

SUBSTITUTE SENATE BILL 5841

State of Washington

54th Legislature

1996 Regular Session

By Senate Committee on Labor, Commerce & Trade (originally sponsored by Senators Pelz, Winsley, Gaspard, Roach, Snyder, Loveland, Rinehart, McAuliffe, Spanel, Heavey, Franklin, Bauer, Smith, Fairley, Prentice, Fraser, Kohl, Quigley, Rasmussen, Sutherland, Sheldon, Drew, Wojahn, West, Wood, C. Anderson and Moyer; by request of Governor Lowry)

Read first time 01/26/96.

1 AN ACT Relating to personnel; amending RCW 41.06.030, 41.06.150,
2 41.06.150, 41.06.022, 41.06.070, 41.06.110, 41.06.160, 41.06.167,
3 41.06.170, 41.06.186, 41.06.196, 41.06.270, 41.06.350, 41.06.400,
4 41.06.410, 41.06.450, 41.06.475, 41.06.490, 28B.12.060, 34.05.030,
5 34.12.020, 41.04.340, 41.50.804, 43.06.425, 43.33A.100, 43.131.090,
6 49.46.010, 28B.16.015, 41.06.340, 13.40.320, 39.29.006, 41.04.385,
7 47.46.040, and 72.09.100; adding new sections to chapter 41.06 RCW;
8 adding a new chapter to Title 41 RCW; creating new sections; repealing
9 RCW 41.06.163, 41.06.165, 41.06.140, 41.50.804, 41.06.520, 28B.16.015,
10 41.06.380, 41.06.382, 41.64.010, 41.64.020, 41.64.030, 41.64.040,
11 41.64.050, 41.64.060, 41.64.070, 41.64.080, 41.64.090, 41.64.100,
12 41.64.110, 41.64.120, 41.64.130, 41.64.140, and 41.64.910; and
13 providing effective dates.

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

15 **PART I**
16 **TITLE**

17 NEW SECTION. **Sec. 101.** SHORT TITLE. This act may be known and
18 cited as the personnel system reform act of 1996.

PART II
CIVIL SERVICE REFORM

1
2
3 **Sec. 201.** RCW 41.06.030 and 1993 c 281 s 20 are each amended to
4 read as follows:

5 A department of personnel(~~(, governed by the Washington personnel~~
6 ~~resources board and administered by a director of personnel,)~~) is
7 hereby established as a separate agency within the state government.

8 **Sec. 202.** RCW 41.06.150 and 1995 2nd sp.s. c 18 s 911 are each
9 amended to read as follows:

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

14 (1) The reduction, dismissal, suspension, or demotion of an
15 employee;

16 (2) Certification of names for vacancies, including departmental
17 promotions, with the number of names equal to six more names than there
18 are vacancies to be filled, such names representing applicants rated
19 highest on eligibility lists: PROVIDED, That when other applicants
20 have scores equal to the lowest score among the names certified, their
21 names shall also be certified;

22 (3) Examinations for all positions in the competitive and
23 noncompetitive service;

24 (4) Appointments;

25 (5) Training and career development;

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

30 (7) Transfers;

31 (8) Sick leaves and vacations;

32 (9) Hours of work;

33 (10) Layoffs when necessary and subsequent reemployment, both
34 according to seniority;

35 (11)(a) Determination of appropriate bargaining units within any
36 agency: PROVIDED, That in making such determination the board shall
37 consider the duties, skills, and working conditions of the employees,

1 the history of collective bargaining by the employees and their
2 bargaining representatives, the extent of organization among the
3 employees, and the desires of the employees;

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

34 (~~(13)~~) (c) Agreements between agencies and certified exclusive
35 bargaining representatives providing for grievance procedures and
36 collective negotiations on all personnel matters over which the
37 appointing authority of the appropriate bargaining unit of such agency
38 may lawfully exercise discretion;

1 (~~(14)~~) (d) Written agreements may contain provisions for payroll
2 deductions of employee organization dues upon authorization by the
3 employee member and for the cancellation of such payroll deduction by
4 the filing of a proper prior notice by the employee with the appointing
5 authority and the employee organization: PROVIDED, That nothing
6 contained herein permits or grants to any employee the right to strike
7 or refuse to perform his or her official duties;

8 (~~(15)~~) (e) A collective bargaining agreement entered into under
9 this subsection before July 1, 1998, covering employees subject to
10 sections 301 through 314 of this act, that expires after July 1, 1998,
11 shall remain in full force during its duration, or until superseded by
12 a collective bargaining agreement entered into by the parties under
13 sections 301 through 314 of this act, however an agreement entered into
14 before July 1, 1998, may not be renewed or extended beyond July 1,
15 1999. This subsection (11) does not apply to collective bargaining
16 negotiations or collective bargaining agreements entered into under
17 sections 301 through 314 of this act;

18 (12) Adoption and revision of a comprehensive classification plan
19 for all positions in the classified service, based on investigation and
20 analysis of the duties and responsibilities of each such position. The
21 board shall not adopt job classification revisions or class studies
22 unless implementation of the proposed revision or study will result in
23 net cost savings, increased efficiencies, or improved management of
24 personnel or services, and the proposed revision or study has been
25 approved by the director of financial management in accordance with
26 chapter 43.88 RCW. Beginning July 1, 1995, through June 30, 1997:

27 (a) The board may approve the implementation of salary increases
28 resulting from adjustments to the classification plan during the 1995-
29 97 fiscal biennium only if:

30 (i) The implementation will not result in additional net costs and
31 the proposed implementation has been approved by the director of
32 financial management in accordance with chapter 43.88 RCW;

33 (ii) The implementation will take effect on July 1, 1996, and the
34 total net cost of all such actions approved by the board for
35 implementation during the 1995-97 fiscal biennium does not exceed the
36 amounts specified by the legislature specifically for this purpose; or

37 (iii) The implementation is a result of emergent conditions.
38 Emergent conditions are defined as newly mandated programs for which
39 moneys are not appropriated, establishment of positions necessary for

1 the preservation of the public health, safety, or general welfare, and
2 related issues which do not exceed \$250,000 of the moneys identified in
3 section 718(2), chapter 18, Laws of 1995 2nd sp. sess.

4 (b) The board may approve the implementation of salary increases
5 resulting from adjustments to the classification plan for
6 implementation in the 1997-99 fiscal biennium only if the
7 implementation will not result in additional net costs or the
8 implementation has been approved by the legislature in the omnibus
9 appropriations act or other legislation.

10 (c) The board shall approve only those salary increases resulting
11 from adjustments to the classification plan if they are due to
12 documented recruitment and retention difficulties, salary compression
13 or inversion, increased duties and responsibilities, or inequities.
14 For these purposes, inequities are defined as similar work assigned to
15 different job classes with a salary disparity greater than 7.5 percent.

16 (d) Adjustments made to the higher education hospital special pay
17 plan are exempt from (a) through (c) of this subsection;

18 (~~(16)~~) (13) Allocation and reallocation of positions within the
19 classification plan;

20 (~~(17)~~) (14) Adoption and revision of a state salary schedule to
21 reflect the prevailing rates in Washington state private industries and
22 other governmental units but the rates in the salary schedules or plans
23 shall be increased if necessary to attain comparable worth under an
24 implementation plan under RCW 41.06.155 and that, for institutions of
25 higher education and related boards, shall be competitive for positions
26 of a similar nature in the state or the locality in which an
27 institution of higher education or related board is located, such
28 adoption and revision subject to approval by the director of financial
29 management in accordance with the provisions of chapter 43.88 RCW;

30 (~~(18)~~) (15) Increment increases within the series of steps for
31 each pay grade based on length of service for all employees whose
32 standards of performance are such as to permit them to retain job
33 status in the classified service;

34 (~~(19)~~) (16) Providing for veteran's preference as required by
35 existing statutes, with recognition of preference in regard to layoffs
36 and subsequent reemployment for veterans and their surviving spouses by
37 giving such eligible veterans and their surviving spouses additional
38 credit in computing their seniority by adding to their unbroken state
39 service, as defined by the board, the veteran's service in the military

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

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

23 ~~((21))~~ (18) Assuring persons who are or have been employed in
24 classified positions before July 1, 1993, will be eligible for
25 employment, reemployment, transfer, and promotion in respect to
26 classified positions covered by this chapter;

27 ~~((22))~~ (19) Affirmative action in appointment, promotion,
28 transfer, recruitment, training, and career development; development
29 and implementation of affirmative action goals and timetables; and
30 monitoring of progress against those goals and timetables.

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

36 **Sec. 203.** RCW 41.06.150 and 1996 c . . . s 202 (section 202 of
37 this act) are each amended to 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~~
8 ~~departmental promotions, with the number of names equal to six more~~
9 ~~names than there are vacancies to be filled, such names representing~~
10 ~~applicants rated highest on eligibility lists: PROVIDED, That when~~
11 ~~other applicants have scores equal to the lowest score among the names~~
12 ~~certified, their names shall also be certified)~~);

13 (~~(3)~~) (2) Examinations for all positions in the competitive and
14 noncompetitive service;

15 (~~(4)~~) (3) Appointments;

16 (~~(5)~~) Training and career development;

17 (~~6~~) Probationary periods of six to twelve months and rejections of
18 probationary employees, depending on the job requirements of the class,
19 except that entry level state park rangers shall serve a probationary
20 period of twelve months;

21 (~~7~~) Transfers;

22 (~~8~~) Sick leaves and vacations;

23 (~~9~~) Hours of work;

24 (~~10~~) Layoffs when necessary and subsequent reemployment, both
25 according to seniority;

26 (~~11~~)(a) Determination of appropriate bargaining units within any
27 agency: PROVIDED, That in making such determination the board shall
28 consider the duties, skills, and working conditions of the employees,
29 the history of collective bargaining by the employees and their
30 bargaining representatives, the extent of organization among the
31 employees, and the desires of the employees;

32 (~~b~~) Certification and decertification of exclusive bargaining
33 representatives: PROVIDED, That after certification of an exclusive
34 bargaining representative and upon the representative's request, the
35 director shall hold an election among employees in a bargaining unit to
36 determine by a majority whether to require as a condition of employment
37 membership in the certified exclusive bargaining representative on or
38 after the thirtieth day following the beginning of employment or the
39 date of such election, whichever is the later, and the failure of an

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

22 (c) Agreements between agencies and certified exclusive bargaining
23 representatives providing for grievance procedures and collective
24 negotiations on all personnel matters over which the appointing
25 authority of the appropriate bargaining unit of such agency may
26 lawfully exercise discretion;

27 (d) Written agreements may contain provisions for payroll
28 deductions of employee organization dues upon authorization by the
29 employee member and for the cancellation of such payroll deduction by
30 the filing of a proper prior notice by the employee with the appointing
31 authority and the employee organization: PROVIDED, That nothing
32 contained herein permits or grants to any employee the right to strike
33 or refuse to perform his or her official duties;

34 (e) A collective bargaining agreement entered into under this
35 subsection before July 1, 1998, covering employees subject to sections
36 301 through 314 of this act, that expires after July 1, 1998, shall
37 remain in full force during its duration, or until superseded by a
38 collective bargaining agreement entered into by the parties under
39 sections 301 through 314 of this act, however an agreement entered into

1 before July 1, 1998, may not be renewed or extended beyond July 1,
2 1999. This subsection (11) does not apply to collective bargaining
3 negotiations or collective bargaining agreements entered into under
4 sections 301 through 314 of this act;

5 (12)) (4) Adoption and revision of a comprehensive classification
6 plan, in accordance with rules adopted by the board under section 205
7 of this act, for all positions in the classified service, based on
8 investigation and analysis of the duties and responsibilities of each
9 such position and allocation and reallocation of positions within the
10 classification plan. The ((board)) director shall not adopt job
11 classification revisions or class studies unless implementation of the
12 proposed revision or study will result in net cost savings, increased
13 efficiencies, or improved management of personnel or services, and the
14 proposed revision or study has been approved by the director of
15 financial management in accordance with chapter 43.88 RCW. Beginning
16 July 1, 1995, through June 30, 1997:

17 (a) The board may approve the implementation of salary increases
18 resulting from adjustments to the classification plan during the 1995-
19 97 fiscal biennium only if:

20 (i) The implementation will not result in additional net costs and
21 the proposed implementation has been approved by the director of
22 financial management in accordance with chapter 43.88 RCW;

23 (ii) The implementation will take effect on July 1, 1996, and the
24 total net cost of all such actions approved by the board for
25 implementation during the 1995-97 fiscal biennium does not exceed the
26 amounts specified by the legislature specifically for this purpose; or

27 (iii) The implementation is a result of emergent conditions.
28 Emergent conditions are defined as newly mandated programs for which
29 moneys are not appropriated, establishment of positions necessary for
30 the preservation of the public health, safety, or general welfare, and
31 related issues which do not exceed \$250,000 of the moneys identified in
32 section 718(2), chapter 18, Laws of 1995 2nd sp. sess.

33 (b) The board may approve the implementation of salary increases
34 resulting from adjustments to the classification plan for
35 implementation in the 1997-99 fiscal biennium only if the
36 implementation will not result in additional net costs or the
37 implementation has been approved by the legislature in the omnibus
38 appropriations act or other legislation.

1 (c) The board shall approve only those salary increases resulting
2 from adjustments to the classification plan if they are due to
3 documented recruitment and retention difficulties, salary compression
4 or inversion, increased duties and responsibilities, or inequities.
5 For these purposes, inequities are defined as similar work assigned to
6 different job classes with a salary disparity greater than 7.5 percent.

7 (d) Adjustments made to the higher education hospital special pay
8 plan are exempt from (a) through (c) of this subsection;

9 ~~((13) Allocation and reallocation of positions within the
10 classification plan;~~

11 ~~(14) Adoption and revision of a state salary schedule to reflect
12 the prevailing rates in Washington state private industries and other
13 governmental units but the rates in the salary schedules or plans shall
14 be increased if necessary to attain comparable worth under an
15 implementation plan under RCW 41.06.155 and that, for institutions of
16 higher education and related boards, shall be competitive for positions
17 of a similar nature in the state or the locality in which an
18 institution of higher education or related board is located, such
19 adoption and revision subject to approval by the director of financial
20 management in accordance with the provisions of chapter 43.88 RCW;~~

21 ~~(15) Increment increases within the series of steps for each pay
22 grade based on length of service for all employees whose standards of
23 performance are such as to permit them to retain job status in the
24 classified service.~~

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

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

8 ~~((17))~~ (5) Permitting agency heads to delegate the authority to
9 appoint, reduce, dismiss, suspend, or demote employees within their
10 agencies if such agency heads do not have specific statutory authority
11 to so delegate: PROVIDED, That the board may not authorize such
12 delegation to any position lower than the head of a major subdivision
13 of the agency;

14 ~~((18))~~ (6) Assuring persons who are or have been employed in
15 classified positions under chapter 28B.16 RCW before July 1, 1993, will
16 be eligible for employment, reemployment, transfer, and promotion in
17 respect to classified positions covered by this chapter;

18 ~~((19))~~ (7) 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 shall transmit a report annually
25 to the human rights commission which states the progress each state
26 agency has made in meeting affirmative action goals and timetables.

27 Rules adopted pursuant to this section by the director shall
28 provide for local administration and management by the institutions of
29 higher education and related boards, subject to periodic audit and
30 review by the director.

31 Except for institutions of higher education, rules adopted pursuant
32 to this section and its provisions may not be superseded by the
33 provisions of collective bargaining agreements negotiated pursuant to
34 sections 301 through 314 of this act.

35 NEW SECTION. Sec. 204. A new section is added to chapter 41.06
36 RCW to read as follows:

1 The director shall adopt rules, consistent with the purposes and
2 provisions of this chapter and with the best standards of personnel
3 administration, regarding the basis and procedures to be followed for:

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

6 (2) Training and career development;

7 (3) Probationary periods of six to twelve months and rejections of
8 probationary employees, depending on the job requirements of the class,
9 except that entry level state park rangers shall serve a probationary
10 period of twelve months;

11 (4) Transfers;

12 (5) Promotional preferences;

13 (6) Sick leaves and vacations;

14 (7) Hours of work;

15 (8) Layoffs when necessary and subsequent reemployment, except for
16 the financial basis for layoffs;

17 (9) The number of names to be certified for vacancies;

18 (10) Adoption and revision of a state salary schedule to reflect
19 the prevailing rates in Washington state private industries and other
20 governmental units. The rates in the salary schedules or plans shall
21 be increased if necessary to attain comparable worth under an
22 implementation plan under RCW 41.06.155 and, for institutions of higher
23 education and related boards, shall be competitive for positions of a
24 similar nature in the state or the locality in which an institution of
25 higher education or related board is located. Such adoption and
26 revision is subject to approval by the director of financial management
27 in accordance with chapter 43.88 RCW;

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

32 (12) Providing for veteran's preference as required by existing
33 statutes, with recognition of preference in regard to layoffs and
34 subsequent reemployment for veterans and their surviving spouses by
35 giving such eligible veterans and their surviving spouses additional
36 credit in computing their seniority by adding to their unbroken state
37 service, as defined by the director, the veteran's service in the
38 military not to exceed five years. For the purposes of this section,
39 "veteran" means any person who has one or more years of active military

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

14 Rules adopted under this section by the director shall provide for
15 local administration and management by the institutions of higher
16 education and related boards, subject to periodic audit and review by
17 the director.

18 Rules adopted by the director under this section may be superseded
19 by the provisions of a collective bargaining agreement negotiated
20 pursuant to sections 301 through 314 of this act. The supersession of
21 such rules shall only effect employees in the respective collective
22 bargaining units.

23 NEW SECTION. **Sec. 205.** A new section is added to chapter 41.06
24 RCW to read as follows:

25 (1) The board shall conduct a comprehensive review of all rules in
26 effect on the effective date of this section governing the
27 classification, allocation, and reallocation of positions within the
28 classified service. In conducting this review, the board shall consult
29 with state agencies, institutions of higher education, employee
30 organizations, and members of the general public. The department shall
31 assist the board in the conduct of this review, which shall be
32 completed by the board no later than July 1, 1998.

33 (2) By March 15, 1999, the board shall adopt new rules governing
34 the classification, allocation, and reallocation of positions in the
35 classified service. In adopting such rules, the board shall adhere to
36 the following goals:

37 (a) To improve the effectiveness and efficiency of the delivery of
38 services to the citizens of the state through the use of current

1 personnel management processes and to promote a workplace where the
2 overall focus is on the recipient of governmental services;

3 (b) To develop a simplified classification system that will
4 substantially reduce the number of job classifications in the
5 classified service and facilitate the most effective use of the state
6 personnel resources;

7 (c) To develop a classification system to permit state agencies to
8 respond flexibly to changing technologies, economic and social
9 conditions, and the needs of its citizens;

10 (d) To value workplace diversity;

11 (e) To facilitate the reorganization and decentralization of
12 governmental services; and

13 (f) To enhance mobility and career advancement opportunities.

14 (3) Rules adopted by the board under subsection (2) of this section
15 shall permit an appointing authority and an employee organization
16 representing classified employees of the appointing authority for
17 collective bargaining purposes to make a joint request for the
18 initiation of a classification study.

19 NEW SECTION. **Sec. 206.** A new section is added to chapter 41.06
20 RCW to read as follows:

21 In accordance with rules adopted by the board under section 205 of
22 this act, the director shall, by January 1, 2000, begin to implement a
23 new classification system for positions in the classified service. Any
24 employee who believes that the director has incorrectly applied the
25 rules of the board in determining a job classification for a job held
26 by that employee may appeal the director's decision to the board by
27 filing a notice in writing within thirty days of the action from which
28 the appeal is taken. Decisions of the board concerning such appeals
29 are final.

30 **Sec. 207.** RCW 41.06.022 and 1993 c 281 s 8 are each amended to
31 read as follows:

32 For purposes of this chapter, "manager" means any employee who:

33 (1) Formulates state-wide policy or directs the work of an agency
34 or agency subdivision;

35 (2) Is responsible to administer one or more state-wide policies or
36 programs of an agency or agency subdivision;

1 (3) Manages, administers, and controls a local branch office of an
2 agency or agency subdivision, including the physical, financial, or
3 personnel resources;

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

7 (5) Functionally is above the first level of supervision and
8 exercises authority that is not merely routine or clerical in nature
9 and requires the consistent use of independent judgment.

10 No employee who is a member of the Washington management service as
11 defined by the effect of this section may be included in a collective
12 bargaining unit established under this chapter.

13 NEW SECTION. Sec. 208. A new section is added to chapter 41.06
14 RCW to read as follows:

15 (1) A department, agency, or institution of higher education may
16 purchase services provided by employees in classified service under
17 this chapter by contracting with individuals, nonprofit organizations,
18 businesses, or other entities. Nothing in this act shall be
19 interpreted as meaning that the decision to contract out services shall
20 be subject to collective bargaining.

21 (2) Any provision contrary to or in conflict with this section in
22 any collective bargaining agreement in effect on the effective date of
23 this section is not effective beyond the expiration date of the
24 agreement.

25 (3) This section does not apply to the purchase of services or to
26 any contracting for services that was authorized by law prior to the
27 effective date of this section.

28 (4) Any department, agency, or institution of higher education that
29 intends to purchase services under this act shall notify any exclusive
30 bargaining representative who represents any employee whose employment
31 status will be directly affected by such a contract. The exclusive
32 bargaining representative shall have the right to offer alternatives to
33 the proposed contract and such alternatives shall be considered by the
34 department, agency, or institution of higher education in making the
35 final decision to contract out services.

36 **Sec. 209.** RCW 41.06.070 and 1995 c 163 s 1 are each amended to
37 read as follows:

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

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

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

11 (c) Officers, academic personnel, and employees of technical
12 colleges;

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

14 (e) Elective officers of the state;

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

16 (g) In the departments of employment security and social and health
17 services, the director and the director's confidential secretary; in
18 all other departments, the executive head of which is an individual
19 appointed by the governor, the director, his or her confidential
20 secretary, and his or her statutory assistant directors;

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

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

25 (ii) If the members of the board, commission, or committee serve on
26 a part-time basis and there is a statutory executive officer: The
27 secretary of the board, commission, or committee; the chief executive
28 officer of the board, commission, or committee; and the confidential
29 secretary of the chief executive officer of the board, commission, or
30 committee;

31 (iii) If the members of the board, commission, or committee serve
32 on a full-time basis: The chief executive officer or administrative
33 officer as designated by the board, commission, or committee; and a
34 confidential secretary to the chair of the board, commission, or
35 committee;

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

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

3 (j) Assistant attorneys general;

4 (k) Commissioned and enlisted personnel in the military service of
5 the state;

6 (l) Inmate, student, part-time, or temporary employees, and part-
7 time professional consultants, as defined by the Washington personnel
8 resources board;

9 (m) The public printer or to any employees of or positions in the
10 state printing plant;

11 (n) Officers and employees of the Washington state fruit
12 commission;

13 (o) Officers and employees of the Washington state apple
14 advertising commission;

15 (p) Officers and employees of the Washington state dairy products
16 commission;

17 (q) Officers and employees of the Washington tree fruit research
18 commission;

19 (r) Officers and employees of the Washington state beef commission;

20 (s) Officers and employees of any commission formed under chapter
21 15.66 RCW;

22 (t) Officers and employees of the state wheat commission formed
23 under chapter 15.63 RCW;

24 (u) Officers and employees of agricultural commissions formed under
25 chapter 15.65 RCW;

26 (v) Officers and employees of the nonprofit corporation formed
27 under chapter 67.40 RCW;

28 (w) Executive assistants for personnel administration and labor
29 relations in all state agencies employing such executive assistants
30 including but not limited to all departments, offices, commissions,
31 committees, boards, or other bodies subject to the provisions of this
32 chapter and this subsection shall prevail over any provision of law
33 inconsistent herewith unless specific exception is made in such law;

34 (x) In each agency with fifty or more employees: Deputy agency
35 heads, assistant directors or division directors, and not more than
36 three principal policy assistants who report directly to the agency
37 head or deputy agency heads;

38 (y) All employees of the marine employees' commission;

1 (z) Up to a total of five senior staff positions of the western
2 library network under chapter 27.26 RCW responsible for formulating
3 policy or for directing program management of a major administrative
4 unit. This subsection (1)(z) shall expire on June 30, 1997.

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

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

26 ~~(b) ((Student, part-time, or temporary employees, and part-time
27 professional consultants, as defined by the Washington personnel
28 resources board, employed by institutions of higher education and
29 related boards;~~

30 ~~(e))~~ The governing board of each institution, and related boards,
31 may also exempt from this chapter classifications involving research
32 activities, counseling of students, extension or continuing education
33 activities, graphic arts or publications activities requiring
34 prescribed academic preparation or special training as determined by
35 the board: PROVIDED, That no nonacademic employee engaged in office,
36 clerical, maintenance, or food and trade services may be exempted by
37 the board under this provision;

38 ~~((d))~~ (c) Printing craft employees in the department of printing
39 at the University of Washington.

1 (3) In addition to the exemptions specifically provided by this
2 chapter, the (~~Washington personnel resources board~~) director of
3 personnel may provide for further exemptions pursuant to the following
4 procedures. The governor or other appropriate elected official may
5 submit requests for exemption to the (~~Washington personnel resources~~
6 ~~board~~) director of personnel stating the reasons for requesting such
7 exemptions. The (~~Washington personnel resources board~~) director of
8 personnel shall hold a public hearing, after proper notice, on requests
9 submitted pursuant to this subsection. If the (~~board~~) director of
10 personnel determines that the position for which exemption is requested
11 is one involving substantial responsibility for the formulation of
12 basic agency or executive policy or one involving directing and
13 controlling program operations of an agency or a major administrative
14 division thereof, the (~~Washington personnel resources board~~) director
15 of personnel shall grant the request and such determination shall be
16 final as to any decision made before July 1, 1993. The total number of
17 additional exemptions permitted under this subsection shall not exceed
18 one percent of the number of employees in the classified service not
19 including employees of institutions of higher education and related
20 boards for those agencies not directly under the authority of any
21 elected public official other than the governor, and shall not exceed
22 a total of twenty-five for all agencies under the authority of elected
23 public officials other than the governor. The (~~Washington personnel~~
24 ~~resources board~~) director of personnel shall report to each regular
25 session of the legislature during an odd-numbered year all exemptions
26 granted under subsections (1)(w) and (x) and (2) of this section,
27 together with the reasons for such exemptions.

28 The salary and fringe benefits of all positions presently or
29 hereafter exempted except for the chief executive officer of each
30 agency, full-time members of boards and commissions, administrative
31 assistants and confidential secretaries in the immediate office of an
32 elected state official, and the personnel listed in subsections (1)(j)
33 through (v) and (2) of this section, shall be determined by the
34 (~~Washington personnel resources board~~) director of personnel.

35 Any person holding a classified position subject to the provisions
36 of this chapter shall, when and if such position is subsequently
37 exempted from the application of this chapter, be afforded the
38 following rights: If such person previously held permanent status in
39 another classified position, such person shall have a right of

1 reversion to the highest class of position previously held, or to a
2 position of similar nature and salary.

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

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

10 **Sec. 210.** RCW 41.06.110 and 1993 c 281 s 25 are each amended to
11 read as follows:

12 (1) There is hereby created a Washington personnel resources board
13 composed of three members appointed by the governor, subject to
14 confirmation by the senate. The members of the personnel board serving
15 June 30, 1993, shall be the members of the Washington personnel
16 resources board, and they shall complete their terms as under the
17 personnel board. Each odd-numbered year thereafter the governor shall
18 appoint a member for a six-year term. Each member shall continue to
19 hold office after the expiration of the member's term until a successor
20 has been appointed. Persons so appointed shall have clearly
21 demonstrated an interest and belief in the merit principle, shall not
22 hold any other employment with the state, shall not have been an
23 officer of a political party for a period of one year immediately prior
24 to such appointment, and shall not be or become a candidate for
25 partisan elective public office during the term to which they are
26 appointed;

27 (2) Each member of the board shall be compensated in accordance
28 with RCW 43.03.250. The members of the board may receive any number of
29 daily payments for official meetings of the board actually attended.
30 Members of the board shall also be reimbursed for travel expenses
31 incurred in the discharge of their official duties in accordance with
32 RCW 43.03.050 and 43.03.060.

33 (3) At its first meeting following the appointment of all of its
34 members, and annually thereafter, the board shall elect a chair and
35 vice-chair from among its members to serve one year. The presence of
36 at least two members of the board shall constitute a quorum to transact
37 business. A written public record shall be kept by the board of all

1 actions of the board. The director of personnel shall serve as
2 secretary.

3 (4) The board may appoint and compensate hearing officers to hear
4 and conduct appeals (~~((until December 31, 1982))~~). Such compensation
5 shall be paid on a contractual basis for each hearing, in accordance
6 with the provisions of chapter 43.88 RCW and rules adopted pursuant
7 thereto, as they relate to personal service contracts.

8 **Sec. 211.** RCW 41.06.160 and 1993 c 281 s 29 are each amended to
9 read as follows:

10 In preparing classification and salary schedules as set forth in
11 RCW 41.06.150 (~~((as now or hereafter amended))~~) the department of
12 personnel shall give full consideration to prevailing rates in other
13 public employment and in private employment in this state. For this
14 purpose the department shall undertake comprehensive salary and fringe
15 benefit surveys(~~(, with such surveys to be conducted in the year prior~~
16 ~~to the convening of every other one hundred five day regular session of~~
17 ~~the state legislature. In the year prior to the convening of each one~~
18 ~~hundred five day regular session during which a comprehensive salary~~
19 ~~and fringe benefit survey is not conducted, the department shall plan~~
20 ~~and conduct a trend salary and fringe benefit survey. This survey~~
21 ~~shall measure average salary and fringe benefit movement for broad~~
22 ~~occupational groups which has occurred since the last comprehensive~~
23 ~~salary and fringe benefit survey was conducted. The results of each~~
24 ~~comprehensive and trend salary and fringe benefit survey shall be~~
25 ~~completed and forwarded by September 30 with a recommended state salary~~
26 ~~schedule to the governor and director of financial management for their~~
27 ~~use in preparing budgets to be submitted to the succeeding legislature.~~
28 ~~A copy of the data and supporting documentation shall be furnished by~~
29 ~~the department of personnel to the standing committees for~~
30 ~~appropriations of the senate and house of representatives.~~

31 In the case of comprehensive salary and fringe benefit surveys, the
32 department shall furnish the following supplementary data in support of
33 its recommended salary schedule:

34 (1) A total dollar figure which reflects the recommended increase
35 or decrease in state salaries as a direct result of the specific salary
36 and fringe benefit survey that has been conducted and which is
37 categorized to indicate what portion of the increase or decrease is

1 represented by salary survey data and what portion is represented by
2 fringe benefit survey data;

3 (2) An additional total dollar figure which reflects the impact of
4 recommended increases or decreases to state salaries based on other
5 factors rather than directly on prevailing rate data obtained through
6 the survey process and which is categorized to indicate the sources of
7 the requests for deviation from prevailing rates and the reasons for
8 the changes;

9 (3) A list of class codes and titles indicating recommended monthly
10 salary ranges for all state classes under the control of the department
11 of personnel with those salary ranges which do not substantially
12 conform to the prevailing rates developed from the salary and fringe
13 benefit survey distinctly marked and an explanation of the reason for
14 the deviation included;

15 (4) A supplemental salary schedule which indicates the additional
16 salary to be paid state employees for hazardous duties or other
17 considerations requiring extra compensation under specific
18 circumstances. Additional compensation for these circumstances shall
19 not be included in the basic salary schedule but shall be maintained as
20 a separate pay schedule for purposes of full disclosure and visibility;
21 and

22 (5) A supplemental salary schedule which indicates those cases
23 where the board determines that prevailing rates do not provide similar
24 salaries for positions that require or impose similar responsibilities,
25 judgment, knowledge, skills, and working conditions. This
26 supplementary salary schedule shall contain proposed salary adjustments
27 necessary to eliminate any such dissimilarities in compensation.
28 Additional compensation needed to eliminate such salary dissimilarities
29 shall not be included in the basic salary schedule but shall be
30 maintained as a separate salary schedule for purposes of full
31 disclosure and visibility.

32 It is the intention of the legislature that requests for funds to
33 support recommendations for salary deviations from the prevailing rate
34 survey data shall be kept to a minimum, and that the requests be fully
35 documented when forwarded by the department of personnel)).

36 Salary and fringe benefit survey information collected from private
37 employers which identifies a specific employer with the salary and
38 fringe benefit rates which that employer pays to its employees shall
39 not be subject to public disclosure under chapter 42.17 RCW.

1 (~~The first comprehensive salary and fringe benefit survey required~~
2 ~~by this section shall be completed and forwarded to the governor and~~
3 ~~the director of financial management by September 30, 1986. The first~~
4 ~~trend salary and fringe benefit survey required by this section shall~~
5 ~~be completed and forwarded to the governor and the director of~~
6 ~~financial management by September 30, 1988.))~~

7 **Sec. 212.** RCW 41.06.167 and 1991 c 196 s 1 are each amended to
8 read as follows:

9 The department of personnel shall undertake comprehensive
10 compensation surveys for officers and entry-level officer candidates of
11 the Washington state patrol, with such surveys to be conducted in the
12 year prior to the convening of every other one hundred five day regular
13 session of the state legislature. (~~In the year prior to the convening~~
14 ~~of each one hundred five day regular session during which a~~
15 ~~comprehensive compensation survey is not conducted, the department~~
16 ~~shall conduct a trend compensation survey. This survey shall measure~~
17 ~~average compensation movement which has occurred since the last~~
18 ~~comprehensive compensation survey was conducted. The results of each~~
19 ~~comprehensive and trend survey shall be completed and forwarded by~~
20 ~~September 30th, after review and preparation of recommendations by the~~
21 ~~chief of the Washington state patrol, to the governor and director of~~
22 ~~financial management for their use in preparing budgets to be submitted~~
23 ~~to the succeeding legislature. A copy of the data and supporting~~
24 ~~documentation shall be furnished by the department of personnel to the~~
25 ~~legislative transportation committee and the standing committees for~~
26 ~~appropriations of the senate and house of representatives. The office~~
27 ~~of financial management shall analyze the survey results and conduct~~
28 ~~investigations which may be necessary to arbitrate differences between~~
29 ~~interested parties regarding the accuracy of collected survey data and~~
30 ~~the use of such data for salary adjustment.~~

31 Surveys conducted by the department of personnel for the Washington
32 state patrol shall be undertaken in a manner consistent with
33 statistically accurate sampling techniques, including comparisons of
34 medians, base ranges, and weighted averages of salaries. The surveys
35 shall compare competitive labor markets of law enforcement officers.
36 This service performed by the department of personnel shall be on a
37 reimbursable basis in accordance with the provisions of RCW 41.06.080.

1 ~~A comprehensive compensation survey plan and the recommendations of~~
2 ~~the chief of the Washington state patrol shall be submitted jointly by~~
3 ~~the department of personnel and the Washington state patrol to the~~
4 ~~director of financial management, the legislative transportation~~
5 ~~committee, the committee on ways and means of the senate, and the~~
6 ~~committee on appropriations of the house of representatives six months~~
7 ~~before the beginning of each periodic survey.))~~

8 **Sec. 213.** RCW 41.06.170 and 1993 c 281 s 31 are each amended to
9 read as follows:

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

18 (2) Any employee who is reduced, dismissed, suspended, or demoted,
19 after completing his or her probationary period of service as provided
20 by the rules of the ~~((board))~~ director, or any employee who is
21 adversely affected by a violation of the state civil service law,
22 chapter 41.06 RCW, or rules adopted under it, shall have the right to
23 appeal ~~((to the personnel appeals board created by RCW 41.64.010)),~~
24 either individually or through his or her authorized representative,
25 not later than thirty days after the effective date of such action to
26 the personnel appeals board through June 30, 2000, and to the
27 Washington personnel resources board after June 30, 2000. The employee
28 shall be furnished with specified charges in writing when a reduction,
29 dismissal, suspension, or demotion action is taken. Such appeal shall
30 be in writing. The decision of the Washington personnel resources
31 board shall be final.

32 (3) Any employee whose position has been exempted after July 1,
33 1993, shall have the right to appeal ~~((to the personnel appeals board~~
34 ~~created by RCW 41.64.010)),~~ either individually or through his or her
35 authorized representative, not later than thirty days after the
36 effective date of such action to the personnel appeals board through
37 June 30, 2000, and to the Washington personnel resources board after
38 June 30, 2000.

1 (4) An employee incumbent in a position at the time of its
2 allocation or reallocation, or the agency utilizing the position, may
3 appeal the allocation or reallocation to the personnel appeals board
4 (~~created by RCW 41.64.010~~) through December 31, 1999, and to the
5 Washington personnel resources board after December 31, 1999. Notice
6 of such appeal must be filed in writing within thirty days of the
7 action from which appeal is taken.

8 (5) Subsections (1) and (2) of this section do not apply to any
9 employee who is subject to the provisions of a collective bargaining
10 agreement negotiated under sections 301 through 314 of this act.

11 **Sec. 214.** RCW 41.06.186 and 1993 c 281 s 32 are each amended to
12 read as follows:

13 The (~~Washington personnel resources board~~) director shall adopt
14 rules designed to terminate the state employment of any employee whose
15 performance is so inadequate as to warrant termination.

16 **Sec. 215.** RCW 41.06.196 and 1993 c 281 s 33 are each amended to
17 read as follows:

18 The (~~Washington personnel resources board~~) director shall adopt
19 rules designed to remove from supervisory positions those supervisors
20 who in violation of the rules adopted under RCW 41.06.186 have
21 tolerated the continued employment of employees under their supervision
22 whose performance has warranted termination from state employment.

23 **Sec. 216.** RCW 41.06.270 and 1979 c 151 s 61 are each amended to
24 read as follows:

25 A disbursing officer shall not pay any employee holding a position
26 covered by this chapter unless the employment is in accordance with
27 this chapter or the rules, regulations and orders issued hereunder.
28 The (~~board and the~~) directors of personnel and financial management
29 shall jointly establish procedures for the certification of payrolls.

30 **Sec. 217.** RCW 41.06.350 and 1993 c 281 s 36 are each amended to
31 read as follows:

32 The (~~Washington personnel resources board~~) director is authorized
33 to receive federal funds now available or hereafter made available for
34 the assistance and improvement of public personnel administration,

1 which may be expended in addition to the department of personnel
2 service fund established by RCW 41.06.280.

3 **Sec. 218.** RCW 41.06.400 and 1980 c 118 s 4 are each amended to
4 read as follows:

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

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

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

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

18 (c) Promote interagency sharing of resources for training and
19 career development;

20 (d) Monitor and review the impact of training and career
21 development programs to ensure that the responsibilities of the state
22 to provide equal employment opportunities are diligently carried out.
23 ~~((The director shall report to the board the impact of training and
24 career development programs on the fulfillment of such
25 responsibilities.))~~

26 (3) At an agency's request, the director may provide training and
27 career development programs for an agency's internal use which may be
28 conducted more efficiently and economically by the department of
29 personnel.

30 **Sec. 219.** RCW 41.06.410 and 1980 c 118 s 5 are each amended to
31 read as follows:

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

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

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

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

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

8 **Sec. 220.** RCW 41.06.450 and 1993 c 281 s 37 are each amended to
9 read as follows:

10 (1) (~~By January 1, 1983, the Washington personnel resources~~
11 ~~board~~) The director shall adopt rules applicable to each agency to
12 ensure that information relating to employee misconduct or alleged
13 misconduct is destroyed or maintained as follows:

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

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

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

23 (2) Notwithstanding subsection (1) of this section, an agency may
24 retain information relating to employee misconduct or alleged
25 misconduct if:

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

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

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

33 **Sec. 221.** RCW 41.06.475 and 1993 c 281 s 38 are each amended to
34 read as follows:

35 The (~~Washington personnel resources board~~) director shall adopt
36 rules, in cooperation with the secretary of social and health services,
37 for the background investigation of persons being considered for state

1 employment in positions directly responsible for the supervision, care,
2 or treatment of children or developmentally disabled persons.

3 **Sec. 222.** RCW 41.06.490 and 1990 c 204 s 3 are each amended to
4 read as follows:

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

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

11 (b) Provide for eligibility in the return-to-work program, for a
12 minimum of two years from the date the temporary disability commenced,
13 for any permanent employee who is receiving compensation under RCW
14 51.32.090 and who is, by reason of his or her temporary disability,
15 unable to return to his or her previous work, but who is physically
16 capable of carrying out work of a lighter or modified nature;

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

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

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

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

27 (g) Coordinate participation of applicable employee assistance
28 programs, as appropriate.

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

33 **Sec. 223.** RCW 28B.12.060 and 1994 c 130 s 6 are each amended to
34 read as follows:

35 The higher education coordinating board shall adopt rules as may be
36 necessary or appropriate for effecting the provisions of this chapter,
37 and not in conflict with this chapter, in accordance with the

1 provisions of chapter 34.05 RCW, the state higher education
2 administrative procedure act. Such rules shall include provisions
3 designed to make employment under the work-study program reasonably
4 available, to the extent of available funds, to all eligible students
5 in eligible post-secondary institutions in need thereof. The rules
6 shall include:

7 (1) Providing work under the state work-study program that will not
8 result in the displacement of employed workers or impair existing
9 contracts for services;

10 (2) Furnishing work only to a student who:

11 (a) Is capable, in the opinion of the eligible institution, of
12 maintaining good standing in such course of study while employed under
13 the program covered by the agreement; and

14 (b) Has been accepted for enrollment as at least a half-time
15 student at the eligible institution or, in the case of a student
16 already enrolled in and attending the eligible institution, is in good
17 standing and in at least half-time attendance there either as an
18 undergraduate, graduate or professional student; and

19 (c) Is not pursuing a degree in theology;

20 (3) Placing priority on providing:

21 (a) Work opportunities for students who are residents of the state
22 of Washington as defined in RCW 28B.15.012 and 28B.15.013 except
23 resident students defined in RCW 28B.15.012(2)(e);

24 (b) Job placements in fields related to each student's academic or
25 vocational pursuits, with an emphasis on off-campus job placements
26 whenever appropriate; and

27 (c) Off-campus community service placements;

28 (4) Provisions to assure that in the state institutions of higher
29 education, utilization of this work-study program:

30 (a) Shall only supplement and not supplant classified positions
31 under jurisdiction of chapter 41.06 RCW;

32 (b) That all positions established which are comparable shall be
33 identified to a job classification under the (~~Washington personnel~~
34 ~~resources board's~~) director of personnel's classification plan and
35 shall receive equal compensation;

36 (c) Shall not take place in any manner that would replace
37 classified positions reduced due to lack of funds or work; and

1 (d) That work study positions shall only be established at entry
2 level positions of the classified service unless the overall scope and
3 responsibilities of the position indicate a higher level; and

4 (5) Provisions to encourage job placements in occupations that meet
5 Washington's economic development goals, especially those in
6 international trade and international relations. The board shall
7 permit appropriate job placements in other states and other countries.

8 **Sec. 224.** RCW 34.05.030 and 1994 c 39 s 1 are each amended to read
9 as follows:

10 (1) This chapter shall not apply to:

11 (a) The state militia, or

12 (b) The board of clemency and pardons, or

13 (c) The department of corrections or the indeterminate sentencing
14 review board with respect to persons who are in their custody or are
15 subject to the jurisdiction of those agencies.

16 (2) The provisions of RCW 34.05.410 through 34.05.598 shall not
17 apply:

18 (a) To adjudicative proceedings of the board of industrial
19 insurance appeals except as provided in RCW 7.68.110 and 51.48.131;

20 (b) Except for actions pursuant to chapter 46.29 RCW, to the
21 denial, suspension, or revocation of a driver's license by the
22 department of licensing;

23 (c) To the department of labor and industries where another statute
24 expressly provides for review of adjudicative proceedings of a
25 department action, order, decision, or award before the board of
26 industrial insurance appeals;

27 (d) To actions of the Washington personnel resources board(~~(7)~~) or
28 the director of personnel(~~(7 or the personnel appeals board)~~); or

29 (e) To the extent they are inconsistent with any provisions of
30 chapter 43.43 RCW.

31 (3) Unless a party makes an election for a formal hearing pursuant
32 to RCW 82.03.140 or 82.03.190, RCW 34.05.410 through 34.05.598 do not
33 apply to a review hearing conducted by the board of tax appeals.

34 (4) The rule-making provisions of this chapter do not apply to
35 reimbursement unit values, fee schedules, arithmetic conversion
36 factors, and similar arithmetic factors used to determine payment rates
37 that apply to goods and services purchased under contract for clients
38 eligible under chapter 74.09 RCW.

1 (5) All other agencies, whether or not formerly specifically
2 excluded from the provisions of all or any part of the Administrative
3 Procedure Act, shall be subject to the entire act.

4 **Sec. 225.** RCW 34.12.020 and 1995 c 331 s 1 are each amended to
5 read as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

8 (1) "Office" means the office of administrative hearings.

9 (2) "Administrative law judge" means any person appointed by the
10 chief administrative law judge to conduct or preside over hearings as
11 provided in this chapter.

12 (3) "Hearing" means an adjudicative proceeding within the meaning
13 of RCW 34.05.010(1) conducted by a state agency under RCW 34.05.413
14 through 34.05.476.

15 (4) "State agency" means any state board, commission, department,
16 or officer authorized by law to make rules or to conduct adjudicative
17 proceedings, except those in the legislative or judicial branches, the
18 growth management hearings boards, the utilities and transportation
19 commission, the pollution control hearings board, the shorelines
20 hearings board, the forest practices appeals board, the environmental
21 hearings office, the board of industrial insurance appeals, the
22 Washington personnel resources board, the public employment relations
23 commission, (~~the personnel appeals board,~~) and the board of tax
24 appeals.

25 **Sec. 226.** RCW 41.04.340 and 1993 c 281 s 17 are each amended to
26 read as follows:

27 (1) An attendance incentive program is established for all eligible
28 employees. As used in this section the term "eligible employee" means
29 any employee of the state, other than teaching and research faculty at
30 the state and regional universities and The Evergreen State College,
31 entitled to accumulate sick leave and for whom accurate sick leave
32 records have been maintained. No employee may receive compensation
33 under this section for any portion of sick leave accumulated at a rate
34 in excess of one day per month. The state and regional universities
35 and The Evergreen State College shall maintain complete and accurate
36 sick leave records for all teaching and research faculty.

1 (2) In January of the year following any year in which a minimum of
2 sixty days of sick leave is accrued, and each January thereafter, any
3 eligible employee may receive remuneration for unused sick leave
4 accumulated in the previous year at a rate equal to one day's monetary
5 compensation of the employee for each four full days of accrued sick
6 leave in excess of sixty days. Sick leave for which compensation has
7 been received shall be deducted from accrued sick leave at the rate of
8 four days for every one day's monetary compensation.

9 (3) At the time of separation from state service due to retirement
10 or death, an eligible employee or the employee's estate may elect to
11 receive remuneration at a rate equal to one day's current monetary
12 compensation of the employee for each four full days of accrued sick
13 leave.

14 (4) Pursuant to this subsection, in lieu of cash remuneration the
15 state may, with equivalent funds, provide eligible employees with a
16 benefit plan providing for reimbursement of medical expenses. The
17 committee for deferred compensation shall develop any benefit plan
18 established under this subsection, but may offer and administer the
19 plan only if (a) each eligible employee has the option of whether to
20 receive cash remuneration or to have his or her employer transfer
21 equivalent funds to the plan; and (b) the committee has received an
22 opinion from the United States internal revenue service stating that
23 participating employees, prior to the time of receiving reimbursement
24 for expenses, will incur no United States income tax liability on the
25 amount of the equivalent funds transferred to the plan.

26 (5) Remuneration or benefits received under this section shall not
27 be included for the purpose of computing a retirement allowance under
28 any public retirement system in this state.

29 (6) With the exception of subsection (4) of this section, this
30 section shall be administered, and rules shall be adopted to carry out
31 its purposes, by the (~~Washington personnel resources board~~) director
32 of personnel for persons subject to chapter 41.06 RCW: PROVIDED, That
33 determination of classes of eligible employees shall be subject to
34 approval by the office of financial management.

35 (7) Should the legislature revoke any remuneration or benefits
36 granted under this section, no affected employee shall be entitled
37 thereafter to receive such benefits as a matter of contractual right.

1 **Sec. 227.** RCW 41.50.804 and 1993 c 281 s 40 are each amended to
2 read as follows:

3 Nothing contained in this chapter shall be construed to alter any
4 existing collective bargaining agreement until any such agreement has
5 expired or until any such bargaining unit has been modified by action
6 of the ((~~Washington personnel resources board~~)) public employment
7 relations commission as provided by law.

8 **Sec. 228.** RCW 43.06.425 and 1993 c 281 s 48 are each amended to
9 read as follows:

10 The ((~~Washington personnel resources board~~)) director of personnel
11 shall adopt rules to provide that:

12 (1) Successful completion of an internship under RCW 43.06.420
13 shall be considered as employment experience at the level at which the
14 intern was placed;

15 (2) Persons leaving classified or exempt positions in state
16 government in order to take an internship under RCW 43.06.420: (a)
17 Have the right of reversion to the previous position at any time during
18 the internship or upon completion of the internship; and (b) shall
19 continue to receive all fringe benefits as if they had never left their
20 classified or exempt positions;

21 (3) Participants in the undergraduate internship program who were
22 not public employees prior to accepting a position in the program
23 receive sick leave allowances commensurate with other state employees;

24 (4) Participants in the executive fellows program who were not
25 public employees prior to accepting a position in the program receive
26 sick and vacation leave allowances commensurate with other state
27 employees.

28 **Sec. 229.** RCW 43.33A.100 and 1993 c 281 s 50 are each amended to
29 read as follows:

30 The state investment board shall maintain appropriate offices and
31 employ such personnel as may be necessary to perform its duties.
32 Employment by the investment board shall include but not be limited to
33 an executive director, investment officers, and a confidential
34 secretary, which positions are exempt from classified service under
35 chapter 41.06 RCW. Employment of the executive director by the board
36 shall be for a term of three years, and such employment shall be
37 subject to confirmation of the state finance committee: PROVIDED, That

1 nothing shall prevent the board from dismissing the director for cause
2 before the expiration of the term nor shall anything prohibit the
3 board, with the confirmation of the state finance committee, from
4 employing the same individual as director in succeeding terms.
5 Compensation levels for the investment officers employed by the
6 investment board shall be established by the (~~Washington personnel~~
7 ~~resources board~~) director of personnel.

8 As of July 1, 1981, all employees classified under chapter 41.06
9 RCW and engaged in duties assumed by the state investment board on July
10 1, 1981, are assigned to the state investment board. The transfer
11 shall not diminish any rights granted these employees under chapter
12 41.06 RCW nor exempt the employees from any action which may occur
13 thereafter in accordance with chapter 41.06 RCW.

14 All existing contracts and obligations pertaining to the functions
15 transferred to the state investment board in (~~this 1980 act~~) chapter
16 3, Laws of 1981 shall remain in full force and effect, and shall be
17 performed by the board. None of the transfers directed by (~~this 1980~~
18 ~~act~~) chapter 3, Laws of 1981 shall affect the validity of any act
19 performed by a state entity or by any official or employee thereof
20 prior to July 1, 1981.

21 **Sec. 230.** RCW 43.131.090 and 1993 c 281 s 54 are each amended to
22 read as follows:

23 Unless the legislature specifies a shorter period of time, a
24 terminated state agency shall continue in existence until June 30th of
25 the next succeeding year for the purpose of concluding its affairs:
26 PROVIDED, That the powers and authority of the state agency shall not
27 be reduced or otherwise limited during this period. Unless otherwise
28 provided:

29 (1) All employees of terminated state agencies classified under
30 chapter 41.06 RCW, the state civil service law, shall be transferred as
31 appropriate or as otherwise provided in the procedures adopted by the
32 (~~Washington personnel resources board~~) director of personnel pursuant
33 to RCW 41.06.150;

34 (2) All documents and papers, equipment, or other tangible property
35 in the possession of the terminated state agency shall be delivered to
36 the custody of the agency assuming the responsibilities of the
37 terminated agency or if such responsibilities have been eliminated,
38 documents and papers shall be delivered to the state archivist and

1 equipment or other tangible property to the department of general
2 administration;

3 (3) All funds held by, or other moneys due to, the terminated state
4 agency shall revert to the fund from which they were appropriated, or
5 if that fund is abolished to the general fund;

6 (4) Notwithstanding the provisions of RCW 34.05.020, all rules made
7 by a terminated state agency shall be repealed, without further action
8 by the state agency, at the end of the period provided in this section,
9 unless assumed and reaffirmed by the agency assuming the related legal
10 responsibilities of the terminated state agency;

11 (5) All contractual rights and duties of a state agency shall be
12 assigned or delegated to the agency assuming the responsibilities of
13 the terminated state agency, or if there is none to such agency as the
14 governor shall direct.

15 **Sec. 231.** RCW 49.46.010 and 1993 c 281 s 56 are each amended to
16 read as follows:

17 As used in this chapter:

18 (1) "Director" means the director of labor and industries;

19 (2) "Wage" means compensation due to an employee by reason of
20 employment, payable in legal tender of the United States or checks on
21 banks convertible into cash on demand at full face value, subject to
22 such deductions, charges, or allowances as may be permitted by rules of
23 the director;

24 (3) "Employ" includes to permit to work;

25 (4) "Employer" includes any individual, partnership, association,
26 corporation, business trust, or any person or group of persons acting
27 directly or indirectly in the interest of an employer in relation to an
28 employee;

29 (5) "Employee" includes any individual employed by an employer but
30 shall not include:

31 (a) Any individual (i) employed as a hand harvest laborer and paid
32 on a piece rate basis in an operation which has been, and is generally
33 and customarily recognized as having been, paid on a piece rate basis
34 in the region of employment; (ii) who commutes daily from his or her
35 permanent residence to the farm on which he or she is employed; and
36 (iii) who has been employed in agriculture less than thirteen weeks
37 during the preceding calendar year;

1 (b) Any individual employed in casual labor in or about a private
2 home, unless performed in the course of the employer's trade, business,
3 or profession;

4 (c) Any individual employed in a bona fide executive,
5 administrative, or professional capacity or in the capacity of outside
6 salesman as those terms are defined and delimited by rules of the
7 director. However, those terms shall be defined and delimited by the
8 (~~Washington personnel resources board~~) director of personnel pursuant
9 to chapter 41.06 RCW for employees employed under the director of
10 personnel's jurisdiction;

11 (d) Any individual engaged in the activities of an educational,
12 charitable, religious, state or local governmental body or agency, or
13 nonprofit organization where the employer-employee relationship does
14 not in fact exist or where the services are rendered to such
15 organizations gratuitously. If the individual receives reimbursement
16 in lieu of compensation for normally incurred out-of-pocket expenses or
17 receives a nominal amount of compensation per unit of voluntary service
18 rendered, an employer-employee relationship is deemed not to exist for
19 the purpose of this section or for purposes of membership or
20 qualification in any state, local government or publicly supported
21 retirement system other than that provided under chapter 41.24 RCW;

22 (e) Any individual employed full time by any state or local
23 governmental body or agency who provides voluntary services but only
24 with regard to the provision of the voluntary services. The voluntary
25 services and any compensation therefor shall not affect or add to
26 qualification, entitlement or benefit rights under any state, local
27 government, or publicly supported retirement system other than that
28 provided under chapter 41.24 RCW;

29 (f) Any newspaper vendor or carrier;

30 (g) Any carrier subject to regulation by Part 1 of the Interstate
31 Commerce Act;

32 (h) Any individual engaged in forest protection and fire prevention
33 activities;

34 (i) Any individual employed by any charitable institution charged
35 with child care responsibilities engaged primarily in the development
36 of character or citizenship or promoting health or physical fitness or
37 providing or sponsoring recreational opportunities or facilities for
38 young people or members of the armed forces of the United States;

1 (j) Any individual whose duties require that he or she reside or
2 sleep at the place of his or her employment or who otherwise spends a
3 substantial portion of his or her work time subject to call, and not
4 engaged in the performance of active duties;

5 (k) Any resident, inmate, or patient of a state, county, or
6 municipal correctional, detention, treatment or rehabilitative
7 institution;

8 (l) Any individual who holds a public elective or appointive office
9 of the state, any county, city, town, municipal corporation or quasi
10 municipal corporation, political subdivision, or any instrumentality
11 thereof, or any employee of the state legislature;

12 (m) All vessel operating crews of the Washington state ferries
13 operated by the department of transportation;

14 (n) Any individual employed as a seaman on a vessel other than an
15 American vessel.

16 (6) "Occupation" means any occupation, service, trade, business,
17 industry, or branch or group of industries or employment or class of
18 employment in which employees are gainfully employed.

19 **Sec. 232.** RCW 28B.16.015 and 1993 c 379 s 310 are each amended to
20 read as follows:

21 At any time after July 1, 1993, an institution of higher education
22 and the exclusive bargaining representative of a bargaining unit of
23 employees classified under this chapter (~~or chapter 41.06 RCW as~~
24 ~~appropriate~~) may exercise their option to have their relationship and
25 corresponding obligations governed entirely by the provisions of
26 chapter 41.56 RCW, by filing notice of the parties' intent to be so
27 governed, subject to the mutual adoption of a collective bargaining
28 agreement recognizing the notice of intent. The parties shall provide
29 the notice to the (~~board or its successor~~) director and the public
30 employment relations commission. On the first day of the month
31 following the month during which the institution of higher education
32 and the exclusive bargaining representative provide notice to the
33 (~~board or its successor~~) director and the public employment relations
34 commission that they have executed an initial collective bargaining
35 agreement recognizing the notice of intent, this chapter shall cease to
36 apply to all employees in the bargaining unit covered by the agreement,
37 and all labor relations functions of the (~~board or its successor~~)

1 director with respect to these employees shall be transferred to the
2 public employment relations commission.

3 **Sec. 233.** RCW 41.06.340 and 1993 c 281 s 35 are each amended to
4 read as follows:

5 (1) With respect to collective bargaining as authorized by this
6 chapter, the public employment relations commission created by chapter
7 41.58 RCW shall have authority to adopt rules, on and after the
8 effective date of this section, relating to:

9 (a) Determination of appropriate bargaining units within any
10 agency. In making such determination the board shall consider the
11 duties, skills, and working conditions of the employees, the history of
12 collective bargaining by the employees and their bargaining
13 representatives, the extent of organization among the employees, and
14 the desires of the employees;

15 (b) Certification and decertification of exclusive bargaining
16 representatives. After certification of an exclusive bargaining
17 representative and upon the representative's request, the director
18 shall hold an election among employees in a bargaining unit to
19 determine by a majority whether to require as a condition of employment
20 membership in the certified exclusive bargaining representative on or
21 after the thirtieth day following the beginning of employment or the
22 date of such election, whichever is the later, and the failure of an
23 employee to comply with such a condition of employment constitutes
24 cause for dismissal. No more often than once in each twelve-month
25 period after expiration of twelve months following the date of the
26 original election in a bargaining unit and upon petition of thirty
27 percent of the members of a bargaining unit, the director shall hold an
28 election to determine whether a majority wish to rescind such condition
29 of employment. For purposes of this subsection (1)(b), membership in
30 the certified exclusive bargaining representative is satisfied by the
31 payment of monthly or other periodic dues and does not require payment
32 of initiation, reinstatement, or any other fees or fines and includes
33 full and complete membership rights. In order to safeguard the right
34 of nonassociation of public employees, based on bona fide religious
35 tenets or teachings of a church or religious body of which such public
36 employee is a member, such public employee shall pay to the union, for
37 purposes within the program of the union as designated by such employee
38 that would be in harmony with his or her individual conscience, an

1 amount of money equivalent to regular union dues minus any included
2 monthly premiums for union-sponsored insurance programs, and such
3 employee shall not be a member of the union but is entitled to all the
4 representations rights of a union member;

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

10 (d) Written agreements may contain provisions for payroll
11 deductions of employee organization dues upon authorization by the
12 employee member and for the cancellation of such payroll deduction by
13 the filing of a proper prior notice by the employee with the appointing
14 authority and the employee organization;

15 (e) Each and every provision of RCW 41.56.140 through 41.56.190
16 shall be applicable to this chapter as it relates to state civil
17 service employees ((and the Washington personnel resources board, or
18 its designee, whose final decision shall be appealable to the
19 Washington personnel resources board, which is granted all powers and
20 authority granted to the department of labor and industries by RCW
21 41.56.140 through 41.56.190)).

22 (2) A collective bargaining agreement entered into under this
23 section before July 1, 1998, covering employees subject to sections 301
24 through 314 of this act that expires after July 1, 1998, shall remain
25 in full force during its duration, or until superseded by a collective
26 bargaining agreement entered into by the parties under sections 301
27 through 314 of this act, however an agreement entered into before July
28 1, 1998, may not be renewed or extended beyond July 1, 1999, or until
29 superseded by a collective bargaining agreement entered into under
30 sections 301 through 314 of this act, whichever is later.

31 NEW SECTION. Sec. 234. A new section is added to chapter 41.06
32 RCW to read as follows:

33 (1) The personnel appeals board is hereby abolished and its powers,
34 duties, and functions are hereby transferred to the Washington
35 personnel resources board. All references to the executive secretary
36 or the personnel appeals board in the Revised Code of Washington shall
37 be construed to mean the director of the department of personnel or the
38 Washington personnel resources board.

1 (2)(a) All reports, documents, surveys, books, records, files,
2 papers, or written material in the possession of the personnel appeals
3 board shall be delivered to the custody of the department of personnel.
4 All cabinets, furniture, office equipment, motor vehicles, and other
5 tangible property employed by the personnel appeals board shall be made
6 available to the department of personnel. All funds, credits, or other
7 assets held by the personnel appeals board shall be assigned to the
8 department of personnel.

9 (b) Any appropriations made to the personnel appeals board shall,
10 on the effective date of this section, be transferred and credited to
11 the department of personnel.

12 (c) If any question arises as to the transfer of any personnel,
13 funds, books, documents, records, papers, files, equipment, or other
14 tangible property used or held in the exercise of the powers and the
15 performance of the duties and functions transferred, the director of
16 financial management shall make a determination as to the proper
17 allocation and certify the same to the state agencies concerned.

18 (3) All employees of the personnel appeals board are transferred to
19 the jurisdiction of the department of personnel. All employees
20 classified under chapter 41.06 RCW, the state civil service law, are
21 assigned to the department of personnel to perform their usual duties
22 upon the same terms as formerly, without any loss of rights, subject to
23 any action that may be appropriate thereafter in accordance with the
24 laws and rules governing state civil service.

25 (4) All rules and all pending business before the personnel appeals
26 board shall be continued and acted upon by the Washington personnel
27 resources board. All existing contracts and obligations shall remain
28 in full force and shall be performed by the Washington personnel
29 resources board.

30 (5) The transfer of the powers, duties, functions, and personnel of
31 the personnel appeals board shall not affect the validity of any act
32 performed before the effective date of this section.

33 (6) If apportionments of budgeted funds are required because of the
34 transfers directed by this section, the director of financial
35 management shall certify the apportionments to the agencies affected,
36 the state auditor, and the state treasurer. Each of these shall make
37 the appropriate transfer and adjustments in funds and appropriation
38 accounts and equipment records in accordance with the certification.

1 **Sec. 235.** RCW 13.40.320 and 1995 c 40 s 1 are each amended to read
2 as follows:

3 (1) The department of social and health services shall establish
4 and operate a medium security juvenile offender basic training camp
5 program. The department shall site a juvenile offender basic training
6 camp facility in the most cost-effective facility possible and shall
7 review the possibility of using an existing abandoned and/or available
8 state, federally, or military-owned site or facility.

9 (2) The department may contract under this chapter with private
10 companies, the national guard, or other federal, state, or local
11 agencies to operate the juvenile offender basic training camp(~~(7~~
12 ~~notwithstanding the provisions of RCW 41.06.380)~~). Requests for
13 proposals from possible contractors shall not call for payment on a per
14 diem basis.

15 (3) The juvenile offender basic training camp shall accommodate at
16 least seventy offenders. The beds shall count as additions to, and not
17 be used as replacements for, existing bed capacity at existing
18 department of social and health services juvenile facilities.

19 (4) The juvenile offender basic training camp shall be a structured
20 and regimented model lasting one hundred twenty days emphasizing the
21 building up of an offender's self-esteem, confidence, and discipline.
22 The juvenile offender basic training camp program shall provide
23 participants with basic education, prevocational training, work-based
24 learning, live work, work ethic skills, conflict resolution counseling,
25 substance abuse intervention, anger management counseling, and
26 structured intensive physical training. The juvenile offender basic
27 training camp program shall have a curriculum training and work
28 schedule that incorporates a balanced assignment of these or other
29 rehabilitation and training components for no less than sixteen hours
30 per day, six days a week.

31 The department shall adopt rules for the safe and effective
32 operation of the juvenile offender basic training camp program,
33 standards for an offender's successful program completion, and rules
34 for the continued after-care supervision of offenders who have
35 successfully completed the program.

36 (5) Offenders eligible for the juvenile offender basic training
37 camp option shall be those with a disposition of not more than seventy-
38 eight weeks. Violent and sex offenders shall not be eligible for the
39 juvenile offender basic training camp program.

1 (6) If the court determines that the offender is eligible for the
2 juvenile offender basic training camp option, the court may recommend
3 that the department place the offender in the program. The department
4 shall evaluate the offender and may place the offender in the program.
5 The evaluation shall include, at a minimum, a risk assessment developed
6 by the department and designed to determine the offender's suitability
7 for the program. No juvenile who is assessed as a high risk offender
8 or suffers from any mental or physical problems that could endanger his
9 or her health or drastically affect his or her performance in the
10 program shall be admitted to or retained in the juvenile offender basic
11 training camp program.

12 (7) All juvenile offenders eligible for the juvenile offender basic
13 training camp sentencing option shall spend one hundred twenty days of
14 their disposition in a juvenile offender basic training camp. If the
15 juvenile offender's activities while in the juvenile offender basic
16 training camp are so disruptive to the juvenile offender basic training
17 camp program, as determined by the secretary according to rules adopted
18 by the department, as to result in the removal of the juvenile offender
19 from the juvenile offender basic training camp program, or if the
20 offender cannot complete the juvenile offender basic training camp
21 program due to medical problems, the secretary shall require that the
22 offender be committed to a juvenile institution to serve the entire
23 remainder of his or her disposition, less the amount of time already
24 served in the juvenile offender basic training camp program.

25 (8) All offenders who successfully graduate from the one hundred
26 twenty day juvenile offender basic training camp program shall spend
27 the remainder of their disposition on parole in a division of juvenile
28 rehabilitation intensive aftercare program in the local community. The
29 program shall provide for the needs of the offender based on his or her
30 progress in the aftercare program as indicated by ongoing assessment of
31 those needs and progress. The intensive aftercare program shall
32 monitor postprogram juvenile offenders and assist them to successfully
33 reintegrate into the community. In addition, the program shall develop
34 a process for closely monitoring and assessing public safety risks.
35 The intensive aftercare program shall be designed and funded by the
36 department of social and health services.

37 (9) The department shall also develop and maintain a data base to
38 measure recidivism rates specific to this incarceration program. The
39 data base shall maintain data on all juvenile offenders who complete

1 the juvenile offender basic training camp program for a period of two
2 years after they have completed the program. The data base shall also
3 maintain data on the criminal activity, educational progress, and
4 employment activities of all juvenile offenders who participated in the
5 program. The department shall produce an outcome evaluation report on
6 the progress of the juvenile offender basic training camp program to
7 the appropriate committees of the legislature no later than December
8 12, 1996.

9 **Sec. 236.** RCW 39.29.006 and 1993 c 433 s 2 are each amended to
10 read as follows:

11 As used in this chapter:

12 (1) "Agency" means any state office or activity of the executive
13 and judicial branches of state government, including state agencies,
14 departments, offices, divisions, boards, commissions, and educational,
15 correctional, and other types of institutions.

16 (2) "Client services" means services provided directly to agency
17 clients including, but not limited to, medical and dental services,
18 employment and training programs, residential care, and subsidized
19 housing.

20 (3) "Competitive solicitation" means a documented formal process
21 providing an equal and open opportunity to qualified parties and
22 culminating in a selection based on criteria which may include such
23 factors as the consultant's fees or costs, ability, capacity,
24 experience, reputation, responsiveness to time limitations,
25 responsiveness to solicitation requirements, quality of previous
26 performance, and compliance with statutes and rules relating to
27 contracts or services.

28 (4) "Consultant" means an independent individual or firm
29 contracting with an agency to perform a service or render an opinion or
30 recommendation according to the consultant's methods and without being
31 subject to the control of the agency except as to the result of the
32 work. The agency monitors progress under the contract and authorizes
33 payment.

34 (5) "Emergency" means a set of unforeseen circumstances beyond the
35 control of the agency that either:

36 (a) Present a real, immediate threat to the proper performance of
37 essential functions; or

1 (b) May result in material loss or damage to property, bodily
2 injury, or loss of life if immediate action is not taken.

3 (6) "Evidence of competition" means documentation demonstrating
4 that the agency has solicited responses from multiple firms in
5 selecting a consultant.

6 (7) "Personal service" means professional or technical expertise
7 provided by a consultant to accomplish a specific study, project, task,
8 or other work statement. This term does not include purchased services
9 as defined under subsection (9) of this section. This term does
10 include client services.

11 (8) "Personal service contract" means an agreement, or any
12 amendment thereto, with a consultant for the rendering of personal
13 services to the state which is consistent with ((RCW 41.06.380))
14 section 208 of this act.

15 (9) "Purchased services" means services provided by a vendor to
16 accomplish routine, continuing and necessary functions. This term
17 includes, but is not limited to, services acquired under RCW 43.19.190
18 or 43.105.041 for equipment maintenance and repair; operation of a
19 physical plant; security; computer hardware and software maintenance;
20 data entry; key punch services; and computer time-sharing, contract
21 programming, and analysis.

22 (10) "Sole source" means a consultant providing professional or
23 technical expertise of such a unique nature that the consultant is
24 clearly and justifiably the only practicable source to provide the
25 service. The justification shall be based on either the uniqueness of
26 the service or sole availability at the location required.

27 (11) "Subcontract" means a contract assigning some of the work of
28 a contract to a third party.

29 **Sec. 237.** RCW 41.04.385 and 1993 c 194 s 5 are each amended to
30 read as follows:

31 The legislature finds that (1) demographic, economic, and social
32 trends underlie a critical and increasing demand for child care in the
33 state of Washington; (2) working parents and their children benefit
34 when the employees' child care needs have been resolved; (3) the state
35 of Washington should serve as a model employer by creating a supportive
36 atmosphere, to the extent feasible, in which its employees may meet
37 their child care needs; and (4) the state of Washington should
38 encourage the development of partnerships between state agencies, state

1 employees, state employee labor organizations, and private employers to
2 expand the availability of affordable quality child care. The
3 legislature finds further that resolving employee child care concerns
4 not only benefits the employees and their children, but may benefit the
5 employer by reducing absenteeism, increasing employee productivity,
6 improving morale, and enhancing the employer's position in recruiting
7 and retaining employees. Therefore, the legislature declares that it
8 is the policy of the state of Washington to assist state employees by
9 creating a supportive atmosphere in which they may meet their child
10 care needs. Policies and procedures for state agencies to address
11 employee child care needs will be the responsibility of the director of
12 personnel in consultation with the child care coordinating committee,
13 as provided in RCW 74.13.090 and state employee representatives ((as
14 provided under RCW 41.06.140)).

15 **Sec. 238.** RCW 47.46.040 and 1995 2nd sp.s. c 19 s 3 are each
16 amended to read as follows:

17 (1) All projects designed, constructed, and operated under this
18 authority must comply with all applicable rules and statutes in
19 existence at the time the agreement is executed, including but not
20 limited to the following provisions: Chapter 39.12 RCW, this title,
21 ((RCW 41.06.380)) section 208 of this act, chapter 47.64 RCW, RCW
22 49.60.180, and 49 C.F.R. Part 21.

23 (2) The secretary or a designee shall consult with legal,
24 financial, and other experts within and outside state government in the
25 negotiation and development of the agreements.

26 (3) Agreements shall provide for private ownership of the projects
27 during the construction period. After completion and final acceptance
28 of each project or discrete segment thereof, the agreement shall
29 provide for state ownership of the transportation systems and
30 facilities and lease to the private entity unless the state elects to
31 provide for ownership of the facility by the private entity during the
32 term of the agreement.

33 The state shall lease each of the demonstration projects, or
34 applicable project segments, to the private entities for operating
35 purposes for up to fifty years.

36 (4) The department may exercise any power possessed by it to
37 facilitate the development, construction, financing operation, and
38 maintenance of transportation projects under this chapter. Agreements

1 for maintenance services entered into under this section shall provide
2 for full reimbursement for services rendered by the department or other
3 state agencies. Agreements for police services for projects, involving
4 state highway routes, developed under agreements shall be entered into
5 with the Washington state patrol. The agreement for police services
6 shall provide that the state patrol will be reimbursed for costs on a
7 comparable basis with the costs incurred for comparable service on
8 other state highway routes. The department may provide services for
9 which it is reimbursed, including but not limited to preliminary
10 planning, environmental certification, and preliminary design of the
11 demonstration projects.

12 (5) The plans and specifications for each project constructed under
13 this section shall comply with the department's standards for state
14 projects. A facility constructed by and leased to a private entity is
15 deemed to be a part of the state highway system for purposes of
16 identification, maintenance, and enforcement of traffic laws and for
17 the purposes of applicable sections of this title. Upon reversion of
18 the facility to the state, the project must meet all applicable state
19 standards. Agreements shall address responsibility for reconstruction
20 or renovations that are required in order for a facility to meet all
21 applicable state standards upon reversion of the facility to the state.

22 (6) For the purpose of facilitating these projects and to assist
23 the private entity in the financing, development, construction, and
24 operation of the transportation systems and facilities, the agreements
25 may include provisions for the department to exercise its authority,
26 including the lease of facilities, rights of way, and airspace,
27 exercise of the power of eminent domain, granting of development rights
28 and opportunities, granting of necessary easements and rights of
29 access, issuance of permits and other authorizations, protection from
30 competition, remedies in the event of default of either of the parties,
31 granting of contractual and real property rights, liability during
32 construction and the term of the lease, authority to negotiate
33 acquisition of rights of way in excess of appraised value, and any
34 other provision deemed necessary by the secretary.

35 (7) The agreements entered into under this section may include
36 provisions authorizing the state to grant necessary easements and lease
37 to a private entity existing rights of way or rights of way
38 subsequently acquired with public or private financing. The agreements
39 may also include provisions to lease to the entity airspace above or

1 below the right of way associated or to be associated with the private
2 entity's transportation facility. In consideration for the reversion
3 rights in these privately constructed facilities, the department may
4 negotiate a charge for the lease of airspace rights during the term of
5 the agreement for a period not to exceed fifty years. If, after the
6 expiration of this period, the department continues to lease these
7 airspace rights to the private entity, it shall do so only at fair
8 market value. The agreement may also provide the private entity the
9 right of first refusal to undertake projects utilizing airspace owned
10 by the state in the vicinity of the public-private project.

11 (8) Agreements under this section may include any contractual
12 provision that is necessary to protect the project revenues required to
13 repay the costs incurred to study, plan, design, finance, acquire,
14 build, install, operate, enforce laws, and maintain toll highways,
15 bridges, and tunnels and which will not unreasonably inhibit or
16 prohibit the development of additional public transportation systems
17 and facilities. Agreements under this section must secure and maintain
18 liability insurance coverage in amounts appropriate to protect the
19 project's viability and may address state indemnification of the
20 private entity for design and construction liability where the state
21 has approved relevant design and construction plans.

22 (9) Agreements shall include a process that provides for public
23 involvement in decision making with respect to the development of the
24 projects.

25 (10)(a) In carrying out the public involvement process required in
26 subsection (9) of this section, the private entity shall proactively
27 seek public participation through a process appropriate to the
28 characteristics of the project that assesses and demonstrates public
29 support among: Users of the project, residents of communities in the
30 vicinity of the project, and residents of communities impacted by the
31 project.

32 (b) The private entity shall conduct a comprehensive public
33 involvement process that provides, periodically throughout the
34 development and implementation of the project, users and residents of
35 communities in the affected project area an opportunity to comment upon
36 key issues regarding the project including, but not limited to: (i)
37 Alternative sizes and scopes; (ii) design; (iii) environmental
38 assessment; (iv) right of way and access plans; (v) traffic impacts;
39 (vi) tolling or user fee strategies and tolling or user fee ranges;

1 (vii) project cost; (viii) construction impacts; (ix) facility
2 operation; and (x) any other salient characteristics.

3 (c) If the affected project area has not been defined, the private
4 entity shall define the affected project area by conducting, at a
5 minimum: (i) A comparison of the estimated percentage of residents of
6 communities in the vicinity of the project and in other communities
7 impacted by the project who could be subject to tolls or user fees and
8 the estimated percentage of other users and transient traffic that
9 could be subject to tolls or user fees; (ii) an analysis of the
10 anticipated traffic diversion patterns; (iii) an analysis of the
11 potential economic impact resulting from proposed toll rates or user
12 fee rates imposed on residents, commercial traffic, and commercial
13 entities in communities in the vicinity of and impacted by the project;
14 (iv) an analysis of the economic impact of tolls or user fees on the
15 price of goods and services generally; and (v) an analysis of the
16 relationship of the project to state transportation needs and benefits.

17 The agreement may require an advisory vote by users of and
18 residents in the affected project area.

19 (d) In seeking public participation, the private entity shall
20 establish a local involvement committee or committees comprised of
21 residents of the affected project area, individuals who represent
22 cities and counties in the affected project area, organizations formed
23 to support or oppose the project, if such organizations exist, and
24 users of the project. The private entity shall, at a minimum,
25 establish a committee as required under the specifications of RCW
26 47.46.030(5)(b) (ii) and (iii) and appointments to such committee shall
27 be made no later than thirty days after the project area is defined.

28 (e) Local involvement committees shall act in an advisory capacity
29 to the department and the private entity on all issues related to the
30 development and implementation of the public involvement process
31 established under this section.

32 (f) The department and the private entity shall provide the
33 legislative transportation committee and local involvement committees
34 with progress reports on the status of the public involvement process
35 including the results of an advisory vote, if any occurs.

36 (11) Nothing in this chapter limits the right of the secretary and
37 his or her agents to render such advice and to make such
38 recommendations as they deem to be in the best interests of the state
39 and the public.

1 **Sec. 239.** RCW 72.09.100 and 1995 1st sp.s. c 19 s 33 are each
2 amended to read as follows:

3 It is the intent of the legislature to vest in the department the
4 power to provide for a comprehensive inmate work program and to remove
5 statutory and other restrictions which have limited work programs in
6 the past. For purposes of establishing such a comprehensive program,
7 the legislature recommends that the department consider adopting any or
8 all, or any variation of, the following classes of work programs:

9 (1) CLASS I: FREE VENTURE INDUSTRIES. The employer model
10 industries in this class shall be operated and managed in total or in
11 part by any profit or nonprofit organization pursuant to an agreement
12 between the organization and the department. The organization shall
13 produce goods or services for sale to both the public and private
14 sector.

15 The customer model industries in this class shall be operated and
16 managed by the department to provide Washington state manufacturers or
17 businesses with products or services currently produced or provided by
18 out-of-state or foreign suppliers. The correctional industries board
19 of directors shall review these proposed industries before the
20 department contracts to provide such products or services. The review
21 shall include an analysis of the potential impact of the proposed
22 products and services on the Washington state business community and
23 labor market.

24 The department of corrections shall supply appropriate security and
25 custody services without charge to the participating firms.

26 Inmates who work in free venture industries shall do so at their
27 own choice. They shall be paid a wage comparable to the wage paid for
28 work of a similar nature in the locality in which the industry is
29 located, as determined by the director of correctional industries. If
30 the director cannot reasonably determine the comparable wage, then the
31 pay shall not be less than the federal minimum wage.

32 An inmate who is employed in the class I program of correctional
33 industries shall not be eligible for unemployment compensation benefits
34 pursuant to any of the provisions of Title 50 RCW until released on
35 parole or discharged.

36 (2) CLASS II: TAX REDUCTION INDUSTRIES. Industries in this class
37 shall be state-owned and operated enterprises designed to reduce the
38 costs for goods and services for tax-supported agencies and for
39 nonprofit organizations. The industries selected for development

1 within this class shall, as much as possible, match the available pool
2 of inmate work skills and aptitudes with the work opportunities in the
3 free community. The industries shall be closely patterned after
4 private sector industries but with the objective of reducing public
5 support costs rather than making a profit. The products and services
6 of this industry, including purchased products and services necessary
7 for a complete product line, may be sold to public agencies, to
8 nonprofit organizations, and to private contractors when the goods
9 purchased will be ultimately used by a public agency or a nonprofit
10 organization. Clothing manufactured by an industry in this class may
11 be donated to nonprofit organizations that provide clothing free of
12 charge to low-income persons. Correctional industries products and
13 services shall be reviewed by the correctional industries board of
14 directors before offering such products and services for sale to
15 private contractors. The board of directors shall conduct a yearly
16 marketing review of the products and services offered under this
17 subsection. Such review shall include an analysis of the potential
18 impact of the proposed products and services on the Washington state
19 business community. To avoid waste or spoilage and consequent loss to
20 the state, when there is no public sector market for such goods,
21 byproducts and surpluses of timber, agricultural, and animal husbandry
22 enterprises may be sold to private persons, at private sale. Surplus
23 byproducts and surpluses of timber, agricultural and animal husbandry
24 enterprises that cannot be sold to public agencies or to private
25 persons may be donated to nonprofit organizations. All sales of
26 surplus products shall be carried out in accordance with rules
27 prescribed by the secretary.

28 Security and custody services shall be provided without charge by
29 the department of corrections.

30 Inmates working in this class of industries shall do so at their
31 own choice and shall be paid for their work on a gratuity scale which
32 shall not exceed the wage paid for work of a similar nature in the
33 locality in which the industry is located and which is approved by the
34 director of correctional industries.

35 Subject to approval of the correctional industries board,
36 provisions of ((RCW 41.06.380)) section 208 of this act prohibiting
37 contracting out work performed by classified employees shall not apply
38 to contracts with Washington state businesses entered into by the
39 department of corrections through class II industries.

1 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES. Industries in
2 this class shall be operated by the department of corrections. They
3 shall be designed and managed to accomplish the following objectives:

4 (a) Whenever possible, to provide basic work training and
5 experience so that the inmate will be able to qualify for better work
6 both within correctional industries and the free community. It is not
7 intended that an inmate's work within this class of industries should
8 be his or her final and total work experience as an inmate.

9 (b) Whenever possible, to provide forty hours of work or work
10 training per week.

11 (c) Whenever possible, to offset tax and other public support
12 costs.

13 Supervising, management, and custody staff shall be employees of
14 the department.

15 All able and eligible inmates who are assigned work and who are not
16 working in other classes of industries shall work in this class.

17 Except for inmates who work in work training programs, inmates in
18 this class shall be paid for their work in accordance with an inmate
19 gratuity scale. The scale shall be adopted by the secretary of
20 corrections.

21 (4) CLASS IV: COMMUNITY WORK INDUSTRIES. Industries in this class
22 shall be operated by the department of corrections. They shall be
23 designed and managed to provide services in the inmate's resident
24 community at a reduced cost. The services shall be provided to public
25 agencies, to persons who are poor or infirm, or to nonprofit
26 organizations.

27 Inmates in this program shall reside in facilities owned by,
28 contracted for, or licensed by the department of corrections. A unit
29 of local government shall provide work supervision services without
30 charge to the state and shall pay the inmate's wage.

31 The department of corrections shall reimburse participating units
32 of local government for liability and workers compensation insurance
33 costs.

34 Inmates who work in this class of industries shall do so at their
35 own choice and shall receive a gratuity which shall not exceed the wage
36 paid for work of a similar nature in the locality in which the industry
37 is located.

38 (5) CLASS V: COMMUNITY SERVICE PROGRAMS. Programs in this class
39 shall be subject to supervision by the department of corrections. The

1 purpose of this class of industries is to enable an inmate, placed on
2 community supervision, to work off all or part of a community service
3 order as ordered by the sentencing court.

4 Employment shall be in a community service program operated by the
5 state, local units of government, or a nonprofit agency.

6 To the extent that funds are specifically made available for such
7 purposes, the department of corrections shall reimburse nonprofit
8 agencies for workers compensation insurance costs.

9 PART III

10 COLLECTIVE BARGAINING REFORM

11 NEW SECTION. **Sec. 301.** APPLICATION OF CHAPTER. (1) Collective
12 bargaining negotiations under this chapter shall commence no later than
13 October 1, 1998, for collective bargaining agreements that are to
14 become effective no earlier than July 1, 1999. For subsequent
15 agreements, negotiations may commence and contracts become effective as
16 the parties agree subject to legislative ratification as outlined in
17 this chapter.

18 (2) Any collective bargaining agreement entered into before July 1,
19 1995, covering employees affected by sections 301 through 314 of this
20 act, that expires after July 1, 1998, shall, unless a superseding
21 agreement complying with sections 301 through 314 of this act is
22 negotiated by the parties, remain in full force during its duration,
23 but the agreement may not be renewed or extended beyond July 1, 1999,
24 or until superseded by a collective bargaining agreement entered into
25 under sections 301 through 314 of this act, whichever is later.

26 NEW SECTION. **Sec. 302.** NEGOTIATION AND RATIFICATION OF COLLECTIVE
27 BARGAINING AGREEMENTS. (1) For the purpose of negotiating collective
28 bargaining agreements under this chapter, the employer shall be
29 represented by the governor or governor's designee, except as provided
30 for institutions of higher education in subsection (4) of this section.

31 (2)(a) If an exclusive bargaining representative represents more
32 than one bargaining unit, the exclusive bargaining representative shall
33 negotiate one master collective bargaining agreement on behalf of all
34 the employees in bargaining units that the exclusive bargaining
35 representative represents. For those exclusive bargaining
36 representatives who represent fewer than a total of five hundred

1 employees each, negotiation shall be by a coalition of exclusive
2 bargaining representatives that together represent at least five
3 hundred employees and that include at least one exclusive bargaining
4 representative that individually represents fewer than five hundred
5 employees. The coalition shall bargain for a master collective
6 bargaining agreement covering all of the employees represented by the
7 coalition. The governor's designee and the exclusive bargaining
8 representative or representatives are authorized to enter into
9 supplemental bargaining of agency-specific issues for inclusion in or
10 as an addendum to the master collective bargaining agreement, subject
11 to the parties' agreement regarding the issues and procedures for
12 supplemental bargaining. This section does not prohibit cooperation
13 and coordination of bargaining between two or more exclusive bargaining
14 representatives.

15 (b) This subsection (2) does not apply to exclusive bargaining
16 representatives who represent employees of institutions of higher
17 education.

18 (c) If five hundred or more employees of an independent state
19 elected official listed in RCW 43.01.010 are organized in a bargaining
20 unit or bargaining units under section 308 of this act, the official
21 shall be consulted by the governor or the governor's designee before
22 any agreement is reached under (a) of this subsection concerning
23 supplemental bargaining of agency specific issues affecting the
24 employees in such bargaining unit.

25 (3) The governor shall submit a request for funds necessary to
26 implement the compensation and fringe benefit provisions in the master
27 collective bargaining agreement or for legislation necessary to
28 implement the agreement within ten days of the date on which the
29 exclusive bargaining representative or representatives ratify the
30 agreement or, if the legislature is not in session, within ten days
31 after the legislature next convenes. Requests for funds necessary to
32 implement the provisions of bargaining agreements negotiated by
33 institutions of higher education according to subsection (4) of this
34 section shall not be submitted to the legislature by the governor
35 unless such requests:

36 (a) Have been submitted to the director of the office of financial
37 management prior to September 1 of the year they are negotiated; and

38 (b) Have been certified by the director of the office of financial
39 management as being feasible financially for the state.

1 The legislature shall approve or reject the submission of the
2 request for funds as a whole. If the legislature rejects or fails to
3 act on the submission, either party may reopen all or part of the
4 agreement or the exclusive bargaining representative may seek to
5 implement the procedures provided for in section 310 of this act.

6 (4) For the purpose of negotiating agreements for institutions of
7 higher education, the employer shall be the respective governing board
8 of each of the universities, colleges, or community colleges or a
9 designee chosen by the board to negotiate on its behalf. A governing
10 board may elect to have its negotiations conducted by the governor or
11 governor's designee under the procedures provided for general
12 government agencies in subsections (1), (2), and (3) of this section.
13 Prior to entering into negotiations under this chapter, the
14 institutions of higher education or their designees shall consult with
15 the director of the office of financial management regarding financial
16 and budgetary issues that are likely to arise in the impending
17 negotiations. If appropriations are necessary to implement the
18 compensation and fringe benefit provisions of the bargaining agreements
19 reached between institutions of higher education and exclusive
20 bargaining representatives agreed to under the provisions of this
21 chapter, the governor shall submit a request for such funds to the
22 legislature according to the provisions of subsection (3) of this
23 section.

24 (5) If, after the compensation and fringe benefit provisions of an
25 agreement are approved by the legislature, a significant revenue
26 shortfall occurs resulting in reduced appropriations, both parties
27 shall immediately enter into collective bargaining for a mutually
28 agreed upon modification of the agreement.

29 (6) After the expiration date of a collective bargaining agreement
30 negotiated under this chapter, all of the terms and conditions
31 specified in the collective bargaining agreement remain in effect until
32 the effective date of a subsequently negotiated agreement, not to
33 exceed one year from the expiration date stated in the agreement.
34 Thereafter, the employer may unilaterally implement according to law.

35 NEW SECTION. **Sec. 303.** SCOPE OF BARGAINING. (1) Except as
36 otherwise provided in this chapter, the matters subject to bargaining
37 include wages, hours, and other terms and conditions of employment, and

1 the negotiation of any question arising under a collective bargaining
2 agreement.

3 (2) The employer is not required to bargain over matters pertaining
4 to:

5 (a) Inherent managerial policy as established in section 305 of
6 this act;

7 (b) Any retirement system or retirement benefit;

8 (c) Health care benefits or other employee insurance benefits,
9 except as required in subsection (3) of this section; or

10 (d) Rules of the director of personnel or the Washington personnel
11 resources board adopted under section 203 of this act.

12 (3) Matters subject to bargaining include the number of names to be
13 certified for vacancies, promotional preferences, and the dollar amount
14 expended on behalf of each employee for health care benefits. However,
15 except as provided otherwise in this subsection for institutions of
16 higher education, negotiations regarding the number of names to be
17 certified for vacancies, promotional preferences, and the dollar amount
18 expended on behalf of each employee for health care benefits shall be
19 conducted between the employer and one coalition of all the exclusive
20 bargaining representatives subject to this chapter and any provision
21 agreed to by the employer and the coalition shall be included in all
22 master collective bargaining agreements negotiated by the parties. For
23 institutions of higher education, promotional preferences and the
24 number of names to be certified for vacancies shall be bargained under
25 the provisions of section 302(4) of this act.

26 (4) The employer and the exclusive bargaining representative shall
27 not agree to any proposal that would prevent the implementation of
28 approved affirmative action plans or that would be inconsistent with
29 the comparable worth agreement that provided the basis for the salary
30 changes implemented beginning with the 1983-1985 biennium to achieve
31 comparable worth.

32 (5) Except as otherwise provided in this chapter, if a conflict
33 exists between an executive order, administrative rule, or agency
34 policy relating to wages, hours, and terms and conditions of employment
35 and a collective bargaining agreement negotiated under this chapter,
36 the collective bargaining agreement shall prevail. A provision of a
37 collective bargaining agreement that conflicts with the terms of a
38 statute is invalid and unenforceable.

1 NEW SECTION. **Sec. 304.** CONTENTS OF COLLECTIVE BARGAINING

2 AGREEMENTS. (1) The parties to a collective bargaining agreement shall
3 reduce the agreement to writing and both shall execute it.

4 (2) A collective bargaining agreement shall contain provisions
5 that:

6 (a) Provide for a grievance procedure that culminates with final
7 and binding arbitration of all disputes arising over the interpretation
8 or application of the collective bargaining agreement and that is valid
9 and enforceable under its terms when entered into in accordance with
10 this chapter; and

11 (b) Require processing of disciplinary actions or terminations of
12 employment of employees covered by the collective bargaining agreement
13 entirely under the procedures of the collective bargaining agreement.
14 Any employee, when fully reinstated, shall be guaranteed all employee
15 rights and benefits, including back pay, sick leave, vacation accrual,
16 and retirement and federal old age, survivors, and disability insurance
17 act credits, but without back pay for any period of suspension.

18 (3)(a) If a collective bargaining agreement between an employer
19 and an exclusive bargaining representative is concluded after the
20 termination date of the previous collective bargaining agreement
21 between the employer and an employee organization representing the same
22 bargaining units, the effective date of the collective bargaining
23 agreement may be the day after the termination of the previous
24 collective bargaining agreement, and all benefits included in the new
25 collective bargaining agreement, including wage or salary increases,
26 may accrue beginning with that effective date.

27 (b) If a collective bargaining agreement between an employer and an
28 exclusive bargaining representative is concluded after the termination
29 date of the previous collective bargaining agreement between the
30 employer and the exclusive bargaining representative representing
31 different bargaining units, the effective date of the collective
32 bargaining agreement may be the day after the termination date of
33 whichever previous collective bargaining agreement covering one or more
34 of the units terminated first, and all benefits included in the new
35 collective bargaining agreement, including wage or salary increases,
36 may accrue beginning with that effective date.

37 NEW SECTION. **Sec. 305.** MANAGEMENT RIGHTS. The employer shall not
38 be required to bargain over rights of management which, in addition to

1 all powers, duties, and rights established by constitutional provision
2 or statute, shall include but not be limited to the following:

3 (1) The functions and programs of the employer, the use of
4 technology, and the structure of the organization;

5 (2) The employer's budget and the size of the agency work force,
6 including determining the financial basis for layoffs;

7 (3) The right to direct and supervise employees; and

8 (4) The right to take whatever actions are deemed necessary to
9 carry out the mission of the state and its agencies during emergencies.

10 NEW SECTION. **Sec. 306.** RIGHTS OF EMPLOYEES. Except as may be
11 specifically limited by this chapter, employees shall have the right to
12 self-organization, to form, join, or assist employee organizations, and
13 to bargain collectively through representatives of their own choosing
14 for the purpose of collective bargaining free from interference,
15 restraint, or coercion, and shall also have the right to refrain from
16 any or all such activities except to the extent that employees may be
17 required to pay a fee to an exclusive bargaining representative under
18 a union security provision authorized by this chapter.

19 NEW SECTION. **Sec. 307.** RIGHT TO STRIKE NOT GRANTED. Nothing
20 contained in chapter . . ., Laws of 1996, (this act) permits or grants
21 to any employee the right to strike or refuse to perform his or her
22 official duties.

23 NEW SECTION. **Sec. 308.** BARGAINING UNITS. (1) A bargaining unit
24 of employees covered by this chapter existing on the effective date of
25 this section shall be considered an appropriate unit, unless the unit
26 does not meet the requirements of (a) and (b) of this subsection. The
27 commission, after hearing upon reasonable notice to all interested
28 parties, shall decide in each application for certification as an
29 exclusive bargaining representative, the unit appropriate for
30 certification. In determining the new units or modifications of
31 existing units, the commission shall consider: The duties, skills, and
32 working conditions of the employees; the history of collective
33 bargaining; the extent of organization among the employees; the desires
34 of the employees; and the avoidance of excessive fragmentation.
35 However, a unit is not appropriate if it includes:

1 (a) Both supervisors and nonsupervisory employees. A unit that
2 includes only supervisors may be considered appropriate if a majority
3 of the supervisory employees indicates by vote that they desire to be
4 included in such a unit; or

5 (b) More than one institution of higher education. For the
6 purposes of this section, any branch or regional campus of an
7 institution of higher education is part of that institution of higher
8 education.

9 (2) The exclusive bargaining representatives certified to represent
10 the bargaining units existing on the effective date of this section
11 shall continue as the exclusive bargaining representative without the
12 necessity of an election.

13 (3) If a single employee organization is the exclusive bargaining
14 representative for two or more units, upon petition by the employee
15 organization, the units may be consolidated into a single larger unit
16 if the commission considers the larger unit to be appropriate. If
17 consolidation is appropriate, the commission shall certify the employee
18 organization as the exclusive bargaining representative of the new
19 unit.

20 NEW SECTION. Sec. 309. REPRESENTATION. (1) The commission shall
21 determine all questions pertaining to representation and shall
22 administer all elections and be responsible for the processing and
23 adjudication of all disputes that arise as a consequence of elections.
24 The commission shall adopt rules that provide for at least the
25 following:

- 26 (a) Secret balloting;
- 27 (b) Consulting with employee organizations;
- 28 (c) Access to lists of employees, job classification, work
29 locations, and home mailing addresses;
- 30 (d) Absentee voting;
- 31 (e) Procedures for the greatest possible participation in voting;
- 32 (f) Campaigning on the employer's property during working hours;
- 33 and
- 34 (g) Election observers.

35 (2)(a) If an employee organization has been certified as the
36 exclusive bargaining representative of the employees of a bargaining
37 unit, the employee organization may act for and negotiate master
38 collective bargaining agreements that will include within the coverage

1 of the agreement all employees in the bargaining unit as provided in
2 section 302(2)(a) of this act. However, if a master collective
3 bargaining agreement is in effect for the exclusive bargaining
4 representative, it shall apply to the bargaining unit for which the
5 certification has been issued. Nothing in this section requires the
6 parties to engage in new negotiations during the term of that
7 agreement.

8 (b) This subsection (2) does not apply to exclusive bargaining
9 representatives who represent employees of institutions of higher
10 education.

11 (3) The certified exclusive bargaining representative shall be
12 responsible for representing the interests of all the employees in the
13 bargaining unit. This section shall not be construed to limit an
14 exclusive representative's right to exercise its discretion to refuse
15 to process grievances of employees that are unmeritorious.

16 (4) No question concerning representation may be raised if:

17 (a) Fewer than twelve months have elapsed since the last
18 certification or election; or

19 (b) A valid collective bargaining agreement exists covering the
20 unit, except for that period of no more than one hundred twenty
21 calendar days nor less than ninety calendar days before the expiration
22 of the contract.

23 NEW SECTION. **Sec. 310.** IMPASSE. Should the parties fail to reach
24 accord in negotiating a collective bargaining agreement, either party
25 may request of the commission the assistance of an impartial third
26 party to mediate the negotiations.

27 If a collective bargaining agreement previously negotiated under
28 this chapter should expire while negotiations are underway, the terms
29 and conditions specified in the collective bargaining agreement shall
30 remain in effect for a period not to exceed one year from the
31 expiration date stated in the agreement. Thereafter, the employer may
32 unilaterally implement according to law.

33 If resolution is not reached through mediation by one hundred days
34 beyond the expiration date of a contract previously negotiated under
35 this chapter, or one hundred days from the initiation of mediated
36 negotiations if no such contract exists, an independent fact-finder
37 shall be appointed by the commission.

1 The fact-finder shall meet with the parties or their
2 representatives, or both, and make inquiries and investigations, hold
3 hearings, and take such other steps as may be appropriate. If the
4 dispute is not settled, the fact-finder shall make findings of fact and
5 recommend terms of settlement within thirty days.

6 Such recommendations, together with the findings of fact, shall be
7 submitted in writing to the parties and the commission privately before
8 they are made public. The commission, the fact-finder, the employer,
9 or the exclusive bargaining representative may make such findings and
10 recommendations public if the dispute is not settled within ten working
11 days after their receipt from the fact-finder.

12 Nothing in this section shall be construed to prohibit an employer
13 and an exclusive bargaining representative from agreeing to substitute,
14 at their own expense, their own procedure for resolving impasses in
15 collective bargaining for that provided in this section or from
16 agreeing to utilize for the purposes of this section any other
17 governmental or other agency or person in lieu of the commission.

18 Costs for mediator services shall be borne by the commission, and
19 costs for fact-finding shall be borne equally by the negotiating
20 parties.

21 NEW SECTION. **Sec. 311.** UNION SECURITY. (1) A collective
22 bargaining agreement may contain a union security provision requiring
23 as a condition of employment the payment, no later than the thirtieth
24 day following the beginning of employment or the effective date of this
25 section, whichever is later, of an agency shop fee to the employee
26 organization that is the exclusive bargaining representative for the
27 bargaining unit in which the employee is employed. The amount of the
28 fee shall be equal to the amount required to become a member in good
29 standing of the employee organization. Each employee organization
30 shall establish a procedure by which any employee so requesting may pay
31 a representation fee no greater than the part of the membership fee
32 that represents a pro rata share of expenditures for purposes germane
33 to the collective bargaining process, to contract administration, or to
34 pursuing matters affecting wages, hours, and other conditions of
35 employment.

36 (2) An employee who is covered by a union security provision and
37 who asserts a right of nonassociation based on bona fide religious
38 tenets or teachings of a church or religious body of which the employee

1 is a member shall, as a condition of employment, make payments to the
2 employee organization, for purposes within the program of the employee
3 organization as designated by the employee that would be in harmony
4 with his or her individual conscience. The amount of the payments
5 shall be equal to the periodic dues and fees uniformly required as a
6 condition of acquiring or retaining membership in the employee
7 organization minus any included monthly premiums for insurance programs
8 sponsored by the employee organization. The employee shall not be a
9 member of the employee organization but is entitled to all the
10 representation rights of a member of the employee organization.

11 (3) Upon filing with the employer the written authorization of a
12 bargaining unit employee under this chapter, the employee organization
13 that is the exclusive bargaining representative of the bargaining unit
14 shall have the exclusive right to have deducted from the salary of the
15 employee an amount equal to the fees and dues uniformly required as a
16 condition of acquiring or retaining membership in the employee
17 organization. The fees and dues shall be deducted each pay period from
18 the pay of all employees who have given authorization for the deduction
19 and shall be transmitted by the employer as provided for by agreement
20 between the employer and the employee organization.

21 (4) Employee organizations that before the effective date of this
22 section were entitled to the benefits of this section shall continue to
23 be entitled to these rights.

24 NEW SECTION. Sec. 312. UNFAIR LABOR PRACTICES ENUMERATED. (1) It
25 is an unfair labor practice for an employer to:

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

28 (b) Control, dominate, or interfere with an exclusive bargaining
29 representative;

30 (c) Discriminate against an employee who has filed an unfair labor
31 practice charge; or

32 (d) Refuse to engage in good faith collective bargaining.

33 (2) It is an unfair labor practice for an employee organization to:

34 (a) Interfere with, restrain, or coerce:

35 (i) Employees in the exercise of the rights guaranteed in this
36 chapter. However, this subsection (2)(a)(i) shall not impair the right
37 of an employee organization to prescribe its own rules with respect to

1 the acquisition or retention of membership in the employee
2 organization; or

3 (ii) An employer in the selection of its representatives for the
4 purposes of collective bargaining or the adjustment of grievances;

5 (b) Induce the employer to commit an unfair labor practice;

6 (c) Discriminate against an employee who has filed an unfair labor
7 practice charge; or

8 (d) Refuse to engage in good faith collective bargaining.

9 NEW SECTION. **Sec. 313.** UNFAIR LABOR PRACTICE PROCEDURES. (1)

10 The commission shall prevent any unfair labor practice and issue
11 appropriate remedial orders. A complaint shall not be processed for
12 any unfair labor practice occurring more than six months before the
13 filing of the complaint with the commission. The commission's
14 authority shall not be affected or impaired by any means of adjustment,
15 mediation, or conciliation in labor disputes that have been or may
16 hereafter be established by law.

17 (2) If a complaint is filed concerning any unfair labor practice,
18 the commission may issue and cause to be served a notice of hearing
19 before the commission at a place fixed in the complaint, to be held not
20 less than seven days after the serving of the complaint. Any such
21 complaint may be amended by the commission any time before the issuance
22 of an order based on the complaint. The person so complained of may
23 file an answer to the original or amended complaint and appear in
24 person or otherwise to give testimony at the place and time set in the
25 complaint. In the discretion of the commission, any other person may
26 be allowed to intervene in the proceedings and to present testimony.
27 In any such proceeding the commission shall not be bound by technical
28 rules of evidence prevailing in the courts of law or equity.

29 (3) For the purpose of all hearings and investigations, that, in
30 the opinion of the commission, are necessary and proper for the
31 exercise of the powers vested in it by this section, the commission
32 shall at all reasonable times have access to, for the purposes of
33 examination, and the right to examine, copy, or photograph any
34 evidence, including payrolls or lists of employees, of any person being
35 investigated or proceeded against that relates to any matter under
36 investigation or in question. The commission may issue subpoenas
37 requiring the attendance and testimony of witnesses and the production
38 of any evidence that relates to any matter under investigation or in

1 question before the commission. The commission, or any agent or agency
2 designated by the commission for such purposes, may administer oaths
3 and affirmations, examine witnesses, and receive evidence.

4 (4) The commission, or any party to the commission proceedings,
5 thirty days after the commission has entered its findings of fact, may
6 petition the superior court of Thurston county or the superior court
7 within the county where the unfair labor practice in question occurred
8 or where any person charged with the unfair labor practice resides or
9 transacts business, or if such court be on vacation or in recess, then
10 to the superior court of any county adjoining the county where the
11 unfair labor practice in question occurred or where any person charged
12 with the unfair labor practice resides or transacts business, for the
13 enforcement of the order and for appropriate temporary relief or
14 restraining order, and shall certify and file in the court a transcript
15 of the entire record in the proceeding, including the pleadings and
16 testimony upon which the order was made and the findings and order of
17 the commission. Upon filing the record, the court shall cause notice
18 of the record to be served upon such person, and thereupon shall have
19 jurisdiction of the proceeding and of the question determined in the
20 record, and may grant such temporary relief or restraining order as it
21 deems just and proper, and make and enter upon the pleadings,
22 testimony, and proceedings set forth in the transcript a decree
23 enforcing, modifying, and enforcing as so modified, or setting aside in
24 whole or in part the order of the commission.

25 NEW SECTION. **Sec. 314.** ENFORCEMENT OF COLLECTIVE BARGAINING
26 AGREEMENTS. (1) For the purposes of implementing arbitration under
27 grievance procedures required by section 304 of this act, the parties
28 to a collective bargaining agreement may agree on one or more permanent
29 umpires to serve as arbitrator, or may agree on any impartial person to
30 serve as arbitrator, or may agree to select arbitrators from any source
31 available to them, including federal and private agencies, in addition
32 to the staff and list of arbitrators maintained by the commission. If
33 the parties cannot agree to the selection of an arbitrator, the
34 commission shall supply a list of names in accordance with the
35 procedures established by the commission.

36 (2) An arbitrator may require any person to attend as a witness and
37 to bring with him or her any book, record, document, or other evidence.
38 The fees for such attendance shall be paid by the party requesting

1 issuance of the subpoena and shall be the same as the fees of witnesses
2 in the superior court. Arbitrators may administer oaths. Subpoenas
3 shall issue and be signed by the arbitrator and shall be served in the
4 same manner as subpoenas to testify before a court of record in this
5 state. If any person so summoned to testify refuses or neglects to
6 obey such subpoena, upon petition authorized by the arbitrator, the
7 superior court may compel the attendance of the person before the
8 arbitrator or punish the person for contempt in the same manner
9 provided for the attendance of witnesses or the punishment of them in
10 the courts of this state.

11 (3) The arbitrator shall appoint a time and place for the hearing
12 and notify the parties thereof, and may adjourn the hearing from time
13 to time as may be necessary, and, on application of either party and
14 for good cause, may postpone the hearing to a time not extending beyond
15 the date fixed by the collective bargaining agreement for making the
16 award. The arbitration award shall be in writing and signed by the
17 arbitrator. The arbitrator shall, promptly upon its rendition, serve
18 a true copy of the award on each of the parties or their attorneys.

19 (4) If a party to a collective bargaining agreement negotiated
20 under this chapter refuses to submit a grievance for arbitration, the
21 other party to the collective bargaining agreement may invoke the
22 jurisdiction of the superior court of Thurston county or of any county
23 in which the labor dispute exists and such court shall have
24 jurisdiction to issue an order compelling arbitration. Disputes
25 concerning compliance with grievance procedures shall be reserved for
26 determination by the arbitrator. Arbitration shall be ordered if the
27 grievance states a claim that on its face is covered by the collective
28 bargaining agreement. Doubts as to the coverage of the arbitration
29 clause shall be resolved in favor of arbitration.

30 (5) If a party to a collective bargaining agreement negotiated
31 under this chapter refuses to comply with the award of an arbitrator
32 determining a grievance arising under the collective bargaining
33 agreement, the other party to the collective bargaining agreement may
34 invoke the jurisdiction of the superior court of Thurston county or of
35 any county in which the labor dispute exists and such court shall have
36 jurisdiction to issue an order enforcing the arbitration award.

37 NEW SECTION. **Sec. 315.** OPTION BY INSTITUTIONS OF HIGHER
38 EDUCATION. At any time after July 1, 1993, an institution of higher

1 education and the exclusive bargaining representative of a bargaining
2 unit of employees classified under chapter 41.06 RCW may exercise their
3 option to have their relationship and corresponding obligations
4 governed entirely by the provisions of chapter 41.56 RCW, by filing
5 notice of the parties' intent to be so governed, subject to the mutual
6 adoption of a collective bargaining agreement recognizing the notice of
7 intent. The parties shall provide the notice to the Washington
8 personnel resources board and the public employment relations
9 commission. On the first day of the month following the month during
10 which the institution of higher education and the exclusive bargaining
11 representative provide notice to the board and the commission that they
12 have executed an initial collective bargaining agreement recognizing
13 the notice of intent, this chapter shall cease to apply to all
14 employees in the bargaining unit covered by the agreement.

15 NEW SECTION. **Sec. 316.** All powers, duties, and functions of the
16 department of personnel pertaining to collective bargaining are
17 transferred to the public employment relations commission except
18 mediation of grievances and contracts, arbitration of grievances and
19 contracts, and unfair labor practices, filed under a collective
20 bargaining agreement existing before the effective date of this
21 section. Any mediation, arbitration, or unfair labor practice issue
22 filed between July 1, 1998, and July 1, 1999, under a collective
23 bargaining agreement existing before the effective date of this
24 section, shall be resolved by the Washington personnel resources board
25 in accordance with the authorities, rules, and procedures that were
26 established under RCW 41.06.150(11) as it existed prior to the
27 effective date of this section.

28 NEW SECTION. **Sec. 317.** All reports, documents, surveys, books,
29 records, files, papers, or written material in the possession of the
30 department of personnel pertaining to the powers, functions, and duties
31 transferred in section 316 of this act shall be delivered to the
32 custody of the public employment relations commission. All cabinets,
33 furniture, office equipment, motor vehicles, and other tangible
34 property employed by the department of personnel in carrying out the
35 powers, functions, and duties transferred in section 316 of this act
36 shall be made available to the public employment relations commission.
37 All other assets held in connection with the powers, functions, and

1 duties transferred in section 316 of this act shall be assigned to the
2 public employment relations commission.

3 Any appropriations made to the department of personnel for carrying
4 out the powers, functions, and duties transferred in section 316 of
5 this act shall be deleted at the time that such powers, functions, and
6 duties are transferred to the public employment relations commission.
7 All funding required to perform these transferred powers, functions,
8 and duties is to be provided by the public employment relations
9 commission once the transfers occur.

10 Whenever any question arises as to the transfer of any personnel,
11 funds, books, documents, records, papers, files, equipment, or other
12 tangible property used or held in the exercise of the powers and the
13 performance of the duties and functions transferred, the director of
14 financial management shall make a determination as to the proper
15 allocation and certify the same to the state agencies concerned.

16 NEW SECTION. **Sec. 318.** After the effective date of this section,
17 the director of personnel and the director of the public employment
18 relations commission shall meet and agree upon a schedule for the
19 transfer of department of personnel labor relation employees and
20 property to the commission. Whenever a question arises as to the
21 transfer of any personnel, funds, books, documents, records, papers,
22 files, equipment, or other tangible property used or held in the
23 exercise of the powers and the performance of the duties and functions
24 transferred, the director of financial management shall make a
25 determination as to the proper allocation and certify the same to the
26 state agencies concerned.

27 NEW SECTION. **Sec. 319.** All business pending before the department
28 of personnel pertaining to the powers, functions, and duties
29 transferred in section 316 of this act shall be continued and acted
30 upon by the public employment relations commission. All existing
31 contracts and obligations of the department of personnel shall remain
32 in full force and shall be performed by the public employment relations
33 commission.

34 NEW SECTION. **Sec. 320.** The transfer of the powers, duties,
35 functions, and personnel of the department of personnel shall not

1 affect the validity of any act performed before the effective date of
2 this section.

3 NEW SECTION. **Sec. 321.** If apportionments of budgeted funds are
4 required because of the transfers directed by sections 317 through 320
5 of this act, the director of financial management shall certify the
6 apportionments to the agencies affected, the state auditor, and the
7 state treasurer. Each of these shall make the appropriate transfer and
8 adjustments in funds and appropriation accounts and equipment records
9 in accordance with the certification.

10 NEW SECTION. **Sec. 322.** DEFINITIONS. Unless the context clearly
11 requires otherwise, the definitions in this section apply throughout
12 this chapter.

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

15 (2) "Collective bargaining" means the performance of the mutual
16 obligation of the representatives of the employer and the exclusive
17 bargaining representative to meet at reasonable times and to bargain in
18 good faith in an effort to reach agreement with respect to the subjects
19 of bargaining specified under section 303 of this act. The obligation
20 to bargain does not compel either party to agree to a proposal or to
21 make a concession, except as otherwise provided in this chapter.

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

23 (4) "Confidential employee" means an employee who, in the regular
24 course of his or her duties, assists in a confidential capacity persons
25 who formulate, determine, and effectuate management policies with
26 regard to labor relations or who, in the regular course of his or her
27 duties, has authorized access to information relating to the
28 effectuation or review of the employer's collective bargaining
29 policies, or who assists or aids a manager.

30 (5) "Director" means the director of the public employment
31 relations commission.

32 (6) "Employee" means any employee, including employees whose work
33 has ceased in connection with the pursuit of lawful activities
34 protected by this chapter, covered by chapter 41.06 RCW, except:

35 (a) Employees covered for collective bargaining by chapter 41.56
36 RCW;

37 (b) Confidential employees;

1 (c) Members of the Washington management service;
2 (d) Internal auditors in any agency; or
3 (e) Any employee of the commission, the office of financial
4 management, the department of personnel, or the attorney general's
5 office.

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

9 (8) "Employer" means the state of Washington.

10 (9) "Exclusive bargaining representative" means any employee
11 organization that has been certified under this chapter as the
12 representative of the employees in an appropriate bargaining unit.

13 (10) "Institutions of higher education" means the University of
14 Washington, Washington State University, Central Washington University,
15 Eastern Washington University, Western Washington University, The
16 Evergreen State College, and the various state community colleges.

17 (11) "Labor dispute" means any controversy concerning terms,
18 tenure, or conditions of employment, or concerning the association or
19 representation of persons in negotiating, fixing, maintaining,
20 changing, or seeking to arrange terms or conditions of employment with
21 respect to the subjects of bargaining provided in this chapter,
22 regardless of whether the disputants stand in the proximate relation of
23 employer and employee.

24 (12) "Manager" means "manager" as defined in RCW 41.06.022.

25 (13) "Supervisor" means an employee who has authority, in the
26 interest of the employer, to hire, transfer, suspend, lay off, recall,
27 promote, discharge, direct, reward, or discipline employees, or to
28 adjust employee grievances, or effectively to recommend such action, if
29 the exercise of the authority is not of a merely routine nature but
30 requires the consistent exercise of individual judgment. However, no
31 employee who is a member of the Washington management service as
32 defined by the effect of RCW 41.06.022 may be included in a collective
33 bargaining unit established under this section.

34 (14) "Unfair labor practice" means any unfair labor practice listed
35 in section 312 of this act.

36 **PART IV**
37 **MISCELLANEOUS**

1 NEW SECTION. **Sec. 401.** The following acts or parts of acts are
2 each repealed:

3 (1) RCW 41.06.163 and 1993 c 281 s 30, 1987 c 185 s 9, 1986 c 158
4 s 6, 1979 c 151 s 59, & 1977 ex.s. c 152 s 3; and

5 (2) RCW 41.06.165 and 1977 ex.s. c 152 s 4.

6 NEW SECTION. **Sec. 402.** The following acts or parts of acts, as
7 now existing or hereafter amended, are each repealed:

8 (1) RCW 41.06.140 and 1961 c 1 s 14;

9 (2) RCW 41.50.804 and 1996 c ... s 227 (section 227 of this act),
10 1993 c 281 s 40, & 1975-'76 2nd ex.s. c 105 s 17;

11 (3) RCW 41.06.520 and 1993 c 281 s 11; and

12 (4) RCW 28B.16.015 and 1996 c ... s 232 (section 232 of this act)
13 & 1993 c 379 s 310.

14 NEW SECTION. **Sec. 403.** The following acts or parts of acts, as
15 now existing or hereafter amended, are each repealed:

16 (1) RCW 41.06.380 and 1979 ex.s. c 46 s 2; and

17 (2) RCW 41.06.382 and 1979 ex.s. c 46 s 1.

18 NEW SECTION. **Sec. 404.** The following acts or parts of acts, as
19 now existing or hereafter amended, are each repealed:

20 (1) RCW 41.64.010 and 1981 c 311 s 1;

21 (2) RCW 41.64.020 and 1981 c 311 s 3;

22 (3) RCW 41.64.030 and 1984 c 287 c 73, 1984 c 34 s 4, & 1981 c 311
23 s 4;

24 (4) RCW 41.64.040 and 1981 c 311 s 5;

25 (5) RCW 41.64.050 and 1981 c 311 s 6;

26 (6) RCW 41.64.060 and 1981 c 311 s 7;

27 (7) RCW 41.64.070 and 1981 c 311 s 8;

28 (8) RCW 41.64.080 and 1981 c 311 s 9;

29 (9) RCW 41.64.090 and 1993 c 281 s 41 & 1981 c 311 s 10;

30 (10) RCW 41.64.100 and 1981 c 311 s 11;

31 (11) RCW 41.64.110 and 1985 c 461 s 7 & 1981 c 311 s 12;

32 (12) RCW 41.64.120 and 1981 c 311 s 13;

33 (13) RCW 41.64.130 and 1981 c 311 s 14;

34 (14) RCW 41.64.140 and 1988 c 202 s 42 & 1981 c 311 s 15; and

35 (15) RCW 41.64.910 and 1981 c 311 s 24.

1 NEW SECTION. **Sec. 405.** SECTION CAPTIONS. Part and section
2 captions used in this act do not constitute part of the law.

3 NEW SECTION. **Sec. 406.** Sections 301 through 322 of this act shall
4 constitute a new chapter in Title 41 RCW.

5 NEW SECTION. **Sec. 407.** The governor shall take such action as is
6 necessary, including appointment of the members of the public
7 employment relations commission, to ensure that sections 301 through
8 314 of this act are implemented on their effective dates.

9 NEW SECTION. **Sec. 408.** Until July 1, 2000, the public employment
10 relations commission is authorized to contract with the department of
11 personnel for labor relations staffing necessary to carry out its
12 functions.

13 NEW SECTION. **Sec. 409.** If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected.

17 NEW SECTION. **Sec. 410.** (1) Section 233 of this act shall take
18 effect July 1, 1997.

19 (2) Sections 203, 204, 213 through 222, 226, 228 through 231, 301
20 through 321, and 402 of this act shall take effect July 1, 1998.

21 (3) Section 208 of this act shall take effect January 1, 1999.

22 (4) Section 223 of this act shall take effect March 15, 1999.

23 (5) Sections 403 and 235 through 239 of this act shall take effect
24 July 1, 1999.

25 (6) Sections 224, 225, 234, and 404 of this act shall take effect
26 July 1, 2000.

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