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**ENGROSSED SUBSTITUTE HOUSE BILL 2054**

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**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** House Committee on Appropriations (originally sponsored by Representatives Peery, Reams, Anderson, Heavey, R. Fisher, G. Cole, Ogden and Lemmon; by request of Governor Lowry)

Read first time 03/08/93.

1       AN ACT Relating to state government; amending RCW 41.06.070,  
2 41.06.080, 41.06.140, 41.06.150, 41.06.150, 41.06.160, 41.06.167,  
3 41.06.169, 41.06.170, 41.06.186, 41.06.196, 41.06.220, 41.06.260,  
4 41.06.270, 41.06.280, 41.06.400, 41.06.410, 41.06.420, 41.06.430,  
5 41.06.450, 41.06.455, 41.06.475, 41.06.490, 43.03.028, 43.17.010, and  
6 43.17.020; amending 1982 c 208 s 9 (uncodified); reenacting and  
7 amending RCW 41.06.020, 41.56.030, 28B.50.140, and 41.04.230; adding  
8 new sections to chapter 41.06 RCW; adding new sections to chapter 41.56  
9 RCW; adding a new chapter to Title 43 RCW; adding a new chapter to  
10 Title 41 RCW; creating new sections; repealing RCW 28B.16.010,  
11 28B.16.020, 28B.16.030, 28B.16.040, 28B.16.041, 28B.16.042, 28B.16.043,  
12 28B.16.060, 28B.16.070, 28B.16.080, 28B.16.090, 28B.16.100, 28B.16.101,  
13 28B.16.105, 28B.16.110, 28B.16.112, 28B.16.113, 28B.16.116, 28B.16.120,  
14 28B.16.130, 28B.16.140, 28B.16.150, 28B.16.160, 28B.16.170, 28B.16.180,  
15 28B.16.190, 28B.16.200, 28B.16.210, 28B.16.220, 28B.16.230, 28B.16.240,  
16 28B.16.255, 28B.16.265, 28B.16.275, 28B.16.300, 28B.16.900, 28B.16.910,  
17 28B.16.920, 28B.16.930, 41.06.010, 41.06.030, 41.06.110, 41.06.120,  
18 41.06.130, 41.06.163, 41.06.165, 41.06.230, 41.06.240, 41.06.310,  
19 41.06.340, 41.06.350, and 41.06.380; providing effective dates;  
20 providing an expiration date; and declaring an emergency.

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

2 NEW SECTION. **Sec. 1.** The legislature finds that the best  
3 interests of the citizens of Washington are served by eliminating  
4 unnecessary duplication in the organization of state government and  
5 recognizes the need of the executive branch for increased flexibility  
6 to meet new challenges the state faces in providing effective and cost-  
7 efficient services. This can be accomplished by streamlining the  
8 management of the state's human resources including decentralizing the  
9 provision of personnel services, encouraging the adoption of modern  
10 management techniques, and continuing to increase the diversity of its  
11 work force, and by granting employees the right to bargain collectively  
12 as provided in this act.

13 The legislature also finds that the efficiency and effectiveness  
14 with which government services are provided to the public depends on  
15 the motivation of the state employee work force and the leadership  
16 provided to it. In recent years, experience in the private sector has  
17 demonstrated that productivity in the modern world is enhanced by a  
18 workplace environment that has a clear and overall focus on serving the  
19 needs of customers, that empowers employees by involving them in the  
20 workplace decisions that historically have been considered the  
21 exclusive province of management, and that treat employees with  
22 fairness, respect, and dignity. It is imperative that the department  
23 of human resources created under this act and each state agency  
24 exercising powers under this act establish and implement policies that  
25 strive to provide such a workplace environment.

26 NEW SECTION. **Sec. 2.** The department of personnel, the higher  
27 education personnel board, and the personnel board are hereby abolished  
28 and except as provided in section 150 of this act their powers, duties,  
29 and functions are hereby transferred to the department of human  
30 resources.

31 **PART I**

32 **CIVIL SERVICE REFORM AND REORGANIZATION**

33 NEW SECTION. **Sec. 101.** It is the purpose of this chapter to  
34 create the department of human resources.

1        NEW SECTION.    **Sec. 102.**    As used in this chapter, unless the  
2 context indicates otherwise:

3        (1) "Department" means the department of human resources.

4        (2) "Director" means the director of human resources.

5        NEW SECTION.    **Sec. 103.**    There is hereby created a department of  
6 state government to be known as the department of human resources. The  
7 department shall be vested with all powers and duties transferred to it  
8 under this chapter and such other powers and duties as may be  
9 authorized by law.

10       NEW SECTION.    **Sec. 104.**    The executive head and appointing  
11 authority of the department shall be the director. The director shall  
12 be appointed by the governor, with the consent of the senate, and shall  
13 serve at the pleasure of the governor. The director shall be paid a  
14 salary to be fixed by the governor in accordance with RCW 43.03.040.  
15 If a vacancy occurs in the position while the senate is not in session,  
16 the governor shall make a temporary appointment until the next meeting  
17 of the senate.

18       NEW SECTION.    **Sec. 105.**    (1) It is the intent of the legislature  
19 that the internal affairs of the department be under the control of the  
20 director. Therefore, unless the director's authority is specifically  
21 limited by law, the director shall have complete charge and supervisory  
22 powers over the department. The director may establish subdivisions  
23 and create other administrative structures as the director considers  
24 appropriate, except as otherwise specified by law. The director may  
25 employ the assistants and other personnel that are necessary for the  
26 general administration of the department. This employment shall be in  
27 accordance with the state civil service law, chapter 41.06 RCW, except  
28 as otherwise provided.

29        (2) The department of human resources shall be organized consistent  
30 with the following goals:

31        (a) To promote efficient public management;

32        (b) To improve programs administered by the department; and

33        (c) To take full advantage of the economies, both fiscal and  
34 administrative, that may be gained from the consolidation of functions  
35 and agencies under this chapter.

1 (3) The director may delegate any power or duty vested in or  
2 transferred to the director by law or executive order to the deputy  
3 director or to any other assistant or subordinate, but the director  
4 shall be responsible for the official acts of the officers and  
5 employees of the department.

6 NEW SECTION. **Sec. 106.** (1) The director shall appoint advisory  
7 committees or councils as may be required by any federal legislation as  
8 a condition to the receipt of federal funds by the department. The  
9 director may also appoint state advisory committees or councils on  
10 subject matters as are or come within the department's  
11 responsibilities.

12 (2) Members of state advisory committees or councils appointed by  
13 the director may be paid their travel expenses in accordance with RCW  
14 43.03.050 and 43.03.060.

15 NEW SECTION. **Sec. 107.** In furtherance of the policy of the state  
16 to cooperate with the federal government in all of the programs under  
17 the jurisdiction of the department, such rules as may become necessary  
18 to entitle the state to participate in federal funds may be adopted,  
19 unless expressly prohibited by law. Any internal reorganization  
20 carried out under the terms of this chapter shall meet federal  
21 requirements which are a necessary condition to state receipt of  
22 federal funds. Any section or provision of law dealing with the  
23 department which may be susceptible to more than one construction shall  
24 be interpreted in favor of the construction most likely to comply with  
25 federal laws entitling this state to receive federal funds for the  
26 various programs of the department. If any law dealing with the  
27 department is ruled to be in conflict with federal requirements which  
28 are a prescribed condition of the allocation of federal funds to the  
29 state, or to any departments or agencies thereof, the conflicting part  
30 is declared to be inoperative solely to the extent of the conflict.

31 NEW SECTION. **Sec. 108.** A new section is added to chapter 41.06  
32 RCW to read as follows:

33 In addition to the exemptions under RCW 41.06.070, this chapter  
34 shall not apply in the department of human resources to the director,  
35 the director's personal secretary, the deputy director, all division

1 directors and assistant directors, and one confidential secretary for  
2 each of these officers.

3 **Sec. 109.** RCW 41.06.020 and 1985 c 461 s 1 and 1985 c 365 3 are  
4 each reenacted and amended to read as follows:

5 Unless the context clearly indicates otherwise, the words used in  
6 this chapter have the meaning given in this section.

7 (1) "Agency" means an office, department, board, commission, or  
8 other separate unit or division, however designated, of the state  
9 government and all personnel thereof; it includes any unit of state  
10 government established by law, the executive officer or members of  
11 which are either elected or appointed, upon which the statutes confer  
12 powers and impose duties in connection with operations of either a  
13 governmental or proprietary nature.

14 (2) (~~"Board" means the state personnel board established under the~~  
15 ~~provisions of RCW 41.06.110, except that this definition does not apply~~  
16 ~~to the words "board" or "boards" when used in RCW 41.06.070.~~

17 ~~(3))~~ (3) "Classified service" means all positions in the state service  
18 subject to the provisions of this chapter.

19 ~~((4))~~ (3) "Competitive service" means all positions in the  
20 classified service for which a competitive examination is required as  
21 a condition precedent to appointment.

22 ~~((5))~~ (4) "Comparable worth" means the provision of similar  
23 salaries for positions that require or impose similar responsibilities,  
24 judgments, knowledge, skills, and working conditions.

25 ~~((6))~~ (5) "Noncompetitive service" means all positions in the  
26 classified service for which a competitive examination is not required.

27 ~~((7))~~ (6) "Department" means an agency of government that has as  
28 its governing officer a person, or combination of persons such as a  
29 commission, board, or council, by law empowered to operate the agency  
30 responsible either to (a) no other public officer or (b) the governor.

31 ~~((8))~~ (7) "Career development" means the progressive development  
32 of employee capabilities to facilitate productivity, job satisfaction,  
33 and upward mobility through work assignments as well as education and  
34 training that are both state-sponsored and are achieved by individual  
35 employee efforts, all of which shall be consistent with the needs and  
36 obligations of the state and its agencies.

37 ~~((9))~~ (8) "Institutions of higher education" means the same as  
38 defined in RCW 28B.10.016, but does not include technical colleges.

1        (9) "Related boards" means the state board for community and  
2 technical colleges, the higher education coordinating board, and such  
3 other boards, councils, and commissions related to higher education as  
4 may be established.

5        (10) "Training" means activities designed to develop job-related  
6 knowledge and skills of employees.

7        (~~(10)~~) (11) "Director" means the director of (~~personnel~~  
8 ~~appointed under the provisions of RCW 41.06.130~~) human resources.

9        (~~(11)~~) (12) "Affirmative action" means a procedure by which  
10 racial minorities, women, persons in the protected age category,  
11 persons with disabilities, Vietnam-era veterans, and disabled veterans  
12 are provided with increased employment opportunities. It shall not  
13 mean any sort of quota system.

14        NEW SECTION. Sec. 110. A new section is added to chapter 41.06  
15 RCW to read as follows:

16        In addition to other exemptions specifically provided by this  
17 chapter, the state personnel board may provide for further exemptions  
18 pursuant to the following procedures. The governor or other  
19 appropriate elected official may submit requests for exemption to the  
20 personnel board stating the reasons for requesting the exemptions. The  
21 personnel board shall hold a public hearing, after proper notice, on  
22 requests submitted pursuant to this section. If the board determines  
23 that the position for which the exemption is requested is one involving  
24 substantial responsibility for the formulation of basic agency or  
25 executive policy or one involving directing and controlling program  
26 operations of an agency or a major administrative division thereof, the  
27 personnel board shall grant the request and such determination shall be  
28 final. The total number of additional exemptions permitted under this  
29 section and RCW 41.06.070(28) shall not exceed one and one-half percent  
30 of the number of employees in the classified service for those agencies  
31 not directly under the authority of any elected public official other  
32 than the governor, and shall not exceed a total of twenty-five for all  
33 agencies under the authority of elected public officials other than the  
34 governor. The state personnel board shall report to each regular  
35 session of the legislature during an odd-numbered year all exemptions  
36 granted under this section, together with the reasons for such  
37 exemptions.

1       **Sec. 111.** RCW 41.06.070 and 1990 c 60 s 101 are each amended to  
2 read as follows:

3       The provisions of this chapter do not apply to:

4       (1) The members of the legislature or to any employee of, or  
5 position in, the legislative branch of the state government including  
6 members, officers, and employees of the legislative council,  
7 legislative budget committee, statute law committee, and any interim  
8 committee of the legislature;

9       (2) The justices of the supreme court, judges of the court of  
10 appeals, judges of the superior courts or of the inferior courts, or to  
11 any employee of, or position in the judicial branch of state  
12 government;

13       ~~(3) ((Officers, academic personnel, and employees of state  
14 institutions of higher education, the state board for community college  
15 education, and the higher education personnel board;~~

16       ~~(4))~~ The officers of the Washington state patrol;

17       ~~((5))~~ (4) Elective officers of the state;

18       ~~((6))~~ (5) The chief executive officer of each agency;

19       ~~((7))~~ (6) In the departments of employment security, fisheries,  
20 social and health services, the director and his or her confidential  
21 secretary; in all other departments, the executive head of which is an  
22 individual appointed by the governor, the director, his or her  
23 confidential secretary, and his or her statutory assistant directors;

24       ~~((8))~~ (7) In the case of a multimember board, commission, or  
25 committee, whether the members thereof are elected, appointed by the  
26 governor or other authority, serve ex officio, or are otherwise chosen:

27       (a) All members of such boards, commissions, or committees;

28       (b) If the members of the board, commission, or committee serve on  
29 a part-time basis and there is a statutory executive officer: (i) The  
30 secretary of the board, commission, or committee; (ii) the chief  
31 executive officer of the board, commission, or committee; and (iii) the  
32 confidential secretary of the chief executive officer of the board,  
33 commission, or committee;

34       (c) If the members of the board, commission, or committee serve on  
35 a full-time basis: (i) The chief executive officer or administrative  
36 officer as designated by the board, commission, or committee; and (ii)  
37 a confidential secretary to the chairman of the board, commission, or  
38 committee;

1 (d) If all members of the board, commission, or committee serve ex  
2 officio: (i) The chief executive officer; and (ii) the confidential  
3 secretary of such chief executive officer;  
4 ~~((+9))~~ (8) The confidential secretaries and administrative  
5 assistants in the immediate offices of the elective officers of the  
6 state;  
7 ~~((+10))~~ (9) Assistant attorneys general;  
8 ~~((+11))~~ (10) Commissioned and enlisted personnel in the military  
9 service of the state;  
10 ~~((+12))~~ (11) Within agencies, inmate, student, part-time, or  
11 temporary employees, and part-time professional consultants, as defined  
12 by the ~~((state personnel board or the board having jurisdiction))~~  
13 director of human resources;  
14 ~~((+13))~~ (12) The public printer or to any employees of or  
15 positions in the state printing plant;  
16 ~~((+14))~~ (13) Officers and employees of the Washington state fruit  
17 commission;  
18 ~~((+15))~~ (14) Officers and employees of the Washington state apple  
19 advertising commission;  
20 ~~((+16))~~ (15) Officers and employees of the Washington state dairy  
21 products commission;  
22 ~~((+17))~~ (16) Officers and employees of the Washington tree fruit  
23 research commission;  
24 ~~((+18))~~ (17) Officers and employees of the Washington state beef  
25 commission;  
26 ~~((+19))~~ (18) Officers and employees of any commission formed under  
27 the provisions of chapter 191, Laws of 1955, and chapter 15.66 RCW;  
28 ~~((+20))~~ (19) Officers and employees of the state wheat commission  
29 formed under the provisions of chapter 87, Laws of 1961 (chapter 15.63  
30 RCW);  
31 ~~((+21))~~ (20) Officers and employees of agricultural commissions  
32 formed under the provisions of chapter 256, Laws of 1961 (chapter 15.65  
33 RCW);  
34 ~~((+22))~~ (21) Officers and employees of the nonprofit corporation  
35 formed under chapter 67.40 RCW;  
36 ~~((+23))~~ (22) Liquor vendors appointed by the Washington state  
37 liquor control board pursuant to RCW 66.08.050: PROVIDED, HOWEVER,  
38 That rules ~~((and regulations))~~ adopted by the ~~((state personnel board))~~  
39 director pursuant to RCW 41.06.150 regarding the basis for, and

1 procedures to be followed for, the dismissal, suspension, or demotion  
2 of an employee, and appeals therefrom shall be fully applicable to  
3 liquor vendors except those part time agency vendors employed by the  
4 liquor control board when, in addition to the sale of liquor for the  
5 state, they sell goods, wares, merchandise, or services as a self-  
6 sustaining private retail business;

7 ~~((24))~~ (23) Executive assistants for personnel administration and  
8 labor relations in all state agencies employing such executive  
9 assistants including but not limited to all departments, offices,  
10 commissions, committees, boards, or other bodies subject to the  
11 provisions of this chapter and this subsection shall prevail over any  
12 provision of law inconsistent herewith unless specific exception is  
13 made in such law;

14 ~~((25))~~ (24) In each agency with fifty or more employees: Deputy  
15 agency heads, assistant directors or division directors, and not more  
16 than three principal policy assistants who report directly to the  
17 agency head or deputy agency heads;

18 ~~((26))~~ (25) All employees of the marine employees' commission;

19 ~~((27))~~ (26) Up to a total of five senior staff positions of the  
20 western library network under chapter 27.26 RCW responsible for  
21 formulating policy or for directing program management of a major  
22 administrative unit. This subsection shall expire on June 30, 1997;

23 ~~((28))~~ (27) In addition to the exemptions specifically provided  
24 by this chapter, the ~~((state personnel board))~~ director may provide for  
25 further exemptions pursuant to the following procedures. The governor  
26 or other appropriate elected official may submit requests for exemption  
27 to the ~~((personnel board))~~ director stating the reasons for requesting  
28 such exemptions. ~~((The personnel board shall hold a public hearing,  
29 after proper notice, on requests submitted pursuant to this  
30 subsection.))~~ If the ~~((board))~~ director determines that the position  
31 for which exemption is requested is one involving substantial  
32 responsibility for the formulation of basic agency or executive policy  
33 or one involving directing and controlling program operations of an  
34 agency or a major administrative division thereof, the ~~((personnel  
35 board))~~ director shall grant the request and such determination shall  
36 be final. The total number of additional exemptions permitted under  
37 this subsection shall not exceed ~~((one hundred eighty seven))~~ one and  
38 one-half percent of the number of employees in the classified service  
39 not including employees of higher education, for those agencies not

1 directly under the authority of any elected public official other than  
2 the governor, and shall not exceed a total of twenty-five for all  
3 agencies under the authority of elected public officials other than the  
4 governor((-));

5 (28) The following classifications, positions, and employees of  
6 institutions of higher education and related boards:

7 (a) Members of the governing board of each institution of higher  
8 education and related boards, all presidents, vice-presidents and their  
9 confidential secretaries, administrative and personal assistants;  
10 deans, directors, and chairpersons; academic personnel; and executive  
11 heads of major administrative or academic divisions employed by  
12 institutions of higher education; principal assistants to executive  
13 heads of major administrative or academic divisions; other managerial  
14 or professional employees in an institution of higher education or  
15 related board having substantial responsibility for directing or  
16 controlling program operations and accountable for allocation of  
17 resources and program results, or for the formulation of institutional  
18 policy, or for carrying out personnel administration or labor relations  
19 functions, legislative relations, public information, development,  
20 senior computer systems and network programming, or internal audits and  
21 investigations; and any employee of a community college district whose  
22 place of work is one that is physically located outside the state of  
23 Washington and who is employed pursuant to RCW 28B.50.092 and assigned  
24 to an educational program operating outside of the state of Washington;

25 (b) Students, part-time, or temporary employees, and part-time  
26 professional consultants, as defined by the director, employed by  
27 institutions of higher education and related boards;

28 (c) The director, the director's confidential secretary, assistant  
29 directors, and professional education employees of the state board for  
30 community and technical colleges;

31 (d) Printing craft employees in the department of printing at the  
32 University of Washington;

33 (e) The governing board of each institution of higher education,  
34 and related boards, may also exempt from this chapter, subject to the  
35 employees' right of appeal to the personnel appeals board,  
36 classifications involving research activities, counseling of students,  
37 extension or continuing education activities, and graphic arts or  
38 publications activities requiring prescribed academic preparation or  
39 special training, as determined by the director, however no nonacademic

1 employee engaged in office, clerical, maintenance, or food and trade  
2 services may be exempted by the director under this subsection (28)(e);

3 (29) The governor's designee under section 316 of this act for  
4 collective bargaining and any employees working for the governor's  
5 designee;

6 (30) The ((state personnel board)) director shall report to each  
7 regular session of the legislature during an odd-numbered year all  
8 exemptions granted under subsections ((24), (25), and (28)) (23),  
9 (24), and (27) of this section, together with the reasons for such  
10 exemptions.

11 The salary and fringe benefits of all positions presently or  
12 hereafter exempted except for the chief executive officer of each  
13 agency, full-time members of boards and commissions, administrative  
14 assistants and confidential secretaries in the immediate office of an  
15 elected state official, and the personnel listed in subsections ((10)  
16 through (22)) (9) through (21) and (28) of this section, shall be  
17 determined by the ((state personnel board)) director.

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

25 Any classified employee having civil service status in a classified  
26 position who accepts an appointment in an exempt position shall have  
27 the right of reversion to the highest class of position previously  
28 held, or to a position of similar nature and salary.

29 A person occupying an exempt position who is terminated from the  
30 position for gross misconduct or malfeasance does not have the right of  
31 reversion to a classified position as provided for in this section.

32 **Sec. 112.** RCW 41.06.080 and 1970 ex.s. c 12 s 2 are each amended  
33 to read as follows:

34 Notwithstanding the provisions of this chapter, the department of  
35 ((personnel)) human resources may make its services available on  
36 request, on a reimbursable basis, to:

37 (1) Either the legislative or the judicial branch of the state  
38 government;

1 (2) Any county, city, town, or other municipal subdivision of the  
2 state;

3 (~~3~~) (~~The institutions of higher learning;~~  
4 (~~4~~)) Any agency, class, or position set forth in RCW 41.06.070.

5 NEW SECTION. **Sec. 113.** A new section is added to chapter 41.06  
6 RCW to read as follows:

7 The director may delegate to any agency the authority to perform  
8 administrative and technical personnel activities if the agency  
9 requests such authority and the director is satisfied that the agency  
10 has the personnel management capabilities to effectively perform the  
11 delegated activities. The director shall prescribe standards and  
12 guidelines for the performance of delegated activities. If the  
13 director determines that an agency is not performing delegated  
14 activities within the prescribed standards and guidelines, the director  
15 shall withdraw the authority from the agency to perform such  
16 activities.

17 NEW SECTION. **Sec. 114.** A new section is added to chapter 41.06  
18 RCW to read as follows:

19 Each institution of higher education and each related board shall  
20 designate an officer who shall perform duties as personnel officer.  
21 The personnel officer at each institution of higher education or  
22 related board shall direct, supervise, and manage administrative and  
23 technical personnel activities for the classified service at the  
24 institution of higher education or related board consistent with  
25 policies established by the institution of higher education or related  
26 board and in accordance with the provisions of this chapter and the  
27 rules adopted under it. Institutions of higher education may undertake  
28 jointly with one or more other institutions of higher education to  
29 appoint a person qualified to perform the duties of personnel officer,  
30 provide staff and financial support, and may engage consultants to  
31 assist in the performance of specific projects.

32 The state board for community and technical colleges shall have  
33 general supervision and control over activities undertaken by the  
34 various state community and technical colleges under this section.

35 **Sec. 115.** RCW 41.06.140 and 1961 c 1 s 14 are each amended to read  
36 as follows:

1       It shall be the duty of the (~~board~~) director to make rules (~~and~~  
2 ~~regulations~~) providing for employee participation in the development  
3 and administration of personnel policies. To assure this right,  
4 permanent personnel policies, rules, classification and pay plans, and  
5 amendments thereto, shall be acted on only after the (~~board~~) director  
6 has given twenty days notice to, and considered proposals from,  
7 employee representatives and agencies affected. Complete and current  
8 compilations of all rules (~~and regulations~~) of the (~~board in~~  
9 ~~printed, mimeographed or multigraphed form~~) department of human  
10 resources shall be available to the public in the office of the  
11 director (~~of personnel free of charge~~).

12       **Sec. 116.** RCW 41.06.150 and 1990 c 60 s 103 are each amended to  
13 read as follows:

14       The board shall adopt rules, consistent with the purposes and  
15 provisions of this chapter, as now or hereafter amended, and with the  
16 best standards of personnel administration, regarding the basis and  
17 procedures to be followed for:

18       (1) The reduction, dismissal, suspension, or demotion of an  
19 employee;

20       (2) Certification of names for vacancies, including departmental  
21 promotions, with the number of names equal to (~~four~~) nine more names  
22 than there are vacancies to be filled, such names representing  
23 applicants rated highest on eligibility lists(~~(:—PROVIDED, That~~  
24 ~~when))~~). However, if other applicants have scores equal to the lowest  
25 score among the names certified, their names shall also be certified.  
26 In addition, a certification shall include five additional names of  
27 members of protected groups who are on existing registers, taking into  
28 consideration the extent to which the protected group members are  
29 represented in the agency's work force. More than five additional  
30 names per vacancy will be certified if there are protected group  
31 candidates with the same score as the lowest score to be certified;

32       (3) Examinations for all positions in the competitive and  
33 noncompetitive service;

34       (4) Appointments;

35       (5) Training and career development;

36       (6) Probationary periods of six to twelve months and rejections  
37 therein, depending on the job requirements of the class, except that

1 entry level state park rangers shall serve a probationary period of  
2 twelve months;

3 (7) Transfers;

4 (8) Sick leaves and vacations;

5 (9) Hours of work;

6 (10) Layoffs when necessary and subsequent reemployment, both  
7 ~~((according to))~~ based on seniority and maintenance and implementation  
8 of approved affirmative action plans, to the extent that consideration  
9 of an approved affirmative action plan is not inconsistent with  
10 applicable precedent of the United States supreme court;

11 (11) Determination of appropriate bargaining units within any  
12 agency: PROVIDED, That in making such determination the board shall  
13 consider the duties, skills, and working conditions of the employees,  
14 the history of collective bargaining by the employees and their  
15 bargaining representatives, the extent of organization among the  
16 employees, and the desires of the employees;

17 (12) Certification and decertification of exclusive bargaining  
18 representatives: PROVIDED, That after certification of an exclusive  
19 bargaining representative and upon the representative's request, the  
20 director shall hold an election among employees in a bargaining unit to  
21 determine by a majority whether to require as a condition of employment  
22 membership in the certified exclusive bargaining representative on or  
23 after the thirtieth day following the beginning of employment or the  
24 date of such election, whichever is the later, and the failure of an  
25 employee to comply with such a condition of employment constitutes  
26 cause for dismissal: PROVIDED FURTHER, That no more often than once in  
27 each twelve-month period after expiration of twelve months following  
28 the date of the original election in a bargaining unit and upon  
29 petition of thirty percent of the members of a bargaining unit the  
30 director shall hold an election to determine whether a majority wish to  
31 rescind such condition of employment: PROVIDED FURTHER, That for  
32 purposes of this clause, membership in the certified exclusive  
33 bargaining representative is satisfied by the payment of monthly or  
34 other periodic dues and does not require payment of initiation,  
35 reinstatement, or any other fees or fines and includes full and  
36 complete membership rights: AND PROVIDED FURTHER, That in order to  
37 safeguard the right of nonassociation of public employees, based on  
38 bona fide religious tenets or teachings of a church or religious body  
39 of which such public employee is a member, such public employee shall

1 pay to the union, for purposes within the program of the union as  
2 designated by such employee that would be in harmony with his or her  
3 individual conscience, an amount of money equivalent to regular union  
4 dues minus any included monthly premiums for union-sponsored insurance  
5 programs, and such employee shall not be a member of the union but is  
6 entitled to all the representation rights of a union member;

7 (13) Agreements between agencies and certified exclusive bargaining  
8 representatives providing for grievance procedures and collective  
9 negotiations on all personnel matters over which the appointing  
10 authority of the appropriate bargaining unit of such agency may  
11 lawfully exercise discretion;

12 (14) Written agreements may contain provisions for payroll  
13 deductions of employee organization dues upon authorization by the  
14 employee member and for the cancellation of such payroll deduction by  
15 the filing of a proper prior notice by the employee with the appointing  
16 authority and the employee organization: PROVIDED, That nothing  
17 contained herein permits or grants to any employee the right to strike  
18 or refuse to perform his or her official duties;

19 (15) Adoption and revision of a comprehensive classification plan  
20 for all positions in the classified service, based on investigation and  
21 analysis of the duties and responsibilities of each such position;

22 (16) Allocation and reallocation of positions within the  
23 classification plan;

24 (17) Adoption and revision of a state salary schedule to reflect  
25 the prevailing rates in Washington state private industries and other  
26 governmental units but the rates in the salary schedules or plans shall  
27 be increased if necessary to attain comparable worth under an  
28 implementation plan under RCW 41.06.155, such adoption and revision  
29 subject to approval by the director of financial management in  
30 accordance with the provisions of chapter 43.88 RCW;

31 (18) Increment increases within the series of steps for each pay  
32 grade based on length of service for all employees whose standards of  
33 performance are such as to permit them to retain job status in the  
34 classified service;

35 (19) Providing for veteran's preference as required by existing  
36 statutes, with recognition of preference in regard to layoffs and  
37 subsequent reemployment for veterans and their widows by giving such  
38 eligible veterans and their widows additional credit in computing their  
39 seniority by adding to their unbroken state service, as defined by the

1 board, the veteran's service in the military not to exceed five years.  
2 For the purposes of this section, "veteran" means any person who has  
3 one or more years of active military service in any branch of the armed  
4 forces of the United States or who has less than one year's service and  
5 is discharged with a disability incurred in the line of duty or is  
6 discharged at the convenience of the government and who, upon  
7 termination of such service has received an honorable discharge, a  
8 discharge for physical reasons with an honorable record, or a release  
9 from active military service with evidence of service other than that  
10 for which an undesirable, bad conduct, or dishonorable discharge shall  
11 be given: PROVIDED, HOWEVER, That the widow of a veteran is entitled  
12 to the benefits of this section regardless of the veteran's length of  
13 active military service: PROVIDED FURTHER, That for the purposes of  
14 this section "veteran" does not include any person who has voluntarily  
15 retired with twenty or more years of active military service and whose  
16 military retirement pay is in excess of five hundred dollars per month;

17 (20) Permitting agency heads to delegate the authority to appoint,  
18 reduce, dismiss, suspend, or demote employees within their agencies if  
19 such agency heads do not have specific statutory authority to so  
20 delegate: PROVIDED, That the board may not authorize such delegation  
21 to any position lower than the head of a major subdivision of the  
22 agency;

23 (21) Assuring persons who are or have been employed in classified  
24 positions under chapter 28B.16 RCW will be eligible for employment,  
25 reemployment, transfer, and promotion in respect to classified  
26 positions covered by this chapter;

27 (22) Affirmative action in appointment, promotion, transfer, layoff  
28 and subsequent reemployment, recruitment, training, and career  
29 development; development and implementation of affirmative action goals  
30 and timetables; and monitoring of progress against those goals and  
31 timetables.

32 The board shall consult with the human rights commission in the  
33 development of rules pertaining to affirmative action. The department  
34 of personnel shall transmit a report annually to the human rights  
35 commission which states the progress each state agency has made in  
36 meeting affirmative action goals and timetables.

37 **Sec. 117.** RCW 41.06.150 and 1990 c 60 s 103 are each amended to  
38 read as follows:

1       The (~~board~~) director shall adopt rules, consistent with the  
2 purposes and provisions of this chapter(~~(, as now or hereafter~~  
3 ~~amended,)~~) and with the best standards of personnel administration,  
4 regarding the basis and procedures to be followed for:

5       (1) The reduction, dismissal, suspension, or demotion of an  
6 employee;

7       (2) Certification of names for vacancies, including departmental  
8 promotions, with the number of names equal to (~~four~~) nine more names  
9 than there are vacancies to be filled, such names representing  
10 applicants rated highest on eligibility lists(~~(: PROVIDED, That~~  
11 ~~when))~~). However, if other applicants have scores equal to the lowest  
12 score among the names certified, their names shall also be certified.  
13 In addition, a certification shall include five additional names of  
14 members of protected groups who are on existing registers, taking into  
15 consideration the extent to which the protected group members are  
16 represented in the agency's work force. More than five additional  
17 names per vacancy will be certified if there are protected group  
18 candidates with the same score as the lowest score to be certified;

19       (3) Examinations for all positions in the competitive and  
20 noncompetitive service;

21       (4) Appointments;

22       (5) Training and career development;

23       (6) Probationary periods of six to twelve months and rejections  
24 therein, depending on the job requirements of the class, except that  
25 entry level state park rangers shall serve a probationary period of  
26 twelve months;

27       (7) Transfers;

28       (8) Sick leaves and vacations;

29       (9) Hours of work;

30       (10) Layoffs when necessary and subsequent reemployment(~~(, both~~  
31 ~~according to seniority))~~);

32       (~~Determination of appropriate bargaining units within any~~  
33 ~~agency: PROVIDED, That in making such determination the board shall~~  
34 ~~consider the duties, skills, and working conditions of the employees,~~  
35 ~~the history of collective bargaining by the employees and their~~  
36 ~~bargaining representatives, the extent of organization among the~~  
37 ~~employees, and the desires of the employees;~~

38       (~~Certification and decertification of exclusive bargaining~~  
39 ~~representatives: PROVIDED, That after certification of an exclusive~~

1 bargaining representative and upon the representative's request, the  
2 director shall hold an election among employees in a bargaining unit to  
3 determine by a majority whether to require as a condition of employment  
4 membership in the certified exclusive bargaining representative on or  
5 after the thirtieth day following the beginning of employment or the  
6 date of such election, whichever is the later, and the failure of an  
7 employee to comply with such a condition of employment constitutes  
8 cause for dismissal: PROVIDED FURTHER, That no more often than once in  
9 each twelve month period after expiration of twelve months following  
10 the date of the original election in a bargaining unit and upon  
11 petition of thirty percent of the members of a bargaining unit the  
12 director shall hold an election to determine whether a majority wish to  
13 rescind such condition of employment: PROVIDED FURTHER, That for  
14 purposes of this clause, membership in the certified exclusive  
15 bargaining representative is satisfied by the payment of monthly or  
16 other periodic dues and does not require payment of initiation,  
17 reinstatement, or any other fees or fines and includes full and  
18 complete membership rights: AND PROVIDED FURTHER, That in order to  
19 safeguard the right of nonassociation of public employees, based on  
20 bona fide religious tenets or teachings of a church or religious body  
21 of which such public employee is a member, such public employee shall  
22 pay to the union, for purposes within the program of the union as  
23 designated by such employee that would be in harmony with his or her  
24 individual conscience, an amount of money equivalent to regular union  
25 dues minus any included monthly premiums for union sponsored insurance  
26 programs, and such employee shall not be a member of the union but is  
27 entitled to all the representation rights of a union member;

28 (13) Agreements between agencies and certified exclusive bargaining  
29 representatives providing for grievance procedures and collective  
30 negotiations on all personnel matters over which the appointing  
31 authority of the appropriate bargaining unit of such agency may  
32 lawfully exercise discretion;

33 (14) Written agreements may contain provisions for payroll  
34 deductions of employee organization dues upon authorization by the  
35 employee member and for the cancellation of such payroll deduction by  
36 the filing of a proper prior notice by the employee with the appointing  
37 authority and the employee organization: PROVIDED, That nothing  
38 contained herein permits or grants to any employee the right to strike  
39 or refuse to perform his or her official duties;

1       ~~(15))~~) Adoption and revision of a comprehensive classification plan  
2 for all positions in the classified service, based on investigation and  
3 analysis of the duties and responsibilities of each such position;

4       ~~((16))~~) (12) Allocation and reallocation of positions within the  
5 classification plan;

6       ~~((17))~~) (13) Adoption and revision of a state salary schedule to  
7 reflect the prevailing rates in Washington state private industries and  
8 other governmental units but the rates in the salary schedules or plans  
9 shall be increased if necessary to attain comparable worth under an  
10 implementation plan under RCW 41.06.155, and in the institutions of  
11 higher education and related boards shall be competitive in the state  
12 or locality in which the institution of higher education or related  
13 boards are located, such adoption and revision subject to approval by  
14 the director of financial management in accordance with the provisions  
15 of chapter 43.88 RCW and after consultation with the chief financial  
16 officer of each institution of higher education or related board, as  
17 applicable;

18       ~~((18))~~) (14) Increment increases within the series of steps for  
19 each pay grade based on length of service for all employees whose  
20 standards of performance are such as to permit them to retain job  
21 status in the classified service;

22       ~~((19))~~) (15) Providing for veteran's preference as required by  
23 existing statutes, with recognition of preference in regard to layoffs  
24 and subsequent reemployment for veterans and ~~((their widows))~~ deceased  
25 veterans' surviving spouses by giving such eligible veterans and  
26 ~~((their widows))~~ deceased veterans' surviving spouses additional credit  
27 in computing their seniority by adding to their unbroken state service,  
28 as defined by the ~~((board))~~ director, the veteran's service in the  
29 military not to exceed five years. For the purposes of this section,  
30 "veteran" means any person who has one or more years of active military  
31 service in any branch of the armed forces of the United States or who  
32 has less than one year's service and is discharged with a disability  
33 incurred in the line of duty or is discharged at the convenience of the  
34 government and who, upon termination of such service has received an  
35 honorable discharge, a discharge for physical reasons with an honorable  
36 record, or a release from active military service with evidence of  
37 service other than that for which an undesirable, bad conduct, or  
38 dishonorable discharge shall be given: PROVIDED, HOWEVER, That the  
39 ~~((widow of a veteran))~~ deceased veteran's surviving spouse is entitled

1 to the benefits of this section regardless of the veteran's length of  
2 active military service: PROVIDED FURTHER, That for the purposes of  
3 this section "veteran" does not include any person who has voluntarily  
4 retired with twenty or more years of active military service and whose  
5 military retirement pay is in excess of five hundred dollars per month;

6 ~~((+20))~~ (16) Permitting agency heads to delegate the authority to  
7 appoint, reduce, dismiss, suspend, or demote employees within their  
8 agencies if such agency heads do not have specific statutory authority  
9 to so delegate: PROVIDED, That the ~~((board))~~ director may not  
10 authorize such delegation to any position lower than the head of a  
11 major subdivision of the agency;

12 ~~((+21))~~ (17) Assuring that persons who are or have been employed  
13 in classified positions under this chapter ~~((28B.16 RCW))~~ in an agency  
14 or institution of higher education or related boards will be eligible  
15 for employment, reemployment, transfer, and promotion in respect to  
16 classified positions covered by this chapter at any other agency or  
17 institution of higher education or related boards;

18 ~~((+22))~~ (18) Affirmative action in appointment, promotion,  
19 transfer, recruitment, training, and career development; development  
20 and implementation of affirmative action goals and timetables; and  
21 monitoring of progress against those goals and timetables.

22 The ~~((board))~~ director shall consult with the human rights  
23 commission in the development of rules pertaining to affirmative  
24 action. The ~~((department of personnel))~~ director shall transmit a  
25 report annually to the human rights commission which states the  
26 progress each state agency has made in meeting affirmative action goals  
27 and timetables.

28 NEW SECTION. Sec. 118. A new section is added to chapter 41.06  
29 RCW to read as follows:

30 (1) Rules adopted by the director shall provide for local  
31 administration and management by the institutions of higher education  
32 and related boards, subject to periodic audit and review by the  
33 director, of the following:

- 34 (a) Appointment, promotion, and transfer of employees;
- 35 (b) Dismissal, suspension, or demotion of an employee;
- 36 (c) Examinations for all positions in the competitive and  
37 noncompetitive service;

1 (d) Probationary periods of six to twelve months and rejections  
2 therein;

3 (e) Sick leaves and vacations;

4 (f) Hours of work;

5 (g) Layoffs when necessary and subsequent reemployment;

6 (h) Allocation and reallocation of positions within the  
7 classification plans;

8 (i) Training programs; and

9 (j) Maintenance of personnel records.

10 (2) The director may authorize local administration and management  
11 by agencies other than institutions of higher education and related  
12 boards.

13 **Sec. 119.** RCW 41.06.160 and 1985 c 94 s 2 are each amended to read  
14 as follows:

15 (1) In preparing classification and salary schedules as set forth  
16 in RCW 41.06.150 (~~((as now or hereafter amended))~~) the department of  
17 (~~((personnel))~~) human resources shall give full consideration to  
18 prevailing rates in other public employment and in private employment  
19 in this state. For this purpose the department shall undertake  
20 (~~((comprehensive))~~) salary and fringe benefit surveys (~~((to be planned and~~  
21 ~~conducted on a joint basis with the higher education personnel board,~~  
22 ~~with such surveys))~~) to be conducted in the year prior to the convening  
23 of every (~~((other))~~) one hundred five day regular session of the state  
24 legislature or as requested by the governor or the governor's designee  
25 for the purpose of collective bargaining. (~~((In the year prior to the~~  
26 ~~convening of each one hundred five day regular session during which a~~  
27 ~~comprehensive salary and fringe benefit survey is not conducted, the~~  
28 ~~department shall plan and conduct on a joint basis with the higher~~  
29 ~~education personnel board a trend salary and fringe benefit survey.~~  
30 ~~This survey shall measure average salary and fringe benefit movement~~  
31 ~~for broad occupational groups which has occurred since the last~~  
32 ~~comprehensive salary and fringe benefit survey was conducted. The~~  
33 ~~results of each comprehensive and trend salary and fringe benefit~~  
34 ~~survey shall be completed and forwarded by September 30 with a~~  
35 ~~recommended state salary schedule to the governor and director of~~  
36 ~~financial management for their use in preparing budgets to be submitted~~  
37 ~~to the succeeding legislature. A copy of the data and supporting~~  
38 ~~documentation shall be furnished by the department of personnel to the~~

1 ~~standing committees for appropriations of the senate and house of~~  
2 ~~representatives.~~

3 In the case of comprehensive salary and fringe benefit surveys, the  
4 department shall furnish the following supplementary data in support of  
5 its recommended salary schedule:

6 (1) A total dollar figure which reflects the recommended increase  
7 or decrease in state salaries as a direct result of the specific salary  
8 and fringe benefit survey that has been conducted and which is  
9 categorized to indicate what portion of the increase or decrease is  
10 represented by salary survey data and what portion is represented by  
11 fringe benefit survey data;

12 (2) An additional total dollar figure which reflects the impact of  
13 recommended increases or decreases to state salaries based on other  
14 factors rather than directly on prevailing rate data obtained through  
15 the survey process and which is categorized to indicate the sources of  
16 the requests for deviation from prevailing rates and the reasons for  
17 the changes;

18 (3) A list of class codes and titles indicating recommended monthly  
19 salary ranges for all state classes under the control of the department  
20 of personnel with:

21 (a) Those salary ranges which do not substantially conform to the  
22 prevailing rates developed from the salary and fringe benefit survey  
23 distinctly marked and an explanation of the reason for the deviation  
24 included; and

25 (b) Those department of personnel classes which are substantially  
26 the same as classes being used by the higher education personnel board  
27 clearly marked to show the commonality of the classes between the two  
28 jurisdictions;

29 (4) A supplemental salary schedule which indicates the additional  
30 salary to be paid state employees for hazardous duties or other  
31 considerations requiring extra compensation under specific  
32 circumstances. Additional compensation for these circumstances shall  
33 not be included in the basic salary schedule but shall be maintained as  
34 a separate pay schedule for purposes of full disclosure and visibility;  
35 and

36 (5) A supplemental salary schedule which indicates those cases  
37 where the board determines that prevailing rates do not provide similar  
38 salaries for positions that require or impose similar responsibilities,  
39 judgment, knowledge, skills, and working conditions. This

1 supplementary salary schedule shall contain proposed salary adjustments  
2 necessary to eliminate any such dissimilarities in compensation.  
3 Additional compensation needed to eliminate such salary dissimilarities  
4 shall not be included in the basic salary schedule but shall be  
5 maintained as a separate salary schedule for purposes of full  
6 disclosure and visibility.

7 It is the intention of the legislature that requests for funds to  
8 support recommendations for salary deviations from the prevailing rate  
9 survey data shall be kept to a minimum, and that the requests be fully  
10 documented when forwarded by the department of personnel. Further, it  
11 is the intention of the legislature that the department of personnel  
12 and the higher education personnel board jointly determine job classes  
13 which are substantially common to both jurisdictions and that basic  
14 salaries for these job classes shall be equal based on salary and  
15 fringe benefit survey findings.))

16 (2) Salary and fringe benefit survey information collected from  
17 private employers which identifies a specific employer with the salary  
18 and fringe benefit rates which that employer pays to its employees  
19 shall not be subject to public disclosure under chapter 42.17 RCW.

20 ((The first comprehensive salary and fringe benefit survey required  
21 by this section shall be completed and forwarded to the governor and  
22 the director of financial management by September 30, 1986. The first  
23 trend salary and fringe benefit survey required by this section shall  
24 be completed and forwarded to the governor and the director of  
25 financial management by September 30, 1988.))

26 **Sec. 120.** RCW 41.06.167 and 1991 c 196 s 1 are each amended to  
27 read as follows:

28 The department of ((personnel)) human resources shall undertake  
29 comprehensive compensation surveys for officers and entry-level officer  
30 candidates of the Washington state patrol, with such surveys to be  
31 conducted in the year prior to the convening of every other one hundred  
32 five day regular session of the state legislature. In the year prior  
33 to the convening of each one hundred five day regular session during  
34 which a comprehensive compensation survey is not conducted, the  
35 department of human resources shall conduct a trend compensation  
36 survey. This survey shall measure average compensation movement which  
37 has occurred since the last comprehensive compensation survey was  
38 conducted. The results of each comprehensive and trend survey shall be

1 completed and forwarded by September 30th, after review and preparation  
2 of recommendations by the chief of the Washington state patrol, to the  
3 governor and director of financial management for their use in  
4 preparing budgets to be submitted to the succeeding legislature. A  
5 copy of the data and supporting documentation shall be furnished by the  
6 department of (~~personnel~~) human resources to the legislative  
7 transportation committee and the standing committees for appropriations  
8 of the senate and house of representatives. The office of financial  
9 management shall analyze the survey results and conduct investigations  
10 which may be necessary to arbitrate differences between interested  
11 parties regarding the accuracy of collected survey data and the use of  
12 such data for salary adjustment.

13 Surveys conducted by the department of (~~personnel~~) human  
14 resources for the Washington state patrol shall be undertaken in a  
15 manner consistent with statistically accurate sampling techniques,  
16 including comparisons of medians, base ranges, and weighted averages of  
17 salaries. The surveys shall compare competitive labor markets of law  
18 enforcement officers. This service performed by the department of  
19 (~~personnel~~) human resources shall be on a reimbursable basis in  
20 accordance with the provisions of RCW 41.06.080.

21 A comprehensive compensation survey plan and the recommendations of  
22 the chief of the Washington state patrol shall be submitted jointly by  
23 the department of (~~personnel~~) human resources and the Washington  
24 state patrol to the director of financial management, the legislative  
25 transportation committee, the committee on ways and means of the  
26 senate, and the committee on appropriations of the house of  
27 representatives six months before the beginning of each periodic  
28 survey.

29 **Sec. 121.** RCW 41.06.169 and 1985 c 461 s 3 are each amended to  
30 read as follows:

31 After consultation with state agency heads, heads of institutions  
32 of higher education and related boards, employee organizations, and  
33 other interested parties, the (~~state personnel~~) director shall  
34 develop standardized employee performance evaluation procedures and  
35 forms which shall be used by state agencies and institutions of higher  
36 education and related boards for the appraisal of employee job  
37 performance at least annually. These procedures shall include means  
38 whereby individual agencies and institutions of higher education and

1 related boards may supplement the standardized evaluation process with  
2 special performance factors peculiar to specific organizational needs.  
3 Performance evaluation procedures shall place primary emphasis on  
4 recording how well the employee has contributed to efficiency,  
5 effectiveness, and economy in fulfilling state agency and job  
6 objectives.

7 **Sec. 122.** RCW 41.06.170 and 1981 c 311 s 19 are each amended to  
8 read as follows:

9 (1) The ~~((board))~~ director, in the ~~((promulgation))~~ adoption of  
10 rules ~~((and regulations))~~ governing suspensions for cause, shall not  
11 authorize an appointing authority to suspend an employee for more than  
12 fifteen calendar days as a single penalty or more than thirty calendar  
13 days in any one calendar year as an accumulation of several penalties.  
14 The ~~((board))~~ director shall require that the appointing authority give  
15 written notice to the employee not later than one day after the  
16 suspension takes effect, stating the reasons for and the duration  
17 thereof. ~~((The authority shall file a copy of the notice with the  
18 director of personnel.))~~

19 (2) Any employee who is reduced, dismissed, suspended, or demoted,  
20 after completing his or her probationary period of service as provided  
21 by the rules ~~((and regulations))~~ of the ~~((board))~~ director, whose  
22 position has been exempted after the effective date of this section, or  
23 any employee who is adversely affected by a violation of the state  
24 civil service law, chapter 41.06 RCW~~((, as now or hereafter amended))~~,  
25 or rules ~~((promulgated pursuant thereto))~~ adopted under it, shall have  
26 the right to appeal to the personnel appeals board created by RCW  
27 41.64.010 not later than thirty days after the effective date of such  
28 action. The employee shall be furnished with specified charges in  
29 writing when a reduction, dismissal, suspension, or demotion action is  
30 taken. Such appeal shall be in writing.

31 (3) An employee incumbent in a position at the time of its  
32 allocation or reallocation, or the agency utilizing the position, may  
33 appeal the allocation or reallocation to the personnel appeals board  
34 created by RCW 41.64.010. Notice of such appeal must be filed in  
35 writing within thirty days of the action from which appeal is taken.

36 **Sec. 123.** RCW 41.06.186 and 1985 c 461 s 5 are each amended to  
37 read as follows:

1       The (~~personnel board~~) director shall adopt rules designed to  
2 terminate the state employment of any employee whose performance is so  
3 inadequate as to warrant termination.

4       **Sec. 124.** RCW 41.06.196 and 1985 c 461 s 6 are each amended to  
5 read as follows:

6       The (~~personnel board~~) director shall adopt rules designed to  
7 remove from supervisory positions those supervisors who in violation of  
8 the rules adopted under RCW 41.06.186 have tolerated the continued  
9 employment of employees under their supervision whose performance has  
10 warranted termination from state employment.

11       **Sec. 125.** RCW 41.06.220 and 1961 c 1 s 22 are each amended to read  
12 as follows:

13       (1) An employee who is terminated from state service may request  
14 the (~~board~~) director to place his or her name on an appropriate  
15 reemployment list and the (~~board~~) director shall grant this request  
16 where the circumstances are found to warrant reemployment.

17       (2) Any employee, when fully reinstated after appeal, shall be  
18 guaranteed all employee rights and benefits, including back pay, sick  
19 leave, vacation accrual, retirement and OASDI credits.

20       **Sec. 126.** RCW 41.06.260 and 1961 c 1 s 26 are each amended to read  
21 as follows:

22       If any part of this chapter (~~shall be~~) is found to be in conflict  
23 with federal requirements which are a condition precedent to the  
24 allocation of federal funds to the state, such conflicting part of this  
25 chapter is hereby declared to be inoperative solely to the extent of  
26 such conflict and with respect to the agencies directly affected, and  
27 such findings or determination shall not affect the operation of the  
28 remainder of this chapter in its application to the agencies concerned.  
29 The (~~board~~) director shall make such rules (~~and regulations~~) as may  
30 be necessary to meet federal requirements which are a condition  
31 precedent to the receipt of federal funds by the state.

32       **Sec. 127.** RCW 41.06.270 and 1979 c 151 s 61 are each amended to  
33 read as follows:

34       A disbursing officer shall not pay any employee holding a position  
35 covered by this chapter unless the employment is in accordance with

1 this chapter or the rules, regulations and orders issued hereunder.  
2 The (~~board~~) director and the director of financial management shall  
3 jointly establish procedures for the certification of payrolls.

4 **Sec. 128.** RCW 41.06.280 and 1987 c 248 s 4 are each amended to  
5 read as follows:

6 (1) There is hereby created a fund within the state treasury,  
7 designated as the "department of (~~Personnel~~) human resources service  
8 fund," to be used by the (~~board~~) director as a revolving fund for the  
9 payment of salaries, wages, and operations required for the  
10 administration of the provisions of this chapter, applicable provisions  
11 of chapter 41.04 RCW, and chapter 41.60 RCW. An amount not to exceed  
12 one percent of the approved allotments of salaries and wages for all  
13 positions in the classified service in each of the agencies subject to  
14 this chapter, (~~except~~) and an amount not to exceed one-half of one  
15 percent of the approved allotments of salaries and wages in the  
16 institutions of higher (~~learning~~) education, shall be charged to the  
17 operations appropriations of each agency, institution of higher  
18 education, and the state board for community and technical colleges and  
19 credited to the department of (~~personnel~~) human resources service  
20 fund as the allotments are approved pursuant to chapter 43.88 RCW.  
21 Subject to the above limitations, the amount shall be charged against  
22 the allotments pro rata, at a rate to be fixed by the director from  
23 time to time which, together with income derived from services rendered  
24 under RCW 41.06.080, will provide the department with funds to meet its  
25 anticipated expenditures during the allotment period.

26 The director of (~~personnel~~) human resources shall fix the terms  
27 and charges for services rendered by the department of (~~personnel~~)  
28 human resources pursuant to RCW 41.06.080, which amounts shall be  
29 credited to the department of (~~personnel~~) human resources service  
30 fund and charged against the proper fund or appropriation of the  
31 recipient of such services on a quarterly basis. Payment for services  
32 so rendered under RCW 41.06.080 shall be made on a quarterly basis to  
33 the state treasurer and deposited by him or her in the department of  
34 (~~personnel~~) human resources service fund.

35 (2) If employees cease to be classified under this chapter pursuant  
36 to an agreement authorized by section 203 of this act, each institution  
37 of higher education and the state board for community and technical  
38 colleges shall continue, for six months after the effective date of the

1 agreement, to make contributions to the department of human resources  
2 service fund based on employee salaries and wages that includes the  
3 employees under the agreement. At the expiration of the six-month  
4 period, the director of financial management shall make across-the-  
5 board reductions in allotments of the department of human resources  
6 service fund for the remainder of the biennium so that the charge to  
7 the institutions of higher education and state board based on the  
8 salaries and wages of the remaining employees classified under this  
9 chapter does not increase during the biennium, unless an increase is  
10 authorized by the legislature. The director of financial management  
11 shall report the amount and impact of any across-the-board reductions  
12 made under this section to the appropriations committee of the house of  
13 representatives and the ways and means committee of the senate, or  
14 appropriate successor committees, within thirty days of making the  
15 reductions.

16 (3) Moneys from the department of (~~personnel~~) human resources  
17 service fund shall be disbursed by the state treasurer by warrants on  
18 vouchers duly authorized by the (~~board~~) director.

19 (4) The director is authorized to receive federal funds available  
20 on the effective date of this section or thereafter made available for  
21 the assistance and improvement of public personnel administration,  
22 which may be expended in addition to the department of human resources  
23 service fund established by this section.

24 NEW SECTION. Sec. 129. A new section is added to chapter 41.06  
25 RCW to read as follows:

26 (1) An agency may purchase services customarily and historically  
27 provided by employees in classified service under this chapter by  
28 contracting with individuals or business entities, without the  
29 necessity of showing that classified employees could not provide these  
30 services, if the purchase would be fiscally prudent and result in  
31 reduced expenditures of public funds. However, decisions to contract  
32 for services may be made only after the affected agency has conducted  
33 a feasibility study determining the potential costs and benefits that  
34 would result from contracting for the services and the decision to  
35 contract for the services has been reviewed and approved by the  
36 director of financial management, and subject to any applicable  
37 requirements for collective bargaining. The factors to be considered  
38 in the feasibility study shall be developed in consultation with

1 representatives of the affected employees and may include both long-  
2 term and short-term effects of the proposal to contract for services.  
3 A contract to purchase services shall provide that the contractor will  
4 pay to its employees performing the contract work wages that are  
5 similar to those generally paid for such work in the locality in which  
6 the work is to be performed and will provide health benefits that are  
7 similar to, but in any case no less than, the benefits provided for  
8 basic health care services under chapter 70.47 RCW.

9 (2) No provision contrary to or in conflict with this section in  
10 any existing collective bargaining agreement may be renewed or extended  
11 by any means beyond the expiration date next following the effective  
12 date of this section.

13 (3) Nothing in this section may be construed to modify, reduce, or  
14 otherwise affect the purchase of services that were authorized to be  
15 purchased by contract under this chapter on the effective date of this  
16 section.

17 (4) Whenever any agency or institution of higher education or  
18 related board contracts with individuals or business entities for the  
19 performance of services customarily and historically provided by  
20 employees in classified service, it shall select such individuals or  
21 business entities that are consistent with the participation goals of  
22 the agency, institution, or board under chapter 39.19 RCW.

23 **Sec. 130.** RCW 41.06.400 and 1980 c 118 s 4 are each amended to  
24 read as follows:

25 (1) In addition to other powers and duties specified in this  
26 chapter, the (~~board~~) director shall, by rule, prescribe the purpose  
27 and minimum standards for training and career development programs and,  
28 in so doing, regularly consult with and consider the needs of  
29 individual agencies and employees.

30 (2) In addition to other powers and duties specified in this  
31 chapter, the director shall:

32 (a) Provide for the evaluation of training and career development  
33 programs and plans of agencies based on minimum standards established  
34 by the (~~board~~) director. The director shall report the results of  
35 such evaluations to the agency which is the subject of the evaluation;

36 (b) Provide training and career development programs which may be  
37 conducted more efficiently and economically on an interagency basis;

1 (c) Promote interagency sharing of resources for training and  
2 career development;

3 (d) Monitor and review the impact of training and career  
4 development programs to ensure that the responsibilities of the state  
5 to provide equal employment opportunities are diligently carried out.  
6 The director shall report to the (~~board~~) governor the impact of  
7 training and career development programs on the fulfillment of such  
8 responsibilities.

9 (3) At an agency's request, the director may provide training and  
10 career development programs for an agency's internal use which may be  
11 conducted more efficiently and economically by the department of  
12 (~~personnel~~) human resources.

13 (4) The director may provide career development services that: (a)  
14 Assist in the establishment of mentor programs for state employees; (b)  
15 provide a clearinghouse for information on successful public and  
16 private sector career development programs; (c) offer instruction and  
17 resource materials on test taking, writing resumes, interviewing, and  
18 other career skills; and (d) provide career counseling.

19 **Sec. 131.** RCW 41.06.410 and 1980 c 118 s 5 are each amended to  
20 read as follows:

21 Each agency subject to the provisions of this chapter shall:

22 (1) Prepare an employee training and career development plan which  
23 shall at least meet minimum standards established by the (~~board~~)  
24 director. A copy of such plan shall be submitted to the director for  
25 purposes of administering the provisions of RCW 41.06.400(2);

26 (2) Provide for training and career development for its employees  
27 in accordance with the agency plan;

28 (3) Report on its training and career development program  
29 operations and costs to the director in accordance with reporting  
30 procedures adopted by the (~~board~~) director;

31 (4) Budget for training and career development in accordance with  
32 procedures of the office of financial management.

33 **Sec. 132.** RCW 41.06.420 and 1980 c 118 s 6 are each amended to  
34 read as follows:

35 (1) The (~~board~~) director, by rule, shall prescribe the conditions  
36 under which an employee appointed to a supervisory or management  
37 position after June 12, 1980, shall be required to successfully

1 complete an entry-level management training course as approved by the  
2 director. The training course shall focus on the critical knowledge,  
3 skills, and abilities for successful management performance and include  
4 instruction on managing and valuing diversity in the workplace. Such  
5 training shall not be required of any employee who has completed a  
6 management training course prior to the employee's appointment which  
7 is, in the judgment of the director, at least equivalent to the entry-  
8 level course required by this section.

9 (2) The ((~~board~~)) director, by rule, shall establish procedures for  
10 the suspension of the entry-level training requirement in cases where  
11 the ability of an agency to perform its responsibilities is adversely  
12 affected, or for the waiver of this requirement in cases where a person  
13 has demonstrated experience as a substitute for training.

14 (3) Agencies subject to the provisions of this chapter, in  
15 accordance with rules prescribed by the ((~~board~~)) director, shall  
16 designate individual positions, or groups of positions, as being  
17 "supervisory" or "management" positions. Such designations shall be  
18 subject to review by the director as part of the director's evaluation  
19 of training and career development programs prescribed by RCW  
20 41.06.400(2).

21 **Sec. 133.** RCW 41.06.430 and 1990 c 60 s 102 are each amended to  
22 read as follows:

23 (1) The ((~~board~~)) director, by rule, shall develop a career  
24 executive program which recognizes the profession of management and  
25 recognizes excellence in managerial skills in order to (a) identify,  
26 attract, and retain highly qualified executive candidates, (b) provide  
27 outstanding employees a broad opportunity for career development, and  
28 (c) provide for the mobility of such employees among agencies, it being  
29 to the advantage of the state to make the most beneficial use of  
30 individual managerial skills.

31 (2) To accomplish the purposes of subsection (1) of this section,  
32 the ((~~board~~)) director, notwithstanding any other provision of this  
33 chapter, may provide policies and standards for recruitment,  
34 appointment, examination, training, probation, employment register  
35 control, certification, classification, salary administration,  
36 transfer, promotion, reemployment, conditions of employment, and  
37 separation separate from procedures established for other employment.

1 (3) The director, in consultation with affected agencies, shall  
2 (~~recommend to the board~~) determine the classified positions which may  
3 be filled by participants in the career executive program. Upon the  
4 request of an agency, management positions that are exempt from the  
5 state civil service law pursuant to RCW 41.06.070 may be included in  
6 all or any part of the career executive program: PROVIDED, That an  
7 agency may at any time, after providing written notice to the (~~board~~)  
8 director, withdraw an exempt position from the career executive  
9 program. No employee may be placed in the career executive program  
10 without the employee's consent.

11 (4) The number of employees participating in the career executive  
12 program shall not exceed two percent of the employees subject to the  
13 provisions of this chapter.

14 (5) The director shall monitor and review the impact of the career  
15 executive program to ensure that the responsibilities of the state to  
16 provide equal employment opportunities are diligently carried out. The  
17 director shall report to the (~~board~~) governor the impact of the  
18 career executive program on the fulfillment of such responsibilities.

19 (6) Any classified state employee, upon entering a position in the  
20 career executive program, shall be entitled subsequently to revert to  
21 any class or position previously held with permanent status, or, if  
22 such position is not available, revert to a position similar in nature  
23 and salary to the position previously held.

24 NEW SECTION. Sec. 134. A new section is added to chapter 41.06  
25 RCW to read as follows:

26 (1) The Washington management service is created. The purpose of  
27 the management service is to strive for excellence in the management of  
28 the state's resources, attract and retain qualified managers, and  
29 establish a management identity in state government through separate  
30 personnel rules for management employees that are unique to the  
31 responsibilities of management employees.

32 (2) Notwithstanding any other provisions of this chapter, the  
33 director, after consultation with state agencies and employee  
34 organizations, shall adopt personnel rules for the classified members  
35 of the management service. These rules shall govern recruitment,  
36 appointment, classification and allocation of positions, examination,  
37 training and career development, hours of work, probation,  
38 certification, compensation, transfer, affirmative action, promotion,

1 layoff, reemployment, performance appraisals, discipline, and other  
2 personnel practices for management employees. These rules shall be  
3 separate from rules established for other employees.

4 (3) In establishing rules for the management service, the director  
5 shall adhere to the following goals:

6 (a) To develop a simplified classification system that facilitates  
7 movement of managers between agencies and promotes upward mobility;

8 (b) To create a compensation system consistent with the policy set  
9 forth in RCW 41.06.150(13). The system shall provide agency  
10 flexibility in setting and changing salaries;

11 (c) To establish a performance appraisal system that emphasizes  
12 individual accountability for program results and efficient management  
13 of resources; effective planning, organization, and communication  
14 skills; valuing and managing workplace diversity; development of  
15 leadership and interpersonal abilities; and employee development;

16 (d) To strengthen management training and career development  
17 programs that build critical management knowledge, skills, and  
18 abilities; focus on managing and valuing workplace diversity; empower  
19 employees by enabling them to share in workplace decision making and to  
20 be innovative, willing to take risks, and able to accept and deal with  
21 change; promote a workplace where the overall focus is on the recipient  
22 of the government services and how these services can be improved; and  
23 enhance mobility and career advancement opportunities;

24 (e) To permit flexible recruitment and hiring procedures that  
25 enable agencies to compete effectively with other employers, both  
26 public and private, for managers with appropriate skills and training;  
27 allow consideration of all qualified candidates for positions in the  
28 management service; and achieve affirmative action goals and diversity  
29 in the workplace; and

30 (f) To provide that members of the classified management service  
31 may only be reduced, dismissed, suspended, or demoted for cause.

32 (4) For the purposes of this section, "managers" or "management  
33 employees" means employees who:

34 (a) Formulate policy or direct the work of an agency or subdivision  
35 thereof; or

36 (b) Are responsible to administer and carry out policies and  
37 programs of an agency or subdivision thereof; or

1 (c) Manage, administer, and control a local branch office of an  
2 agency or subdivision thereof, including the physical, financial, or  
3 personnel resources thereof; or

4 (d) Have substantial responsibility in personnel administration,  
5 legislative relations, public information, or the preparation and  
6 administration of budgets; or

7 (e) Functionally or organizationally are above the first level of  
8 supervision.

9 NEW SECTION. **Sec. 135.** A new section is added to chapter 41.06  
10 RCW to read as follows:

11 (1) The legislature recognizes that:

12 (a) The labor market and the state government work force are  
13 becoming increasingly diverse in terms of gender, race, ethnicity, age,  
14 and the presence of disabilities.

15 (b) The state's human resource and management practices must be  
16 responsive to these fundamental changes in work force composition.

17 It is therefore the policy of the state to create an organizational  
18 culture in state government that respects and values individual  
19 differences and encourages the productive potential of every employee.

20 (2) To implement this policy, the department shall:

21 (a) In consultation with agencies, review civil service rules and  
22 related agency policies to ensure that they support the state's policy  
23 of valuing and managing diversity in the workplace;

24 (b) In consultation with agencies, institutions of higher  
25 education, and related boards, develop model policies, procedures, and  
26 technical information to be made available to such entities for the  
27 support of workplace diversity programs, including, but not limited to:

28 (i) Voluntary mentorship programs;

29 (ii) Alternative testing practices for persons of disability where  
30 deemed appropriate;

31 (iii) Career counseling;

32 (iv) Training opportunities, including management and employee  
33 awareness and skills training, English as a second language, and  
34 individual tutoring;

35 (v) Recruitment strategies;

36 (vi) Management performance appraisal techniques that focus on  
37 valuing and managing diversity in the workplace; and

38 (vii) Alternative work arrangements.

1 (3) The department shall coordinate implementation of this section  
2 with the office of financial management and institutions of higher  
3 education and related boards to reduce duplication of effort.

4 (4) This section shall not apply to institutions of higher  
5 education and related boards until July 1, 1994.

6 **Sec. 136.** RCW 41.06.450 and 1982 c 208 s 10 are each amended to  
7 read as follows:

8 (1) (~~By January 1, 1983,~~) The (~~personnel board~~) director shall  
9 adopt rules applicable to each agency and institution of higher  
10 education and related boards to ensure that information relating to  
11 employee misconduct or alleged misconduct is destroyed or maintained as  
12 follows:

13 (a) All such information determined to be false and all such  
14 information in situations where the employee has been fully exonerated  
15 of wrongdoing, shall be promptly destroyed;

16 (b) All such information having no reasonable bearing on the  
17 employee's job performance or on the efficient and effective management  
18 of the agency, shall be promptly destroyed;

19 (c) All other information shall be retained only so long as it has  
20 a reasonable bearing on the employee's job performance or on the  
21 efficient and effective management of the agency.

22 (2) Notwithstanding subsection (1) of this section, an agency or  
23 institution of higher education or related board may retain information  
24 relating to employee misconduct or alleged misconduct if:

25 (a) The employee requests that the information be retained; or

26 (b) The information is related to pending legal action or legal  
27 action may be reasonably expected to result.

28 (3) In adopting rules under this section, the (~~personnel board~~)  
29 director shall consult with the public disclosure commission to ensure  
30 that the public policy of the state, as expressed in chapter 42.17 RCW,  
31 is adequately protected.

32 **Sec. 137.** RCW 41.06.455 and 1982 c 208 s 11 are each amended to  
33 read as follows:

34 RCW 41.06.450 does not prohibit an agency, institution of higher  
35 education, or related board from destroying identifying information in  
36 records relating to employee misconduct or alleged misconduct if the  
37 agency, institution of higher education, or related board deems the

1 action is consistent with the policy expressed in RCW 41.06.450 and in  
2 chapter 42.17 RCW.

3 **Sec. 138.** 1982 c 208 s 9 (uncodified) is amended to read as  
4 follows:

5 The legislature finds that, under some circumstances, maintaining  
6 information relating to state employee misconduct or alleged misconduct  
7 is unfair to employees and serves no useful function to the state. The  
8 purpose of RCW 41.06.450 is to direct the (~~personnel board~~) director  
9 of human resources to adopt rules governing maintenance of employee  
10 records so that the records are maintained in a manner which is fair to  
11 employees, which ensures proper management of state governmental  
12 affairs, and which adequately protects the public interest.

13 **Sec. 139.** RCW 41.06.475 and 1986 c 269 s 2 are each amended to  
14 read as follows:

15 The (~~state personnel board~~) director shall adopt rules, in  
16 cooperation with the secretary of social and health services, for the  
17 background investigation of persons being considered for state  
18 employment in positions directly responsible for the supervision, care,  
19 or treatment of children or developmentally disabled persons.

20 **Sec. 140.** RCW 41.06.490 and 1990 c 204 s 3 are each amended to  
21 read as follows:

22 (1) In addition to the rules adopted under RCW 41.06.150, the  
23 (~~board~~) director shall adopt rules establishing a state employee  
24 return-to-work program. The program shall, at a minimum:

25 (a) Direct each agency to adopt a return-to-work policy. The  
26 program shall allow each agency program to take into consideration the  
27 special nature of employment in the agency;

28 (b) Provide for eligibility in the return-to-work program, for a  
29 minimum of two years from the date the temporary disability commenced,  
30 for any permanent employee who is receiving compensation under RCW  
31 51.32.090 and who is, by reason of his or her temporary disability,  
32 unable to return to his or her previous work, but who is physically  
33 capable of carrying out work of a lighter or modified nature;

34 (c) Allow opportunity for return-to-work state-wide when  
35 appropriate job classifications are not available in the agency that is  
36 the appointing authority at the time of injury;

1 (d) Require each agency to name an agency representative  
2 responsible for coordinating the return-to-work program of the agency;

3 (e) Provide that applicants receiving appointments for classified  
4 service receive an explanation of the return-to-work policy;

5 (f) Require training of supervisors on implementation of the  
6 return-to-work policy, including but not limited to assessment of the  
7 appropriateness of the return-to-work job for the employee; and

8 (g) Coordinate participation of applicable employee assistance  
9 programs, as appropriate.

10 (2) The agency full-time equivalents necessary to implement the  
11 return-to-work program established under this section shall be used  
12 only for the purposes of the return-to-work program and the net  
13 increase in full-time equivalents shall be temporary.

14 NEW SECTION. **Sec. 141.** A new section is added to chapter 41.06  
15 RCW to read as follows:

16 At least sixty days prior to providing notice of any layoffs, the  
17 agency or institution of higher education or related board shall  
18 provide each potentially affected employee with information showing the  
19 job security ranking of the employee within the employment unit  
20 experiencing the layoffs.

21 NEW SECTION. **Sec. 142.** All reports, documents, surveys, books,  
22 records, files, papers, or written material in the possession of the  
23 department of personnel, state personnel board, and higher education  
24 personnel board pertaining to the powers, duties, and functions  
25 transferred in section 2 of this act shall be delivered to the custody  
26 of the department of human resources. All cabinets, furniture, office  
27 equipment, motor vehicles, and other tangible property employed in  
28 connection with the powers, duties, and functions transferred in  
29 section 2 of this act shall be made available to the department of  
30 human resources. All funds, credits, or other assets held in  
31 connection with the powers, duties, and functions transferred in  
32 section 2 of this act shall be assigned to the department of human  
33 resources.

34 Any appropriations made in connection with the powers, duties, and  
35 functions transferred in section 2 of this act shall, on the effective  
36 date of this section, be transferred and credited to the department of  
37 human resources.

1 Whenever any question arises as to the transfer of any personnel,  
2 funds, books, documents, records, papers, files, equipment, or other  
3 tangible property used or held in the exercise of the powers and the  
4 performance of the duties and functions transferred, or as to the  
5 powers, duties, and functions transferred, the director of financial  
6 management shall make a determination as to the proper allocation and  
7 certify the same to the state agencies concerned.

8 NEW SECTION. **Sec. 143.** All employees employed in connection with  
9 the powers, duties, and functions transferred in section 2 of this act  
10 are transferred to the jurisdiction of the department of human  
11 resources. All employees classified under chapter 41.06 or 28B.16 RCW,  
12 the state civil service and higher education personnel law, are  
13 assigned to the department of human resources to perform their usual  
14 duties upon the same terms as formerly, without any loss of rights,  
15 subject to any action that may be appropriate thereafter in accordance  
16 with the laws and rules governing state civil service.

17 NEW SECTION. **Sec. 144.** All rules adopted by the state personnel  
18 board pursuant to chapter 41.06 RCW and all rules adopted by the higher  
19 education personnel board under chapter 28B.16 RCW that relate to  
20 functions transferred to the department of human resources in section  
21 2 of this act shall continue in effect until acted upon by the  
22 director. All pending business before any agency of state government  
23 pertaining to the powers, duties, and functions transferred in section  
24 2 of this act shall be continued and acted upon by the department of  
25 human resources. All existing contracts and obligations shall remain  
26 in full force and shall be performed by the department of human  
27 resources.

28 NEW SECTION. **Sec. 145.** The transfer of the powers, duties,  
29 functions, and personnel shall not affect the validity of any act  
30 performed before the effective date of this section.

31 NEW SECTION. **Sec. 146.** If apportionments of budgeted funds are  
32 required because of the transfers directed by sections 142 through 145  
33 of this act, the director of financial management shall certify the  
34 apportionments to the agencies affected, the state auditor, and the  
35 state treasurer. Each of these shall make the appropriate transfer and

1 adjustments in funds and appropriation accounts and equipment records  
2 in accordance with the certification.

3 **Sec. 147.** RCW 43.03.028 and 1991 c 3 s 294 are each amended to  
4 read as follows:

5 (1) There is hereby created a state committee on agency officials'  
6 salaries to consist of seven members, or their designees, as follows:  
7 The president of the University of Puget Sound; the chairperson of the  
8 council of presidents of the state's four-year institutions of higher  
9 education; the chairperson of the State Personnel Board; the president  
10 of the Association of Washington Business; the president of the Pacific  
11 Northwest Personnel Managers' Association; the president of the  
12 Washington State Bar Association; and the president of the Washington  
13 State Labor Council. If any of the titles or positions mentioned in  
14 this subsection are changed or abolished, any person occupying an  
15 equivalent or like position shall be qualified for appointment by the  
16 governor to membership upon the committee.

17 (2) The committee shall study the duties and salaries of the  
18 directors of the several departments and the members of the several  
19 boards and commissions of state government, who are subject to  
20 appointment by the governor or whose salaries are fixed by the  
21 governor, and of the chief executive officers of the following agencies  
22 of state government:

23 The arts commission; the human rights commission; the board of  
24 accountancy; the board of pharmacy; the capitol historical association  
25 and museum; the eastern Washington historical society; the Washington  
26 state historical society; the interagency committee for outdoor  
27 recreation; the criminal justice training commission; the department of  
28 personnel; the state finance committee; the state library; the traffic  
29 safety commission; the horse racing commission; the advisory council on  
30 vocational education; the public disclosure commission; the state  
31 conservation commission; the commission on Hispanic affairs; the  
32 commission on Asian-American affairs; the state board for volunteer  
33 fire fighters; the transportation improvement board; the public  
34 ((employees)) employment relations commission; the forest practices  
35 appeals board; and the energy facilities site evaluation council.

36 The committee shall report to the governor or the chairperson of  
37 the appropriate salary fixing authority at least once in each fiscal  
38 biennium on such date as the governor may designate, but not later than

1 seventy-five days prior to the convening of each regular session of the  
2 legislature during an odd-numbered year, its recommendations for the  
3 salaries to be fixed for each position.

4 (3) Committee members shall be reimbursed by the department of  
5 (~~personnel~~) human resources for travel expenses under RCW 43.03.050  
6 and 43.03.060.

7 **Sec. 148.** RCW 43.17.010 and 1989 1st ex.s. c 9 s 810 are each  
8 amended to read as follows:

9 There shall be departments of the state government which shall be  
10 known as (1) the department of social and health services, (2) the  
11 department of ecology, (3) the department of labor and industries, (4)  
12 the department of agriculture, (5) the department of fisheries, (6) the  
13 department of wildlife, (7) the department of transportation, (8) the  
14 department of licensing, (9) the department of general administration,  
15 (10) the department of trade and economic development, (11) the  
16 department of veterans affairs, (12) the department of revenue, (13)  
17 the department of retirement systems, (14) the department of  
18 corrections, (15) the department of community development, (~~and~~) (16)  
19 the department of health, and (17) the director of human resources  
20 which shall be charged with the execution, enforcement, and  
21 administration of such laws, and invested with such powers and required  
22 to perform such duties, as the legislature may provide.

23 **Sec. 149.** RCW 43.17.020 and 1989 1st ex.s. c 9 s 811 are each  
24 amended to read as follows:

25 There shall be a chief executive officer of each department to be  
26 known as: (1) The secretary of social and health services, (2) the  
27 director of ecology, (3) the director of labor and industries, (4) the  
28 director of agriculture, (5) the director of fisheries, (6) the  
29 director of wildlife, (7) the secretary of transportation, (8) the  
30 director of licensing, (9) the director of general administration, (10)  
31 the director of trade and economic development, (11) the director of  
32 veterans affairs, (12) the director of revenue, (13) the director of  
33 retirement systems, (14) the secretary of corrections, (15) the  
34 director of community development, (~~and~~) (16) the secretary of  
35 health, and (17) the director of human resources.

36 Such officers, except the secretary of transportation, shall be  
37 appointed by the governor, with the consent of the senate, and hold

1 office at the pleasure of the governor. The director of wildlife,  
2 however, shall be appointed according to the provisions of RCW  
3 77.04.080. If a vacancy occurs while the senate is not in session, the  
4 governor shall make a temporary appointment until the next meeting of  
5 the senate. A temporary director of wildlife shall not serve more than  
6 one year. The secretary of transportation shall be appointed by the  
7 transportation commission as prescribed by RCW 47.01.041.

8 NEW SECTION. **Sec. 150.** All powers, duties, and functions of the  
9 department of personnel, the personnel board, and the higher education  
10 personnel board pertaining to collective bargaining are transferred to  
11 the public employment relations commission except that arbitration of  
12 grievances filed under a collective bargaining agreement existing  
13 before the effective date of this section and not yet finally  
14 determined by the effective date of this section, shall be transferred  
15 to the personnel appeals board as specified in section 157 of this act.

16 NEW SECTION. **Sec. 151.** All reports, documents, surveys, books,  
17 records, files, papers, or written material in the possession of the  
18 department of personnel, the personnel board, and the higher education  
19 personnel board pertaining to the powers, functions, and duties  
20 transferred in section 150 of this act shall be delivered to the  
21 custody of the public employment relations commission. All cabinets,  
22 furniture, office equipment, motor vehicles, and other tangible  
23 property employed by the department of personnel in carrying out the  
24 powers, functions, and duties transferred in section 150 of this act  
25 shall be made available to the public employment relations commission.  
26 All funds, credits, or other assets held in connection with the powers,  
27 functions, and duties transferred in section 150 of this act shall be  
28 assigned to the public employment relations commission.

29 Any appropriations made to the department of personnel, the  
30 personnel board, or the higher education personnel board for carrying  
31 out the powers, functions, and duties transferred in section 150 of  
32 this act shall, on the effective date of this section, be transferred  
33 and credited to the public employment relations commission.

34 Whenever any question arises as to the transfer of any personnel,  
35 funds, books, documents, records, papers, files, equipment, or other  
36 tangible property used or held in the exercise of the powers and the  
37 performance of the duties and functions transferred, the director of

1 financial management shall make a determination as to the proper  
2 allocation and certify the same to the state agencies concerned.

3 NEW SECTION. **Sec. 152.** All employees of the department of  
4 personnel engaged in performing the powers, functions, and duties  
5 transferred in section 150 of this act are transferred to the  
6 jurisdiction of the public employment relations commission. All  
7 employees classified under chapter 41.06 RCW, the state civil service  
8 law, are assigned to the public employment relations commission without  
9 any loss of rights, subject to any action that may be appropriate  
10 thereafter in accordance with the laws and rules governing state civil  
11 service.

12 NEW SECTION. **Sec. 153.** All business pending before the department  
13 of personnel, the personnel board, and the higher education personnel  
14 board pertaining to the powers, functions, and duties transferred in  
15 section 150 of this act shall be continued and acted upon by the public  
16 employment relations commission under the rules in effect at the time  
17 of the transfer. All existing contracts and obligations of the  
18 department of personnel, the personnel board, and the higher education  
19 personnel board shall remain in full force and shall be performed by  
20 the public employment relations commission.

21 NEW SECTION. **Sec. 154.** The transfer of the powers, duties,  
22 functions, and personnel of the department of personnel, the personnel  
23 board, and the higher education personnel board shall not affect the  
24 validity of any act performed before the effective date of this  
25 section.

26 NEW SECTION. **Sec. 155.** If apportionments of budgeted funds are  
27 required because of the transfers directed by sections 151 through 154  
28 or 157 of this act, the director of financial management shall certify  
29 the apportionments to the agencies affected, the state auditor, and the  
30 state treasurer. Each of these shall make the appropriate transfer and  
31 adjustments in funds and appropriation accounts and equipment records  
32 in accordance with the certification.

33 NEW SECTION. **Sec. 156.** All rules adopted by the state personnel  
34 board under chapter 41.06 RCW and all rules adopted by the higher

1 education personnel board under chapter 28B.16 RCW that relate to  
2 functions transferred to the public employment relations commission or  
3 the personnel appeals board pursuant to section 150 of this act shall  
4 continue in effect until acted upon by the agency assuming those  
5 functions.

6 NEW SECTION. **Sec. 157.** All business pending before the department  
7 of personnel or the higher education personnel board pertaining to  
8 arbitration of grievances transferred by section 149 of this act shall  
9 be continued and acted upon by the personnel appeals board unless the  
10 parties to the grievance agree to submit the matter to an independent  
11 arbitrator for resolution of the grievance. Determinations of  
12 grievances transferred under this section shall be made according to  
13 the rules in effect and applicable to the grievance at the time of  
14 filing the grievance.

15 NEW SECTION. **Sec. 158.** The following acts or parts of acts are  
16 each repealed:

- 17 (1) RCW 28B.16.010 and 1969 ex.s. c 36 s 1;
- 18 (2) RCW 28B.16.020 and 1985 c 461 s 8, 1985 c 365 s 2, 1983 1st  
19 ex.s. c 75 s 1, 1982 1st ex.s. c 53 s 14, 1977 ex.s. c 169 s 41, & 1969  
20 ex.s. c 36 s 2;
- 21 (3) RCW 28B.16.030 and 1969 ex.s. c 36 s 3;
- 22 (4) RCW 28B.16.040 and 1990 c 60 s 201, 1982 1st ex.s. c 53 s 15,  
23 1977 ex.s. c 94 s 1, & 1969 ex.s. c 36 s 4;
- 24 (5) RCW 28B.16.041 and 1985 c 442 s 9;
- 25 (6) RCW 28B.16.042 and 1985 c 266 s 1;
- 26 (7) RCW 28B.16.043 and 1991 c 238 s 107;
- 27 (8) RCW 28B.16.060 and 1984 c 287 s 63, 1981 c 338 s 19, 1975-'76  
28 2nd ex.s. c 34 s 73, & 1969 ex.s. c 36 s 6;
- 29 (9) RCW 28B.16.070 and 1983 c 23 s 1 & 1969 ex.s. c 36 s 7;
- 30 (10) RCW 28B.16.080 and 1969 ex.s. c 36 s 8;
- 31 (11) RCW 28B.16.090 and 1969 ex.s. c 36 s 9;
- 32 (12) RCW 28B.16.100 and 1990 c 60 s 202;
- 33 (13) RCW 28B.16.101 and 1982 1st ex.s. c 53 s 19 & 1977 ex.s. c 152  
34 s 9;
- 35 (14) RCW 28B.16.105 and 1985 c 461 s 10, 1982 1st ex.s. c 53 s 17,  
36 & 1977 ex.s. c 152 s 13;

1 (15) RCW 28B.16.110 and 1985 c 94 s 1, 1980 c 11 s 3, 1979 c 151 s  
2 16, 1977 ex.s. c 152 s 10, 1975 1st ex.s. c 122 s 2, & 1969 ex.s. c 36  
3 s 11;  
4 (16) RCW 28B.16.112 and 1987 c 185 s 3, 1986 c 158 s 4, 1979 c 151  
5 s 17, & 1977 ex.s. c 152 s 11;  
6 (17) RCW 28B.16.113 and 1977 ex.s. c 152 s 12;  
7 (18) RCW 28B.16.116 and 1983 1st ex.s. c 75 s 3;  
8 (19) RCW 28B.16.120 and 1969 ex.s. c 36 s 12;  
9 (20) RCW 28B.16.130 and 1969 ex.s. c 36 s 13;  
10 (21) RCW 28B.16.140 and 1969 ex.s. c 36 s 14;  
11 (22) RCW 28B.16.150 and 1969 ex.s. c 36 s 15;  
12 (23) RCW 28B.16.160 and 1988 c 202 s 27, 1971 c 81 s 72, & 1969  
13 ex.s. c 36 s 16;  
14 (24) RCW 28B.16.170 and 1969 ex.s. c 36 s 26;  
15 (25) RCW 28B.16.180 and 1973 1st ex.s. c 46 s 3 & 1969 ex.s. c 36  
16 s 17;  
17 (26) RCW 28B.16.190 and 1969 ex.s. c 36 s 19;  
18 (27) RCW 28B.16.200 and 1979 c 151 s 18 & 1969 ex.s. c 36 s 20;  
19 (28) RCW 28B.16.210 and 1969 ex.s. c 36 s 29;  
20 (29) RCW 28B.16.220 and 1969 ex.s. c 36 s 31;  
21 (30) RCW 28B.16.230 and 1973 c 62 s 6 & 1969 ex.s. c 215 s 14;  
22 (31) RCW 28B.16.240 and 1979 ex.s. c 46 s 1;  
23 (32) RCW 28B.16.255 and 1985 c 461 s 11;  
24 (33) RCW 28B.16.265 and 1985 c 461 s 12;  
25 (34) RCW 28B.16.275 and 1985 c 461 s 13;  
26 (35) RCW 28B.16.300 and 1990 c 204 s 4;  
27 (36) RCW 28B.16.900 and 1969 ex.s. c 36 s 18;  
28 (37) RCW 28B.16.910 and 1969 ex.s. c 36 s 27;  
29 (38) RCW 28B.16.920 and 1969 ex.s. c 36 s 30;  
30 (39) RCW 28B.16.930 and 1969 ex.s. c 36 s 28;  
31 (40) RCW 41.06.010 and 1980 c 118 s 1 & 1961 c 1 s 1;  
32 (41) RCW 41.06.030 and 1961 c 1 s 3;  
33 (42) RCW 41.06.110 and 1984 c 287 s 69 & 1982 c 10 s 8;  
34 (43) RCW 41.06.120 and 1981 c 311 s 17, 1975-'76 2nd ex.s. c 43 s  
35 2, & 1961 c 1 s 12;  
36 (44) RCW 41.06.130 and 1982 1st ex.s. c 53 s 3 & 1961 c 1 s 13;  
37 (45) RCW 41.06.163 and 1987 c 185 s 9, 1986 c 158 s 6, 1979 c 151  
38 s 59, & 1977 ex.s. c 152 s 3;  
39 (46) RCW 41.06.165 and 1977 ex.s. c 152 s 4;

- 1 (47) RCW 41.06.230 and 1961 c 1 s 23;  
2 (48) RCW 41.06.240 and 1961 c 1 s 24;  
3 (49) RCW 41.06.310 and 1969 c 45 s 2;  
4 (50) RCW 41.06.340 and 1969 ex.s. c 215 s 13;  
5 (51) RCW 41.06.350 and 1969 ex.s. c 152 s 1; and  
6 (52) RCW 41.06.380 and 1979 ex.s. c 46 s 2.

7 NEW SECTION. **Sec. 159.** Sections 101 through 107 of this act shall  
8 constitute a new chapter in Title 43 RCW.

9 **PART II**

10 **COLLECTIVE BARGAINING FOR INSTITUTIONS OF HIGHER EDUCATION**

11 NEW SECTION. **Sec. 201.** A new section is added to chapter 41.56  
12 RCW to read as follows:

13 In addition to the entities listed in RCW 41.56.020, this chapter  
14 shall apply to institutions of higher education with respect to the  
15 employees classified under chapter 41.06 RCW or included in a  
16 bargaining unit that has exercised the option specified in section  
17 203(3) of this act.

18 **Sec. 202.** RCW 41.56.030 and 1992 c 36 s 2 and 1991 c 363 s 119 are  
19 each reenacted and amended to read as follows:

20 As used in this chapter:

21 (1) "Public employer" means any officer, board, commission,  
22 council, or other person or body acting on behalf of any public body  
23 governed by this chapter (~~as designated by RCW 41.56.020,~~) or any  
24 subdivision of such public body. For the purposes of this section, the  
25 public employer of district court or superior court employees for wage-  
26 related matters is the respective county legislative authority, or  
27 person or body acting on behalf of the legislative authority, and the  
28 public employer for nonwage-related matters is the judge or judge's  
29 designee of the respective district court or superior court.

30 (2) "Public employee" means any employee of a public employer  
31 except any person (a) elected by popular vote, or (b) appointed to  
32 office pursuant to statute, ordinance or resolution for a specified  
33 term of office by the executive head or body of the public employer, or  
34 (c) whose duties as deputy, administrative assistant or secretary  
35 necessarily imply a confidential relationship to the executive head or

1 body of the applicable bargaining unit, or any person elected by  
2 popular vote or appointed to office pursuant to statute, ordinance or  
3 resolution for a specified term of office by the executive head or body  
4 of the public employer, or (d) who is a personal assistant to a  
5 district court judge, superior court judge, or court commissioner. For  
6 the purpose of (d) of this subsection, no more than one assistant for  
7 each judge or commissioner may be excluded from a bargaining unit.

8 (3) "Bargaining representative" means any lawful organization which  
9 has as one of its primary purposes the representation of employees in  
10 their employment relations with employers.

11 (4) "Collective bargaining" means the performance of the mutual  
12 obligations of the public employer and the exclusive bargaining  
13 representative to meet at reasonable times, to confer and negotiate in  
14 good faith, and to execute a written agreement with respect to  
15 grievance procedures and collective negotiations on personnel matters,  
16 including wages, hours and working conditions, which may be peculiar to  
17 an appropriate bargaining unit of such public employer, except that by  
18 such obligation neither party shall be compelled to agree to a proposal  
19 or be required to make a concession unless otherwise provided in this  
20 chapter. In the case of the Washington state patrol, "collective  
21 bargaining" shall not include wages and wage-related matters.

22 (5) "Commission" means the public employment relations commission.

23 (6) "Executive director" means the executive director of the  
24 commission.

25 (7) "Uniformed personnel" means (a) law enforcement officers as  
26 defined in RCW 41.26.030 as now or hereafter amended, of cities with a  
27 population of fifteen thousand or more or law enforcement officers  
28 employed by the governing body of any county with a population of  
29 seventy thousand or more, or (b) fire fighters as that term is defined  
30 in RCW 41.26.030, as now or hereafter amended.

31 (8) "Institutions of higher education" means the same as defined in  
32 RCW 28B.10.016 but does not include technical colleges.

33 NEW SECTION. Sec. 203. A new section is added to chapter 41.56  
34 RCW to read as follows:

35 On the effective date of this section, all collective bargaining  
36 rights and obligations concerning relations between the institutions of  
37 higher education and their employees classified under chapter 41.06 RCW  
38 shall be transferred to this chapter, subject to the following:

1 (1) The commission shall recognize, in their current form, all  
2 bargaining units certified by the higher education personnel board as  
3 of the effective date of this section.

4 (2) Except as provided in subsection (3) of this section:

5 (a) Collective bargaining under this section is limited to  
6 negotiation of grievance procedures and personnel matters over which  
7 the institution of higher education or related boards may lawfully  
8 exercise discretion; and

9 (b) Terms of a collective bargaining agreement negotiated under  
10 this section, if in conflict with rules or policies established by the  
11 director of human services under RCW 41.06.150, are void and  
12 unenforceable to the extent of the conflict.

13 (3) At any time after the effective date of this section, an  
14 institution of higher education and the exclusive bargaining  
15 representative of a bargaining unit of employees classified under  
16 chapter 41.06 RCW may exercise their option to have their relationship  
17 and corresponding obligations governed entirely by the provisions of  
18 chapter 41.56 RCW by filing notice of the parties' intent to be so  
19 governed, subject to the mutual adoption of a collective bargaining  
20 agreement recognizing the notice of intent. The parties shall provide  
21 the notice to the director of human resources and the commission. On  
22 the first day of the month following the month during which a  
23 collective bargaining agreement is executed by the parties recognizing  
24 the notice of intent and notice of the execution of the agreement and  
25 a copy of the agreement are received by the director and commission,  
26 chapter 41.06 RCW shall cease to apply to all employees in the  
27 bargaining unit covered by the agreement, and the limitations on  
28 collective bargaining contained in subsection (2) of this section shall  
29 cease to apply to that bargaining unit.

30 (4) If an institution of higher education and the exclusive  
31 bargaining representative of a bargaining unit of its employees agree  
32 to exercise the option to have their relationship and corresponding  
33 obligations governed entirely by this chapter, salary increases  
34 negotiated thereafter for the employees in the bargaining unit shall be  
35 subject to the following:

36 (a) Salary increases shall continue to be appropriated by the  
37 legislature. The exclusive bargaining representative shall meet before  
38 a legislative session with the governor or governor's designee and the  
39 representative of the institution of higher education concerning the

1 total dollar amount for salary increases and health care contributions  
2 that will be contained in the appropriations proposed by the governor  
3 under RCW 43.88.060.

4 (b) The collective bargaining agreements may provide for salary  
5 increases that are different from or that exceed the amount or  
6 percentage for salary increases provided by the legislature in the  
7 appropriations act for the institution of higher education or allocated  
8 to the board of trustees by the state board for community and technical  
9 colleges, but the base for salary increases provided by the legislature  
10 under (a) of this subsection shall include only those amounts  
11 appropriated by the legislature and the base shall not include any  
12 additional salary increases provided under this subsection (4)(b).

13 (c) Any provisions of the collective bargaining agreements  
14 pertaining to salary increases provided under (a) of this subsection  
15 shall be subject to modification by the legislature. If any provision  
16 of a salary increase provided under (a) of this subsection is changed  
17 by subsequent modification of the appropriations act by the  
18 legislature, both parties shall immediately enter into collective  
19 bargaining for the sole purpose of arriving at a mutually agreed upon  
20 replacement for the modified provision.

21 (5) Nothing in this section may be construed to require any  
22 institution of higher education to bargain collectively with any  
23 exclusive bargain representative concerning any matter covered by  
24 chapter 41.05 RCW, except for the related cost or dollar contributions,  
25 or chapter 41.32 or 41.40 RCW.

26 NEW SECTION. **Sec. 204.** A new section is added to chapter 41.06  
27 RCW to read as follows:

28 At any time after the effective date of this section, an  
29 institution of higher education and the exclusive bargaining  
30 representative of a bargaining unit of employees classified under this  
31 chapter may exercise their option to have their relationship and  
32 corresponding obligations governed entirely by the provisions of  
33 chapter 41.56 RCW as provided in section 203(3) of this act. The  
34 parties shall provide notice to the director of human resources and the  
35 public employment relations commission. On the first day of the month  
36 following the month during which a collective bargaining is executed by  
37 the parties recognizing the notice of intent and notice of the  
38 execution of the agreement and a copy of the agreement are received by

1 the director and the commission, this chapter shall cease to apply to  
2 all employees in the bargaining unit covered by the agreement.

3 NEW SECTION. **Sec. 205.** A new section is added to chapter 41.56  
4 RCW to read as follows:

5 Collective bargaining for classified employees of technical  
6 colleges covered under RCW 41.56.024 shall be subject to the following:

7 (1) Salary increases shall continue to be appropriated by the  
8 legislature.

9 (2) The collective bargaining agreements may provide for salary  
10 increases that are different from or that exceed the amount or  
11 percentage for salary increases established by the legislature in the  
12 appropriations act and allocated to the board of trustees by the state  
13 board for community and technical colleges, but the base for salary  
14 increases provided by the legislature shall include only those amounts  
15 appropriated by the legislature and the base shall not include any  
16 salary increases that exceed the amount appropriated.

17 (3) Any provisions of the collective bargaining agreements  
18 pertaining to salary increases provided under subsection (1) of this  
19 section shall be subject to modification. If any provision of a salary  
20 increase provided under subsection (1) of this section is changed by  
21 subsequent modification of the appropriations act by the legislature,  
22 both parties shall immediately enter into collective bargaining for the  
23 sole purpose of arriving at a mutually agreed upon replacement for the  
24 modified provision.

25 (4) Nothing in this chapter may be construed to require any board  
26 of trustees of a technical college to bargain collectively with any  
27 exclusive bargaining representative concerning any matter covered by  
28 chapter 41.05, 41.32, or 41.40 RCW.

29 **Sec. 206.** RCW 28B.50.140 and 1991 c 238 s 39 and 1991 c 58 s 1 are  
30 each reenacted and amended to read as follows:

31 Each board of trustees:

32 (1) Shall operate all existing community and technical colleges in  
33 its district;

34 (2) Shall create comprehensive programs of community and technical  
35 college education and training and maintain an open-door policy in  
36 accordance with the provisions of RCW 28B.50.090(3). However,  
37 technical colleges, and college districts containing only technical

1 colleges, shall maintain programs solely for occupational education,  
2 basic skills, and literacy purposes. For as long as a need exists,  
3 technical colleges may continue those programs, activities, and  
4 services they offered during the twelve-month period preceding  
5 September 1, 1991;

6 (3) Shall employ for a period to be fixed by the board a college  
7 president for each community and technical college and, may appoint a  
8 president for the district, and fix their duties and compensation,  
9 which may include elements other than salary. Compensation under this  
10 subsection shall not affect but may supplement retirement, health care,  
11 and other benefits that are otherwise applicable to the presidents as  
12 state employees. The board shall also employ for a period to be fixed  
13 by the board members of the faculty and such other administrative  
14 officers and other employees as may be necessary or appropriate and fix  
15 their salaries and duties. Compensation and salary increases under  
16 this subsection shall not exceed the amount or percentage established  
17 for those purposes in the state appropriations act by the legislature  
18 as allocated to the board of trustees by the state board for community  
19 and technical colleges, except that compensation and salary increases  
20 for classified employees of technical colleges covered under chapter  
21 41.56 RCW shall be governed by chapter 41.56 RCW as authorized in RCW  
22 28B.50.874. The state board for community and technical colleges shall  
23 adopt rules defining the permissible elements of compensation under  
24 this subsection;

25 (4) May establish, under the approval and direction of the college  
26 board, new facilities as community needs and interests demand.  
27 However, the authority of boards of trustees to purchase or lease major  
28 off-campus facilities shall be subject to the approval of the higher  
29 education coordinating board pursuant to RCW 28B.80.340(5);

30 (5) May establish or lease, operate, equip and maintain  
31 dormitories, food service facilities, bookstores and other self-  
32 supporting facilities connected with the operation of the community and  
33 technical college;

34 (6) May, with the approval of the college board, borrow money and  
35 issue and sell revenue bonds or other evidences of indebtedness for the  
36 construction, reconstruction, erection, equipping with permanent  
37 fixtures, demolition and major alteration of buildings or other capital  
38 assets, and the acquisition of sites, rights-of-way, easements,  
39 improvements or appurtenances, for dormitories, food service

1 facilities, and other self-supporting facilities connected with the  
2 operation of the community and technical college in accordance with the  
3 provisions of RCW 28B.10.300 through 28B.10.330 where applicable;

4 (7) May establish fees and charges for the facilities authorized  
5 hereunder, including reasonable rules and regulations for the  
6 government thereof, not inconsistent with the rules and regulations of  
7 the college board; each board of trustees operating a community and  
8 technical college may enter into agreements, subject to rules and  
9 regulations of the college board, with owners of facilities to be used  
10 for housing regarding the management, operation, and government of such  
11 facilities, and any board entering into such an agreement may:

12 (a) Make rules and regulations for the government, management and  
13 operation of such housing facilities deemed necessary or advisable; and

14 (b) Employ necessary employees to govern, manage and operate the  
15 same;

16 (8) May receive such gifts, grants, conveyances, devises and  
17 bequests of real or personal property from private sources, as may be  
18 made from time to time, in trust or otherwise, whenever the terms and  
19 conditions thereof will aid in carrying out the community and technical  
20 college programs as specified by law and the regulations of the state  
21 college board; sell, lease or exchange, invest or expend the same or  
22 the proceeds, rents, profits and income thereof according to the terms  
23 and conditions thereof; and adopt regulations to govern the receipt and  
24 expenditure of the proceeds, rents, profits and income thereof;

25 (9) May establish and maintain night schools whenever in the  
26 discretion of the board of trustees it is deemed advisable, and  
27 authorize classrooms and other facilities to be used for summer or  
28 night schools, or for public meetings and for any other uses consistent  
29 with the use of such classrooms or facilities for community and  
30 technical college purposes;

31 (10) May make rules and regulations for pedestrian and vehicular  
32 traffic on property owned, operated, or maintained by the district;

33 (11) Shall prescribe, with the assistance of the faculty, the  
34 course of study in the various departments of the community and  
35 technical college or colleges under its control, and publish such  
36 catalogues and bulletins as may become necessary;

37 (12) May grant to every student, upon graduation or completion of  
38 a course of study, a suitable diploma, nonbaccalaureate degree or  
39 certificate. Technical colleges shall offer only nonbaccalaureate

1 technical degrees, certificates, or diplomas for occupational courses  
2 of study under rules of the college board. Technical colleges in  
3 districts twenty-eight and twenty-nine may offer nonbaccalaureate  
4 associate of technical or applied arts degrees only in conjunction with  
5 a community college the district of which overlaps with the district of  
6 the technical college, and these degrees may only be offered after a  
7 contract or agreement is executed between the technical college and the  
8 community college. The authority and responsibility to offer transfer  
9 level academic support and general education for students of districts  
10 twenty-one and twenty-five shall reside exclusively with Whatcom  
11 Community College. The board, upon recommendation of the faculty, may  
12 also confer honorary associate of arts degrees upon persons other than  
13 graduates of the community college, in recognition of their learning or  
14 devotion to education, literature, art, or science. No degree may be  
15 conferred in consideration of the payment of money or the donation of  
16 any kind of property;

17 (13) Shall enforce the rules and regulations prescribed by the  
18 state board for community and technical colleges for the government of  
19 community and technical colleges, students and teachers, and promulgate  
20 such rules and regulations and perform all other acts not inconsistent  
21 with law or rules and regulations of the state board for community and  
22 technical colleges as the board of trustees may in its discretion deem  
23 necessary or appropriate to the administration of college districts:  
24 PROVIDED, That such rules and regulations shall include, but not be  
25 limited to, rules and regulations relating to housing, scholarships,  
26 conduct at the various community and technical college facilities, and  
27 discipline: PROVIDED, FURTHER, That the board of trustees may suspend  
28 or expel from community and technical colleges students who refuse to  
29 obey any of the duly promulgated rules and regulations;

30 (14) May, by written order filed in its office, delegate to the  
31 president or district president any of the powers and duties vested in  
32 or imposed upon it by this chapter. Such delegated powers and duties  
33 may be exercised in the name of the district board;

34 (15) May perform such other activities consistent with this chapter  
35 and not in conflict with the directives of the college board;

36 (16) Notwithstanding any other provision of law, may offer  
37 educational services on a contractual basis other than the tuition and  
38 fee basis set forth in chapter 28B.15 RCW for a special fee to private  
39 or governmental entities, consistent with rules and regulations adopted

1 by the state board for community and technical colleges: PROVIDED,  
2 That the whole of such special fee shall go to the college district and  
3 be not less than the full instructional costs of such services  
4 including any salary increases authorized by the legislature for  
5 community and technical college employees during the term of the  
6 agreement: PROVIDED FURTHER, That enrollments generated hereunder  
7 shall not be counted toward the official enrollment level of the  
8 college district for state funding purposes;

9 (17) Notwithstanding any other provision of law, may offer  
10 educational services on a contractual basis, charging tuition and fees  
11 as set forth in chapter 28B.15 RCW, counting such enrollments for state  
12 funding purposes, and may additionally charge a special supplemental  
13 fee when necessary to cover the full instructional costs of such  
14 services: PROVIDED, That such contracts shall be subject to review by  
15 the state board for community and technical colleges and to such rules  
16 as the state board may adopt for that purpose in order to assure that  
17 the sum of the supplemental fee and the normal state funding shall not  
18 exceed the projected total cost of offering the educational service:  
19 PROVIDED FURTHER, That enrollments generated by courses offered on the  
20 basis of contracts requiring payment of a share of the normal costs of  
21 the course will be discounted to the percentage provided by the  
22 college;

23 (18) Shall be authorized to pay dues to any association of trustees  
24 that may be formed by the various boards of trustees; such association  
25 may expend any or all of such funds to submit biennially, or more often  
26 if necessary, to the governor and to the legislature, the  
27 recommendations of the association regarding changes which would affect  
28 the efficiency of such association;

29 (19) Subject to the approval of the higher education coordinating  
30 board pursuant to RCW 28B.80.340(4), may participate in higher  
31 education centers and consortia that involve any four-year public or  
32 independent college or university; and

33 (20) Shall perform any other duties and responsibilities imposed by  
34 law or rule and regulation of the state board.

35 **PART III**

36 **COLLECTIVE BARGAINING FOR STATE EMPLOYEES**

1        NEW SECTION.    **Sec. 301.**    DEFINITIONS.    Unless the context clearly  
2 requires otherwise, the definitions in this section apply throughout  
3 this chapter.

4        (1) "Agency" means any agency as defined in RCW 41.06.020 and  
5 covered by chapter 41.06 RCW.

6        (2) "Collective bargaining" means the performance of the mutual  
7 obligation of the representatives of the employer and the exclusive  
8 bargaining representative to meet at reasonable times and to bargain in  
9 good faith in an effort to reach agreement with respect to the subjects  
10 of bargaining specified under section 305 of this act except by such  
11 obligation neither party shall be compelled to agree to a proposal or  
12 be required to make a concession.

13        (3) "Commission" means the public employment relations commission  
14 created by chapter 41.58 RCW.

15        (4) "Confidential employee" means an employee who, in the regular  
16 course of his or her duties, assists in a confidential capacity persons  
17 who formulate, determine, and effectuate management policies with  
18 regard to labor relations or who, in the regular course of his or her  
19 duties, has authorized access to information relating to the  
20 effectuation or review of the employer's collective bargaining policies  
21 thereto or who assists or aids managerial employees.

22        (5) "Employee" means any employee covered by chapter 41.06 RCW,  
23 including employees whose work has ceased in connection with the  
24 pursuit of lawful activities protected by this chapter, except:

25        (a) Employees covered by chapter 41.56 RCW;

26        (b) Confidential employees;

27        (c) Management employees;

28        (d) Internal auditors in any agency; and

29        (e) Any employee of the commission, the personnel appeals board,  
30 the office of financial management, the department of human resources,  
31 or the attorney general's office or their successor organizations.

32        (6) "Employee organization" means any organization, union, or  
33 association in which employees participate and that exists for the  
34 purpose, in whole or in part, of collective bargaining.

35        (7) "Employer" means the state of Washington as represented by the  
36 governor or the governor's designee.

37        (8) "Essential services personnel" means corrections officers  
38 employed by the division of prisons of the department of corrections.

1 (9) "Exclusive bargaining representative" means any employee  
2 organization that has been certified or recognized under this chapter  
3 as the representative of the employees in an appropriate bargaining  
4 unit.

5 (10) "Executive director" means the executive director of the  
6 public employment relations commission.

7 (11) "Labor dispute" means any controversy concerning terms,  
8 tenure, or conditions of employment, or concerning the association or  
9 representation of persons in negotiating, fixing, maintaining,  
10 changing, or seeking to arrange terms or conditions of employment with  
11 respect to the subjects of bargaining provided in this chapter,  
12 regardless of whether the disputants stand in the proximate relation of  
13 employer and employee.

14 (12) "Managers" or "management employees" means employees who:

15 (a) Formulate policy or direct the work of an agency or subdivision  
16 thereof; or

17 (b) Are responsible to administer and carry out policies and  
18 programs of an agency or subdivision thereof; or

19 (c) Manage, administer, and control a local branch office of an  
20 agency or subdivision thereof, including the physical, financial, or  
21 personnel resources thereof; or

22 (d) Have substantial responsibility in personnel administration,  
23 legislative relations, public information, or the preparation and  
24 administration of budgets; or

25 (e) Functionally or organizationally are above the first level of  
26 supervision.

27 (13) "Supervisor" means any employee who has authority, in the  
28 interest of the employer, to hire, transfer, suspend, lay off, recall,  
29 promote, discharge, assign, reward, or discipline other employees, or  
30 to adjust employee grievances, or to effectively recommend such an  
31 action, if, in connection with the foregoing, the exercise of authority  
32 is not of a merely routine or clerical nature but requires the  
33 consistent use of independent judgment. "First level of supervision"  
34 and "first level supervisor" means the lowest level at which an  
35 employee functions as a supervisor.

36 (14) "Unfair labor practice" means any unfair labor practice listed  
37 in section 314 of this act.

38 (15) "Union security provision" means a provision in a collective  
39 bargaining agreement under which some or all of the employees in the

1 bargaining unit may be required, as a condition of continued employment  
2 on or after the thirtieth day following the beginning of such  
3 employment or the effective date of the provision, whichever is later,  
4 to become a member of the exclusive bargaining representative or pay a  
5 representation fee not greater than the periodic dues and initiation  
6 fees uniformly required as a condition of acquiring or retaining  
7 membership in the exclusive bargaining representative.

8 (16) "Work stoppage" means any suspension, curtailment, or other  
9 interruption of normal work in connection with a labor dispute under  
10 this chapter or occurring during the course of collective bargaining,  
11 including a strike, which means any action by employees or employee  
12 organizations, acting in concert, wherein any or all of such employees  
13 withhold or otherwise fail or refuse to perform fully their normal  
14 duties or services as employees.

15 NEW SECTION. **Sec. 302.** DUTIES OF THE COMMISSION. Within the  
16 provisions set forth in this chapter, the duties of the commission  
17 shall be as follows:

18 (1) Through its executive director, to provide mediation services,  
19 either upon its own motion or upon the request of one or more of the  
20 parties to a labor dispute arising under this chapter:

21 (a) A mediator appointed by the commission shall meet with the  
22 representatives of the parties, either jointly or separately and shall  
23 take such other steps as the mediator deems appropriate in order to  
24 persuade the parties to resolve their differences and effect an  
25 agreement. A mediator does not have a power of compulsion;

26 (b) If the executive director is not able to bring the parties to  
27 agreement by mediation within a reasonable time the executive director  
28 shall seek to induce the parties voluntarily to seek other means of  
29 settling the dispute without resort to a work stoppage or other  
30 coercion, including submission to the employees in the bargaining unit  
31 of the employer's last offer of settlement for approval or rejection in  
32 a secret ballot. The failure or refusal of either party to agree to  
33 any procedure suggested by the executive director shall not be deemed  
34 a violation of any duty or obligation imposed by this chapter;

35 (c) No person who has served as a mediator under this chapter may  
36 thereafter be compelled in any civil hearing or proceeding to give  
37 testimony or produce evidence concerning any information obtained in  
38 the course of his or her activities as mediator;

1 (2) To resolve disputes concerning the assignment of  
2 classifications covered by this chapter to the appropriate bargaining  
3 unit established under section 309 of this act;

4 (3) To resolve any unfair labor practice filed by any employee,  
5 employee organization, or employer;

6 (4) To resolve any issue arising under this chapter with respect to  
7 representation matters covered by section 308 of this act.

8 NEW SECTION. **Sec. 303.** RULES. (1) The commission may adopt,  
9 amend, and rescind rules in the manner prescribed by chapter 34.05 RCW  
10 as necessary to carry out the provisions of this chapter, consistent  
11 with the best standards of labor management relations.

12 (2) In adopting rules under this chapter the commission shall give  
13 notice to, and consider proposals from, employee representatives and  
14 affected agencies. Complete and current compilations of all rules of  
15 the commission in printed form shall be available to the public free of  
16 charge.

17 NEW SECTION. **Sec. 304.** EMPLOYEE RIGHTS. Employees shall have the  
18 right to self-organize, form, join, or assist employee organizations,  
19 to bargain collectively through representatives of their own choosing,  
20 and to engage in other lawful concerted activities for the purposes of  
21 collective bargaining or other mutual aid or protection, free from  
22 interference, restraint, or coercion, and may also refrain from any or  
23 all such activities except to the extent that employees may be required  
24 to pay a fee to an exclusive bargaining representative under a union  
25 security provision authorized by this chapter.

26 NEW SECTION. **Sec. 305.** SCOPE OF BARGAINING. (1) Except as  
27 otherwise provided in this section, the matters subject to collective  
28 bargaining are wages, hours, and other terms and conditions of  
29 employment, and the negotiation of any question arising under a  
30 collective bargaining agreement.

31 (2) The scope of bargaining shall not include matters pertaining  
32 to:

33 (a) Merit system principles related to recruitment, examinations,  
34 certification, and appointments of employees; classification, including  
35 reclassification, of positions; position qualification standards; and  
36 the career executive program, the Washington management services

1 program, veteran's preferences, and equal opportunity and affirmative  
2 action plans;

3 (b) Any retirement system, retirement benefit, or retirement  
4 statute of the state of Washington;

5 (c) Health care benefits or other employee insurance benefits but  
6 the cost or dollar contributions related thereto may be bargained; and

7 (d) Inherent managerial policy, which shall include such areas of  
8 discretion or policy as the functions, programs, business hours, and  
9 organizational structure of the employer, the employer's overall  
10 budget, the decision to use technology, and the selection and direction  
11 of employees.

12 (3) In the event of a dispute between the employer and the  
13 exclusive bargaining representative over which matters are mandatory  
14 subjects for bargaining, the dispute shall be submitted to the  
15 commission for determination. Prior law, practice, or interpretation  
16 shall be neither restrictive, expansive, nor determinative with respect  
17 to the scope of bargaining.

18 NEW SECTION. Sec. 306. COLLECTIVE BARGAINING AGREEMENTS. (1) The  
19 parties to a collective bargaining agreement shall reduce the agreement  
20 to writing and both shall execute it.

21 (2) A collective bargaining agreement shall contain provisions  
22 that:

23 (a) Require that the factors to be considered in determining the  
24 order of layoffs and subsequent reemployment include both seniority and  
25 the implementation and maintenance of approved affirmative action  
26 plans;

27 (b) Require processing of disciplinary actions or termination of  
28 employment entirely under the procedures of the collective bargaining  
29 agreement if an employee covered under this chapter has a right to  
30 contest the disciplinary action or termination of employment;

31 (c) Identify management rights; and

32 (d) Provide for joint labor/management committees at the levels  
33 within the agency deemed appropriate by the parties.

34 (3) If a collective bargaining agreement between an employer and  
35 the exclusive bargaining representative is concluded after the  
36 termination date of the previous collective bargaining agreement  
37 between the employer and an employee organization representing the same  
38 or a substantially similar bargaining unit, the effective date of the

1 collective bargaining agreement may be the day after the termination of  
2 the previous collective bargaining agreement, and some or all benefits  
3 included in the new collective bargaining agreement, including wage or  
4 salary increases, may accrue beginning with that effective date.

5 NEW SECTION. **Sec. 307.** ENFORCEMENT OF COLLECTIVE BARGAINING  
6 AGREEMENTS. (1) Collective bargaining agreements negotiated under this  
7 chapter shall contain provisions for the final and binding arbitration  
8 of all disputes arising over the interpretation or application of the  
9 agreement.

10 (2) The parties to a collective bargaining agreement may agree on  
11 one or more permanent umpires to serve as arbitrator, may agree on any  
12 impartial person to serve as an ad hoc arbitrator, or may agree to  
13 select arbitrators from any source available to them including federal  
14 and private agencies or a list of arbitrators maintained by the  
15 commission.

16 (3) An arbitrator may require any person to attend as a witness and  
17 to bring with him or her any book, record, document, or other evidence.  
18 Subpoenas shall be issued and signed by the arbitrator and shall be  
19 served in the same manner as subpoenas to testify before a court of  
20 record in this state. The fees for attendance shall be paid by the  
21 party requesting issuance of the subpoena and shall be the same as the  
22 fees of witnesses in the superior court. If any person so summoned to  
23 testify refuses or neglects to obey the subpoena, upon petition  
24 authorized by the arbitrator, the superior court may compel the  
25 attendance of the person before the arbitrator or punish the person for  
26 contempt in the same manner provided for the attendance of witnesses or  
27 the punishment of them in the courts of this state.

28 (4) The arbitrator shall establish a time and place for a hearing  
29 and shall provide reasonable notice thereof to the parties to the  
30 dispute. The arbitrator may adjourn the hearing from time to time as  
31 may be necessary and, on application of either party and for good  
32 cause, postpone the hearing to a time not extending beyond a date fixed  
33 by the collective bargaining agreement for making the award. The  
34 arbitrator shall have the power to administer oaths. Each party shall  
35 have the opportunity to present evidence and make argument at the  
36 hearing. The rules of evidence prevailing in judicial proceedings may  
37 be considered, but are not binding, and any oral testimony or  
38 documentary evidence or other data deemed relevant by the arbitrator

1 may be received in evidence. The arbitrator shall issue a written  
2 decision, which shall be signed by the arbitrator. The arbitrator  
3 shall promptly serve a copy of the decision on each of the parties or  
4 their attorneys.

5 (5) If a party to a collective bargaining agreement negotiated  
6 under this chapter refuses to submit a grievance for arbitration, the  
7 other party to the collective bargaining agreement may petition the  
8 jurisdiction of the superior court of Thurston county for issuance of  
9 an order compelling arbitration. Disputes concerning compliance with  
10 grievance procedures shall be reserved for determination by the  
11 arbitrator. Arbitration shall be ordered if the grievance states a  
12 claim which on its face is covered by the collective bargaining  
13 agreement, and doubts as to the arbitrability of an issue shall be  
14 referred to the arbitrator to be decided before hearing the merits of  
15 the case. Disputes concerning compliance with grievance procedures  
16 shall be reserved for determination by the arbitrator.

17 (6) If a party to a collective bargaining agreement negotiated  
18 under this chapter refuses to comply with the award of an arbitrator  
19 determining a grievance arising under the collective bargaining  
20 agreement, the other party to the collective bargaining agreement may  
21 petition the superior court of Thurston county for issuance of an order  
22 enforcing the arbitration award. The court shall not substitute its  
23 judgment for that of the arbitrator, and shall enforce any arbitration  
24 award that is based on the collective bargaining agreement, except that  
25 an arbitration award shall not be enforced if the court is satisfied  
26 that substantial rights of the parties have been prejudiced by:

27 (a) The arbitration award having been procured by corruption,  
28 fraud, or undue means; or

29 (b) Evident partiality or corruption in the arbitrator or  
30 arbitrators; or

31 (c) The arbitrator or arbitrators were guilty of misconduct in  
32 refusing to postpone a hearing upon sufficient cause shown or in  
33 refusing to hear evidence pertinent and material to the controversy, or  
34 of any other misbehavior by which the rights of any party have been  
35 prejudiced; or

36 (d) The arbitrator or arbitrators have exceeded their powers, or so  
37 imperfectly executed them that a final and definite award on the  
38 subject matter was not made.

1 (7) If an arbitration award is vacated, the court shall direct a  
2 rehearing either before the same arbitrator or before a new arbitrator  
3 to be chosen in the manner provided in the collective bargaining  
4 agreement for the selection of the original arbitrator. Any provision  
5 limiting the time in which the arbitrator may make a decision shall be  
6 deemed applicable to the new arbitration and to commence from the date  
7 of the court's order.

8 (8) Nothing in this chapter or rules adopted under it may be  
9 construed to authorize the commission or an arbitrator to direct in any  
10 manner the method, means, and number, and kinds of personnel by which  
11 agency operations are to be conducted or the number of clients to be  
12 served by agency programs and operations, or to spend money not already  
13 appropriated by the legislature, or that would have the effect of  
14 increasing the future appropriations or diminishing established  
15 programs.

16 (9) If there is any conflict between any collective bargaining  
17 agreement and any resolution, rule, or policy of the employer or its  
18 agents, the terms of the collective bargaining agreement shall prevail  
19 except with respect to those terms that conflict with section 305(2) of  
20 this act.

21 NEW SECTION. **Sec. 308.** REPRESENTATION. (1) Transition from  
22 bargaining units certified under RCW 41.06.150 to bargaining units  
23 established by this chapter shall be in accordance with section 311 of  
24 this act. All subsequent questions pertaining to the issue of  
25 representation shall be resolved by the commission in accordance with  
26 the procedures in this section.

27 (a) Questions concerning representation may not be raised within  
28 one year following certification of an exclusive bargaining  
29 representative under this section.

30 (b) Questions concerning representation may not be raised within  
31 one year following an election or cross-check in which the employees  
32 failed to designate an exclusive bargaining representative.

33 (c) If there is a valid collective bargaining agreement in effect,  
34 questions concerning representation may not be raised except during the  
35 period not more than ninety nor less than sixty days before the  
36 expiration date of the agreement. In the event a valid collective  
37 bargaining agreement, together with any renewals or extensions thereof,  
38 has been or will be in existence for more than three years, questions

1 concerning representation may be raised not more than ninety nor less  
2 than sixty days before the third anniversary date or any subsequent  
3 anniversary date of the agreement. If the exclusive bargaining  
4 representative is removed as the result of this procedure, the  
5 collective bargaining agreement shall be deemed to be terminated as of  
6 the date of the certification.

7 (d) An employee organization seeking certification as exclusive  
8 bargaining representative of a bargaining unit of employees, or  
9 bargaining unit employees seeking decertification of their exclusive  
10 bargaining representative, shall make a confidential showing to the  
11 commission of credible evidence demonstrating that at least thirty  
12 percent of the employees in the bargaining unit are in support of the  
13 petition.

14 (e) A petition filed by an employer shall be supported by credible  
15 evidence demonstrating the good faith basis on which the employer  
16 claims the existence of a question concerning the representation among  
17 its employees.

18 (f) Any employee organization that makes a confidential showing to  
19 the commission of credible evidence demonstrating that it has the  
20 support of at least ten percent of the employees in the bargaining unit  
21 involved may intervene in the proceedings under this section, and may  
22 have its name listed as a choice on the ballot in an election conducted  
23 by the commission.

24 (g) The commission shall determine any question concerning  
25 representation by conducting a secret ballot election among the  
26 employees in the bargaining unit, except:

27 (i) If only one employee organization is seeking certification as  
28 exclusive bargaining representative of a bargaining unit for which  
29 there is no incumbent exclusive bargaining representative, the  
30 commission may, upon the concurrence of the employer and the employee  
31 organization, determine the question concerning representation by  
32 conducting a cross-check comparing the employee organization's  
33 membership records or bargaining authorization cards against the  
34 employment records of the employer; or

35 (ii) Where the commission determines that a serious unfair labor  
36 practice has been committed that interfered with the election process  
37 and precludes the holding of a fair election, the commission may  
38 determine the question concerning representation by conducting a cross-  
39 check comparing the employee organization's membership records or

1 bargaining authorization cards against the employment records of the  
2 employer.

3 (h) The representation election ballot shall contain a choice for  
4 each employee organization qualifying under subsection (d) or (f) of  
5 this section, together with a choice for no representation. The  
6 representation election shall be determined by the majority of the  
7 valid ballots cast. Where there are three or more choices on the  
8 ballot and none of the choices receives a majority of the valid ballots  
9 cast, a runoff election shall be conducted between the two choices  
10 receiving the highest and second highest numbers of votes.

11 (2) The employee organization that has been designated or selected  
12 by the majority of the employees in an appropriate bargaining unit as  
13 their representative for the purposes of collective bargaining shall be  
14 the exclusive bargaining representative of, and shall be required to  
15 represent, all the employees within the bargaining unit without regard  
16 to membership in that employee organization. However, any employee or  
17 group of employees may at any time present complaints or concerns to  
18 the employer and have such complaints or concerns adjusted without  
19 intervention of the exclusive bargaining representative, as long as the  
20 exclusive bargaining representative has been given an opportunity to be  
21 present at the adjustment and to make its views known, and as long as  
22 the adjustment is not inconsistent with the terms of a collective  
23 bargaining agreement then in effect.

24 NEW SECTION. **Sec. 309.** BARGAINING UNITS. The legislature finds  
25 that to foster meaningful collective bargaining, units must be  
26 structured to avoid excessive fragmentation whenever possible. In  
27 accordance with this policy, collective bargaining units under this  
28 chapter shall be structured on a state-wide basis and limited to one  
29 collective bargaining unit for each of the following:

30 (1) Clerical, office, and administrative support including but not  
31 limited to nonprofessional clerical and administrative classes:  
32 Typists, secretaries, accounting clerks, computer operators, office  
33 service personnel, and similar classes;

34 (2) Maintenance, services, operations support, trades, and  
35 technical classes including but not limited to generally recognized  
36 blue collar and technical classes, including highway maintenance  
37 workers, carpenters, plumbers, electricians, auto mechanics,  
38 engineering aides and associates, and similar classes;

1 (3) Health and human care professionals, including but not limited  
2 to community health, nutrition and health service professional  
3 employees, pharmacists, dietitians, licensed therapists, and similar  
4 classes;

5 (4) Direct care institutions and related nonprofessional classes  
6 involved in health and human care including but not limited to  
7 institutional care classes, including nursing aides, psychiatric aides,  
8 therapy aides, and similar classes;

9 (5) Corrections custody classes in adult corrections institutions,  
10 excluding employees of the division of community corrections;

11 (6) Engineering, science and resources, including but not limited  
12 to specialized professional scientific occupations, civil and other  
13 engineers, architects, chemists, biologists, geologists, surveyors, and  
14 similar classes;

15 (7) Professional and technical employees involved in financial and  
16 revenue collection, auditing, and examination;

17 (8) Professional and technical employees involved in nonfinancial  
18 regulatory and inspection activities;

19 (9) Professional and technical employees involved in forestry,  
20 natural resources, environmental, and related classes;

21 (10) Professional employees, excluding professional employees who  
22 meet the standards of other professional units;

23 (11) Teachers of the school for the blind and school for the deaf;

24 (12) Highway and transportation engineers, engineering technicians,  
25 and related classes;

26 (13) Liquor store clerks and related classes;

27 (14) Driver's licensing examiners;

28 (15) Registered nurses and job classes requiring licensure as a  
29 registered nurse;

30 (16) Licensed physicians, psychiatrists, psychologists, and  
31 dentists;

32 (17) Law enforcement, including all classes with power to arrest,  
33 whose work involves primarily the enforcement of statutes, ordinances,  
34 and rules and the preservation of public order; and

35 (18) Supervisory employees. However, an employee organization that  
36 is certified to represent nonsupervisory employees covered under this  
37 chapter that becomes the exclusive bargaining representative for this  
38 unit shall create a separate local for supervisory employees within its  
39 organization.

1        NEW SECTION.    **Sec. 310.**    UNION SECURITY.    (1) The parties to a  
2 collective bargaining agreement may negotiate, as a condition of  
3 employment, a union security provision. However, agreements involving  
4 union security provisions shall safeguard the right of nonassociation  
5 based on employee preference or on bona fide religious tenets or  
6 teachings of a church or religious body of which the public employee is  
7 a member. Payment of dues or a representation fee shall begin on the  
8 thirtieth day following the beginning of employment or thirty days  
9 after the date of ratification of an agreement containing a union  
10 security provision, whichever is later. The failure of an employee to  
11 comply with such a condition of employment constitutes cause for  
12 dismissal. An exclusive bargaining representative may not require a  
13 bargaining unit employee to pay initiation, reinstatement, or any other  
14 fees or fines.

15        (2) Each employee organization shall establish a procedure by which  
16 any employee so requesting may obtain a rebate of that part of the  
17 membership dues or representation fee, if any, that represents a pro  
18 rata share of expenditures for purposes not germane to the collective  
19 bargaining process or to contract administration.

20        (3) Upon filing with the employer the voluntary written  
21 authorization of a bargaining unit employee under this chapter, the  
22 employee organization that is the exclusive bargaining representative  
23 of the bargaining unit has the right to have deducted from the salary  
24 of the employee an amount equal to the dues and/or fees uniformly  
25 required as a condition of acquiring or retaining membership in the  
26 employee organization. The dues and/or fees shall be deducted each pay  
27 period from the pay of all employees who have given authorization for  
28 the deduction and shall be transmitted by the employer as provided for  
29 by agreement between the employer and the employee organization. The  
30 right to deduct dues and/or fees shall be an exclusive right of the  
31 employee organization that represents the unit in which the employee is  
32 employed.

33        (4) To safeguard the right of nonassociation of employees, based on  
34 bona fide religious tenets or teachings of a church or religious body  
35 of which the employee is a member, the employee shall pay to a  
36 charitable organization mutually agreed to between the employee and the  
37 employee organization, an amount of money not greater than the dues  
38 and/or fees assessed all other members or nonmembers of the  
39 organization. The employee shall be required to provide the employee

1 organization with a monthly receipt from the charitable organization  
2 showing the amount of the cash contribution. Such an employee shall  
3 not be a member of the employee organization but is entitled to all the  
4 representation rights of a member of the employee organization.  
5 Disputes regarding the bona fide religious objections or charitable  
6 contributions shall be decided by the commission.

7 (5) Until an exclusive bargaining representative is selected for a  
8 bargaining unit under this chapter or July 1, 1995, whichever is  
9 earlier, employee organizations that, before the effective date of this  
10 section, were entitled to the union shop dues or representation fees  
11 pursuant to preexisting law or rules shall continue to be entitled to  
12 such dues and fees until an exclusive bargaining representative is  
13 certified under this chapter. Upon the selection of an exclusive  
14 bargaining representative, only the exclusive bargaining representative  
15 for the bargaining unit is entitled to the rights established under  
16 this section.

17 NEW SECTION. **Sec. 311.** TRANSITION OF BARGAINING REPRESENTATIVES  
18 AND UNITS. The transition of exclusive bargaining representatives and  
19 bargaining units existing before the effective date of this section to  
20 the units prescribed in section 309 of this act and to exclusive  
21 bargaining representatives under this chapter shall be implemented as  
22 follows:

23 (1) Any bargaining representative that has been certified under  
24 prior law and rules to represent employees now included in a unit  
25 established in section 309 of this act may use the number of its  
26 regular dues paying members included in the new unit to establish its  
27 status as a petitioner or intervenor under section 308 of this act if:

28 (a) One and only one employee organization has a majority of the  
29 employees in the unit who are regular dues paying members, then the  
30 employee organization shall be entitled to a certification as the  
31 exclusive bargaining representative by the commission for the new  
32 bargaining unit without the necessity of a representation election;

33 (b) Two or more employee organizations have more than a majority of  
34 the employees in the unit established in section 309 of this act as  
35 regular dues paying members, then an election shall be held under the  
36 provisions of section 308 of this act to determine which such employee  
37 organization shall be entitled to a certification as the exclusive

1 bargaining representative by the commission for the new bargaining  
2 unit;

3 (c) On the effective date of this section, less than a majority of  
4 the employees to be included in a bargaining unit prescribed in section  
5 309 of this act are represented by a single existing certified  
6 bargaining representative as evidenced by the number of employees  
7 paying regular dues to the organization, representation of employees in  
8 the new bargaining unit shall be determined pursuant to section 308 of  
9 this act.

10 (2) An employee organization that has been the certified exclusive  
11 bargaining representative of employees under any other law or rule  
12 before the effective date of this section may continue to represent  
13 such employees until they are included in a unit established under  
14 section 309 of this act. However, agencies may not renegotiate any  
15 existing agreement, enter into a new collective bargaining agreement,  
16 or extend an existing agreement beyond the agreement's expiration date  
17 in effect on the effective date of this section. No provision in any  
18 such agreement may be unilaterally changed by the employer before its  
19 next expiration date, or the date of certification of the new exclusive  
20 bargaining representative under this chapter, whichever occurs first,  
21 without the employer giving ninety days' advance notice to the  
22 certified exclusive bargaining representative and, if requested,  
23 bargaining with the representative over the proposed changes under the  
24 provisions of this chapter.

25 (3) An employee organization may not be initially certified as an  
26 exclusive bargaining representative in any bargaining unit established  
27 by this chapter if a dispute exists over the classification to be  
28 included in the unit that could affect the determination of its status  
29 as the representative of a majority of the employees included in the  
30 unit including the employees in disputed classifications.

31 NEW SECTION. **Sec. 312.** NEGOTIATION AND RATIFICATION OF COLLECTIVE  
32 BARGAINING AGREEMENTS. (1) Collective bargaining agreement  
33 negotiations under this chapter shall commence no later than October 1,  
34 1994, for collective bargaining agreements that are to become effective  
35 no earlier than July 1, 1995, for those units in which an exclusive  
36 bargaining representative has been selected, or as soon thereafter as  
37 an exclusive bargaining representative has been selected for a

1 bargaining unit. For subsequent agreements, negotiations shall  
2 commence and contracts become effective as the parties agree.

3 (2) After ratification of a tentative agreement by the employees in  
4 the bargaining unit, the items requiring funding shall be submitted to  
5 the joint committee on collective bargaining created in subsection (4)  
6 of this section. If the committee approves the submitted items, the  
7 governor shall request legislation necessary to implement the items  
8 requiring funding. If the legislature fails to act on the legislation  
9 submitted or rejects all or part of the legislation submitted, the  
10 tentative agreement shall be returned to the parties for renegotiation.

11 (3) Any provisions of these agreements pertaining to salary  
12 increases shall be subject to modification by the legislature. If any  
13 provision of a salary increase is changed by subsequent modification of  
14 the appropriations act by the legislature, both parties shall  
15 immediately enter into collective bargaining for the sole purpose of  
16 arriving at a mutually agreed upon replacement for the modified  
17 provision.

18 (4) The joint committee on collective bargaining is created, to  
19 consist of the speaker of the house of representatives, the majority  
20 leader of the house of representatives, the minority leader of the  
21 house of representatives, the chair of the house of representatives  
22 committee on appropriations, or successor committee, the majority  
23 leader of the senate, the minority leader of the senate, the president  
24 pro tempore of the senate, and the chair of the senate committee on  
25 ways and means, or successor committee.

26 NEW SECTION. **Sec. 313.** ESSENTIAL SERVICES PERSONNEL. (1) If,  
27 sixty days after commencement of negotiations, no agreement has been  
28 reached between essential services personnel and their employer, then  
29 at any time thereafter either party may declare that an impasse exists  
30 and may submit a request for mediation to the commission, with or  
31 without the concurrence of the other party. Until a new collective  
32 bargaining agreement involving essential services personnel is  
33 negotiated, the terms and conditions of the previous collective  
34 bargaining agreement shall remain in effect.

35 (2) This section does not prohibit the parties from agreeing to  
36 substitute at their own expense some other mediator or mediation  
37 procedure.

1 (3) Work stoppages involving essential services personnel are  
2 hereby expressly prohibited.

3 NEW SECTION. **Sec. 314.** UNFAIR LABOR PRACTICES. (1) It shall be  
4 an unfair labor practice for an employer to:

5 (a) Interfere with, restrain, or coerce employees in the exercise  
6 of their rights guaranteed by this chapter;

7 (b) Control, dominate, or interfere with the formation or  
8 administration of any employee organization or contribute financial or  
9 other support to it. However, an employer shall not be prohibited from  
10 permitting employees to confer with it or its representatives or agents  
11 during working hours without loss of time or pay;

12 (c) Encourage or discourage membership in any employee organization  
13 by discrimination with regard to hiring, tenure of employment, or any  
14 term or condition of employment, but this subsection does not prevent  
15 an employer from enforcing a union security provision authorized by  
16 this chapter;

17 (d) Discharge or otherwise discriminate against an employee who has  
18 filed charges or given testimony under this chapter; or

19 (e) Refuse to bargain collectively with the exclusive bargaining  
20 representative of its employees.

21 (2) It shall be an unfair labor practice for an employee  
22 organization or its agents to:

23 (a) Restrain or coerce:

24 (i) Employees in the exercise of the rights guaranteed in this  
25 chapter. However, this subsection does not impair the right of an  
26 employee organization to prescribe its own rules with respect to the  
27 acquisition or retention of membership therein; or

28 (ii) The employer in the selection of its representatives for the  
29 purposes of collective bargaining or the adjustment of grievances;

30 (b) Cause or attempt to cause the employer to discriminate against  
31 an employee in violation of subsection (1)(c) of this section, or to  
32 discriminate against an employee with respect to whom membership in  
33 such organization has been denied or terminated on some ground other  
34 than his or her failure to tender the amounts required under a union  
35 security provision authorized by this chapter;

36 (c) Discriminate against an employee because he or she has filed  
37 charges or given testimony under this chapter;

1 (d) Refuse to bargain collectively with the employer of an employee  
2 for whom it is the exclusive bargaining representative;

3 (e) Cause or attempt to cause the employer to pay or deliver or  
4 agree to pay or deliver any money or other thing of value, in the  
5 nature of an exaction, for services that are not performed or not to be  
6 performed; or

7 (f) Breach its duty of fair representation with respect to any  
8 employee or employees in a bargaining unit for which the employee  
9 organization is exclusive bargaining representative, by action or  
10 inaction that is arbitrary, discriminatory, perfunctory, or lacking in  
11 good faith. It is not a violation of this section for an employee  
12 organization to refuse to pursue a grievance on behalf of one or more  
13 employees where, following investigation of the facts and  
14 circumstances, the employee organization makes a determination in good  
15 faith that the grievance is without merit.

16 (3) The expressing of any views, argument, or opinion, or the  
17 dissemination thereof, whether in written, printed, graphic, or visual  
18 form, shall not constitute or be evidence of an unfair labor practice  
19 under any of the provisions of this chapter, if the expression contains  
20 no threat of reprisal or force or promise of benefit.

21 NEW SECTION. **Sec. 315.** UNFAIR LABOR PRACTICE PROCEDURES. The  
22 commission shall resolve any unfair labor practice dispute in  
23 accordance with the procedures specified in this section.

24 (1) A complaint charging unfair labor practices shall be filed  
25 within six months following the act or event in question.

26 (2) The person or persons named as respondent in a complaint  
27 charging unfair labor practices may file an answer to the complaint and  
28 appear in person or otherwise to give testimony at the place and time  
29 set by the commission for hearing.

30 (3) If the commission determines that a person has engaged in or is  
31 engaging in any unfair labor practice, then the commission shall issue  
32 and cause to be served upon the person an order requiring the person to  
33 cease and desist from the unfair labor practice and to take such  
34 affirmative action as will effectuate the purposes and the policy of  
35 this chapter, including the reinstatement of employees with back pay.

36 (4) The commission may petition the Thurston county superior court  
37 for appropriate temporary relief or for the enforcement of its order.

1        NEW SECTION.    **Sec. 316.**    EMPLOYER RESPONSIBILITIES.    (1) The  
2 governor may appoint a designee to fulfill the collective bargaining  
3 responsibilities as the state employer under this chapter.

4        (2) As directed by the governor, the designee shall:

5        (a) Develop and implement labor relations policies and programs;

6        (b) Represent the governor in: Negotiations with certified  
7 bargaining representatives; the determination of classifications to be  
8 included in bargaining units; elections to determine certified  
9 bargaining agents; and other proceedings arising under this chapter;  
10 and any other activities necessary to implement the collective  
11 bargaining policies established by this chapter;

12        (c) Consult with and involve agency representatives as appropriate  
13 during collective bargaining. The designee and the exclusive  
14 bargaining representative may agree to form negotiation subcommittees  
15 to address issues specific to one or more agencies or specific subjects  
16 as the designee and exclusive bargaining representative deem  
17 appropriate;

18        (d) Administer and interpret collective bargaining agreements, and  
19 coordinate and direct agency activities as necessary to promote  
20 consistent policies and practices;

21        (e) Coordinate the state's resources as needed to represent the  
22 state in collective bargaining under this chapter; and

23        (f) Provide advice on labor relations to the various departments  
24 and agencies of state government, including providing for necessary  
25 supervisory and managerial training.

26        (3) All state departments and agencies shall provide such  
27 assistance, services, and information as required by the governor or  
28 his or her designee, and shall take such administrative or other action  
29 as directed to implement and administer the provisions of any binding  
30 agreement between the state and certified bargaining representatives  
31 entered into under this chapter.

32        **Sec. 317.** RCW 41.04.230 and 1993 c 2 s 26 (Initiative Measure No.  
33 134) and 1992 c 192 s 1 are each reenacted and amended to read as  
34 follows:

35        Any official of the state authorized to disburse funds in payment  
36 of salaries and wages of public officers or employees is authorized,  
37 upon written request of the officer or employee, to deduct from the  
38 salaries or wages of the officers or employees, the amount or amounts

1 of subscription payments, premiums, contributions, or continuation  
2 thereof, for payment of the following:

3 (1) Credit union deductions: PROVIDED, That twenty-five or more  
4 employees of a single state agency or a total of one hundred or more  
5 state employees of several agencies have authorized such a deduction  
6 for payment to the same credit union. An agency may, in its own  
7 discretion, establish a minimum participation requirement of fewer than  
8 twenty-five employees.

9 (2) Parking fee deductions: PROVIDED, That payment is made for  
10 parking facilities furnished by the agency or by the department of  
11 general administration.

12 (3) U.S. savings bond deductions: PROVIDED, That a person within  
13 the particular agency shall be appointed to act as trustee. The  
14 trustee will receive all contributions; purchase and deliver all bond  
15 certificates; and keep such records and furnish such bond or security  
16 as will render full accountability for all bond contributions.

17 (4) Board, lodging or uniform deductions when such board, lodging  
18 and uniforms are furnished by the state, or deductions for academic  
19 tuitions or fees or scholarship contributions payable to the employing  
20 institution.

21 ~~(5) ((Dues and other fees deductions: PROVIDED, That the deduction  
22 is for payment of membership dues to any professional organization  
23 formed primarily for public employees or college and university  
24 professors: AND PROVIDED, FURTHER, That twenty five or more employees  
25 of a single state agency, or a total of one hundred or more state  
26 employees of several agencies have authorized such a deduction for  
27 payment to the same professional organization.~~

28 ~~(6) Labor or employee organization dues may be deducted in the  
29 event that a payroll deduction is not provided under a collective  
30 bargaining agreement under the provisions of RCW 41.06.150: PROVIDED,  
31 That twenty five or more officers or employees of a single agency, or  
32 a total of one hundred or more officers or employees of several  
33 agencies have authorized such a deduction for payment to the same labor  
34 or employee organization: PROVIDED, FURTHER, That labor or employee  
35 organizations with five hundred or more members in state government may  
36 have payroll deduction for employee benefit programs.~~

37 ~~(7))~~ Insurance contributions to the authority for payment of  
38 premiums under contracts authorized by the state health care authority.



1 preservation of the public peace, health, or safety, or support of the  
2 state government and its existing public institutions, and shall take  
3 effect July 1, 1993.

4 NEW SECTION. **Sec. 404.** Section 317 of this act shall take effect  
5 July 1, 1995.

6 NEW SECTION. **Sec. 405.** Sections 110 and 116 of this act shall  
7 expire June 30, 1994.

8 NEW SECTION. **Sec. 406.** If any provision of this act or its  
9 application to any person or circumstance is held invalid, the  
10 remainder of the act or the application of the provision to other  
11 persons or circumstances is not affected.

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