
2 2012, must be deposited by the state treasurer into the general fund.

3 **Sec. 8.** RCW 66.08.190 and 2011 1st sp.s. c 50 s 960 are each
4 amended to read as follows:

5 ~~(1) ((Except for revenues generated by the 2003 surcharge of~~
6 ~~\$0.42/liter on retail sales of spirits that must be distributed to the~~
7 ~~state general fund during the 2003-2005 biennium,)) Prior to making~~
8 ~~distributions described in subsection (2) of this section, amounts must~~
9 ~~be retained to support allotments under RCW 43.88.110 from any~~
10 ~~legislative appropriation for municipal research and services. The~~
11 ~~legislative appropriation for such services must be in the amount~~
12 ~~specified under RCW 66.24.065.~~

13 ~~(2) When excess funds are distributed during the months of June,~~
14 ~~September, December, and March of each year, all moneys subject to~~
15 ~~distribution must be disbursed ((as follows:~~

16 ~~(a) Three tenths of one percent to border areas under RCW~~
17 ~~66.08.195; and~~

18 ~~(b) Except as provided in subsection (4) of this section, from the~~
19 ~~amount remaining after distribution under (a) of this subsection, (i)~~
20 ~~fifty percent to the general fund of the state, (ii) ten percent to the~~
21 ~~counties of the state, and (iii) forty percent to the incorporated~~
22 ~~cities and towns of the state.~~

23 ~~(2) During the months of June, September, December, and March of~~
24 ~~each year, prior to disbursing the distribution to incorporated cities~~
25 ~~and towns under subsection (1)(b) of this section, the treasurer must~~
26 ~~deduct from that distribution an amount that will fund that quarter's~~
27 ~~allotments under RCW 43.88.110 from any legislative appropriation from~~
28 ~~the city and town research services account. The treasurer must~~
29 ~~deposit the amount deducted into the city and town research services~~
30 ~~account.~~

31 ~~(3) The governor may notify and direct the state treasurer to~~
32 ~~withhold the revenues to which the counties and cities are entitled~~
33 ~~under this section if the counties or cities are found to be in~~
34 ~~noncompliance pursuant to RCW 36.70A.340.~~

35 ~~(4) During the 2011-2013 fiscal biennium, from the amount remaining~~
36 ~~after distribution under subsection (1)(a) of this section, (a) 51.7~~
37 ~~percent to the general fund of the state, (b) 9.7 percent to the~~

1 ~~counties of the state, and (c) 38.6 percent to the incorporated cities~~
2 ~~and towns of the state)) to border areas, counties, cities, and towns~~
3 ~~as provided in RCW 66.24.065.~~

4 (3) The amount remaining after distributions under subsections (1)
5 and (2) of this section must be deposited into the general fund.

6 **Sec. 9.** RCW 66.08.196 and 2001 c 8 s 2 are each amended to read as
7 follows:

8 (1) Distribution of funds to border areas under RCW 66.08.190 and
9 66.24.290 (1) ~~((a))~~ (c) and (4) ~~((shall be))~~ is as follows:

10 ~~((1))~~ (a) Sixty-five percent of the funds ~~((shall))~~ must be
11 distributed to border areas ratably based on border area traffic
12 totals;

13 ~~((2))~~ (b) Twenty-five percent of the funds ~~((shall))~~ must be
14 distributed to border areas ratably based on border-related crime
15 statistics; and

16 ~~((3))~~ (c) Ten percent of the funds ~~((shall))~~ must be distributed
17 to border areas ratably based upon border area per capita law
18 enforcement spending.

19 (2) Distributions to an unincorporated area ~~((shall))~~ must be made
20 to the county in which such an area is located and may only be spent on
21 services provided to that area.

22 **Sec. 10.** RCW 66.08.200 and 1979 c 151 s 167 are each amended to
23 read as follows:

24 With respect to the ~~((ten percent share coming))~~ distribution of
25 funds to the counties, the computations for distribution ~~((shall))~~ must
26 be made by the state agency responsible for collecting the same as
27 follows:

28 (1) The share coming to each eligible county ~~((shall))~~ must be
29 determined by a division among the eligible counties according to the
30 relation which the population of the unincorporated area of such
31 eligible county, as last determined by the office of financial
32 management, bears to the population of the total combined
33 unincorporated areas of all eligible counties, as determined by the
34 office of financial management ~~((+---PROVIDED,---That))~~. However, no
35 county in which the sale of liquor is forbidden in the unincorporated
36 area thereof as the result of an election ~~((shall be))~~ is entitled to

1 share in such distribution. "Unincorporated area" means all that
2 portion of any county not included within the limits of incorporated
3 cities and towns.

4 (2) When a special county census has been conducted for the purpose
5 of determining the population base of a county's unincorporated area
6 for use in the distribution of liquor funds, the census figure
7 (~~shall~~) becomes effective for the purpose of distributing funds as of
8 the official census date once the census results have been certified by
9 the office of financial management and officially submitted to the
10 office of the secretary of state.

11 **Sec. 11.** RCW 66.08.210 and 1979 c 151 s 168 are each amended to
12 read as follows:

13 (1) With respect to the (~~forty percent share coming~~) distribution
14 of funds to the incorporated cities and towns under RCW
15 66.24.290(1)(c), the computations for distribution (~~shall~~) must be
16 made by the state agency responsible for collecting the same as
17 (~~follows~~) provided in subsection (2) of this section.

18 (2) The share coming to each eligible city or town (~~shall~~) must
19 be determined by a division among the eligible cities and towns within
20 the state ratably on the basis of population as last determined by the
21 office of financial management (~~AND PROVIDED, That~~). However, no
22 city or town in which the sale of liquor is forbidden as the result of
23 an election (~~shall be~~) is entitled to any share in such distribution.

24 **Sec. 12.** RCW 43.63A.190 and 1995 c 159 s 5 are each amended to
25 read as follows:

26 Funds appropriated by the legislature as supplemental resources for
27 border areas (~~shall~~) must be distributed by the state treasurer
28 pursuant to the formula for distributing funds (~~from the liquor~~
29 ~~revelving fund~~) to border areas, and expenditure requirements for such
30 distributions, under RCW 66.08.196.

31 NEW SECTION. **Sec. 13.** Section 2 of this act is necessary for the
32 immediate preservation of the public peace, health, or safety, or
33 support of the state government and its existing public institutions,
34 and takes effect immediately.

1 NEW SECTION. **Sec. 14.** Sections 1 and 3 through 12 of this act are
2 necessary for the immediate preservation of the public peace, health,
3 or safety, or support of the state government and its existing public
4 institutions; and take effect July 1, 2012.

 Passed by the House April 11, 2012.

 Passed by the Senate April 11, 2012.

 Approved by the Governor May 2, 2012.

 Filed in Office of Secretary of State May 2, 2012.