
ENGROSSED SENATE BILL 5841

State of Washington

54th Legislature

1995 Regular Session

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 02/08/95. Referred to Committee on Labor, Commerce & Trade.

1 AN ACT Relating to personnel; amending RCW 41.06.030, 41.06.150,
2 41.06.022, 41.06.070, 41.06.110, 41.06.160, 41.06.167, 41.06.170,
3 41.06.186, 41.06.196, 41.06.270, 41.06.350, 41.06.400, 41.06.410,
4 41.06.450, 41.06.475, 41.06.490, 28B.12.060, 34.05.030, 34.12.020,
5 41.04.340, 41.50.804, 43.06.425, 43.33A.100, 43.131.090, 49.46.010,
6 28B.16.015, 41.06.340, 13.40.320, 39.29.006, 41.04.385, and 47.46.030;
7 reenacting and amending RCW 41.06.150; adding new sections to chapter
8 41.06 RCW; adding a new chapter to Title 41 RCW; creating new sections;
9 repealing RCW 41.06.163, 41.06.165, 41.06.140, 41.50.804, 41.06.520,
10 28B.16.015, 41.06.380, 41.06.382, 41.64.010, 41.64.020, 41.64.030,
11 41.64.040, 41.64.050, 41.64.060, 41.64.070, 41.64.080, 41.64.090,
12 41.64.100, 41.64.110, 41.64.120, 41.64.130, 41.64.140, and 41.64.910;
13 and 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 1995.

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 1993 sp.s. c 24 s 913 and 1993 c 281
9 s 27 are each reenacted and 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, 1996, covering employees subject to
10 sections 316 through 321 of this act, that expires after July 1, 1996,
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 316 through 321 of this act, however an agreement entered into
14 before July 1, 1996, may not be renewed or extended beyond July 1,
15 1997. This subsection (11) does not apply to collective bargaining
16 negotiations or collective bargaining agreements entered into under
17 sections 316 through 321 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.
21 However, beginning July 1, 1993, through June 30, 1995, the board shall
22 not adopt job classification revisions or class studies unless
23 implementation of the proposed revision or study will result in net
24 cost savings, increased efficiencies, or improved management of
25 personnel or services, and the proposed revision or study has been
26 approved by the director of financial management in accordance with
27 chapter 43.88 RCW;

28 (~~(16)~~) (13) Allocation and reallocation of positions within the
29 classification plan;

30 (~~(17)~~) (14) Adoption and revision of a state salary schedule to
31 reflect the prevailing rates in Washington state private industries and
32 other governmental units but the rates in the salary schedules or plans
33 shall be increased if necessary to attain comparable worth under an
34 implementation plan under RCW 41.06.155 and that, for institutions of
35 higher education and related boards, shall be competitive for positions
36 of a similar nature in the state or the locality in which an
37 institution of higher education or related board is located, such
38 adoption and revision subject to approval by the director of financial
39 management in accordance with the provisions of chapter 43.88 RCW;

1 (~~(18)~~) (15) Increment increases within the series of steps for
2 each pay grade based on length of service for all employees whose
3 standards of performance are such as to permit them to retain job
4 status in the classified service. However, beginning July 1, 1993,
5 through June 30, 1995, increment increases shall not be provided to any
6 classified or exempt employees under the jurisdiction of the board
7 whose monthly salary on or after July 1, 1993, exceeds three thousand
8 seven hundred fifty dollars;

9 (~~(19)~~) (16) Providing for veteran's preference as required by
10 existing statutes, with recognition of preference in regard to layoffs
11 and subsequent reemployment for veterans and their surviving spouses by
12 giving such eligible veterans and their surviving spouses additional
13 credit in computing their seniority by adding to their unbroken state
14 service, as defined by the board, the veteran's service in the military
15 not to exceed five years. For the purposes of this section, "veteran"
16 means any person who has one or more years of active military service
17 in any branch of the armed forces of the United States or who has less
18 than one year's service and is discharged with a disability incurred in
19 the line of duty or is discharged at the convenience of the government
20 and who, upon termination of such service has received an honorable
21 discharge, a discharge for physical reasons with an honorable record,
22 or a release from active military service with evidence of service
23 other than that for which an undesirable, bad conduct, or dishonorable
24 discharge shall be given: PROVIDED, HOWEVER, That the surviving spouse
25 of a veteran is entitled to the benefits of this section regardless of
26 the veteran's length of active military service: PROVIDED FURTHER,
27 That for the purposes of this section "veteran" does not include any
28 person who has voluntarily retired with twenty or more years of active
29 military service and whose military retirement pay is in excess of five
30 hundred dollars per month;

31 (~~(20)~~) (17) Permitting agency heads to delegate the authority to
32 appoint, reduce, dismiss, suspend, or demote employees within their
33 agencies if such agency heads do not have specific statutory authority
34 to so delegate: PROVIDED, That the board may not authorize such
35 delegation to any position lower than the head of a major subdivision
36 of the agency;

37 (~~(21)~~) (18) Assuring persons who are or have been employed in
38 classified positions under chapter 28B.16 RCW before July 1, 1993, will

1 be eligible for employment, reemployment, transfer, and promotion in
2 respect to classified positions covered by this chapter;

3 ~~((22))~~ (19) Affirmative action in appointment, promotion,
4 transfer, recruitment, training, and career development; development
5 and implementation of affirmative action goals and timetables; and
6 monitoring of progress against those goals and timetables.

7 The board shall consult with the human rights commission in the
8 development of rules pertaining to affirmative action. The department
9 of personnel shall transmit a report annually to the human rights
10 commission which states the progress each state agency has made in
11 meeting affirmative action goals and timetables.

12 **Sec. 203.** RCW 41.06.150 and 1995 c ... s 202 (section 202 of this
13 act) are each amended to read as follows:

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

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

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

26 ~~((3))~~ (2) Examinations for all positions in the competitive and
27 noncompetitive service;

28 ~~((4))~~ (3) Appointments;

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

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

34 ~~(7) Transfers;~~

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

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

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

1 ~~(11)(a) Determination of appropriate bargaining units within any~~
2 ~~agency: PROVIDED, That in making such determination the board shall~~
3 ~~consider the duties, skills, and working conditions of the employees,~~
4 ~~the history of collective bargaining by the employees and their~~
5 ~~bargaining representatives, the extent of organization among the~~
6 ~~employees, and the desires of the employees;~~

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

36 ~~(c) Agreements between agencies and certified exclusive bargaining~~
37 ~~representatives providing for grievance procedures and collective~~
38 ~~negotiations on all personnel matters over which the appointing~~

1 authority of the appropriate bargaining unit of such agency may
2 lawfully exercise discretion;

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

10 (e) ~~A collective bargaining agreement entered into under this~~
11 ~~subsection before July 1, 1996, covering employees subject to sections~~
12 ~~319 through 324 of this act, that expires after July 1, 1996, shall~~
13 ~~remain in full force during its duration, or until superseded by a~~
14 ~~collective bargaining agreement entered into by the parties under~~
15 ~~sections 319 through 324 of this act, however an agreement entered into~~
16 ~~before July 1, 1996, may not be renewed or extended beyond July 1,~~
17 ~~1997. This subsection (11) does not apply to collective bargaining~~
18 ~~negotiations or collective bargaining agreements entered into under~~
19 ~~sections 319 through 324 of this act;~~

20 ~~((12)))~~ (4) Adoption and revision of a comprehensive classification
21 plan, in accordance with rules adopted by the board under section 204
22 of this act, for all positions in the classified service, based on
23 investigation and analysis of the duties and responsibilities of each
24 such position and allocation and reallocation of positions within the
25 classification plan. However, beginning July 1, 1993, through June 30,
26 1995, the ~~((board))~~ director shall not adopt job classification
27 revisions or class studies unless implementation of the proposed
28 revision or study will result in net cost savings, increased
29 efficiencies, or improved management of personnel or services, and the
30 proposed revision or study has been approved by the director of
31 financial management in accordance with chapter 43.88 RCW;

32 ~~((13))~~ ~~Allocation and reallocation of positions within the~~
33 ~~classification plan;~~

34 (14) ~~Adoption and revision of a state salary schedule to reflect~~
35 ~~the prevailing rates in Washington state private industries and other~~
36 ~~governmental units but the rates in the salary schedules or plans shall~~
37 ~~be increased if necessary to attain comparable worth under an~~
38 ~~implementation plan under RCW 41.06.155 and that, for institutions of~~
39 ~~higher education and related boards, shall be competitive for positions~~

1 of a similar nature in the state or the locality in which an
2 institution of higher education or related board is located, such
3 adoption and revision subject to approval by the director of financial
4 management in accordance with the provisions of chapter 43.88 RCW;

5 (15) Increment increases within the series of steps for each pay
6 grade based on length of service for all employees whose standards of
7 performance are such as to permit them to retain job status in the
8 classified service. However, beginning July 1, 1993, through June 30,
9 1995, increment increases shall not be provided to any classified or
10 exempt employees under the jurisdiction of the board whose monthly
11 salary on or after July 1, 1993, exceeds three thousand seven hundred
12 fifty dollars;

13 (16) Providing for veteran's preference as required by existing
14 statutes, with recognition of preference in regard to layoffs and
15 subsequent reemployment for veterans and their surviving spouses by
16 giving such eligible veterans and their surviving spouses additional
17 credit in computing their seniority by adding to their unbroken state
18 service, as defined by the board, the veteran's service in the military
19 not to exceed five years. For the purposes of this section, "veteran"
20 means any person who has one or more years of active military service
21 in any branch of the armed forces of the United States or who has less
22 than one year's service and is discharged with a disability incurred in
23 the line of duty or is discharged at the convenience of the government
24 and who, upon termination of such service has received an honorable
25 discharge, a discharge for physical reasons with an honorable record,
26 or a release from active military service with evidence of service
27 other than that for which an undesirable, bad conduct, or dishonorable
28 discharge shall be given: PROVIDED, HOWEVER, That the surviving spouse
29 of a veteran is entitled to the benefits of this section regardless of
30 the veteran's length of active military service: PROVIDED FURTHER,
31 That for the purposes of this section "veteran" does not include any
32 person who has voluntarily retired with twenty or more years of active
33 military service and whose military retirement pay is in excess of five
34 hundred dollars per month;

35 (17))) (5) Permitting agency heads to delegate the authority to
36 appoint, reduce, dismiss, suspend, or demote employees within their
37 agencies if such agency heads do not have specific statutory authority
38 to so delegate: PROVIDED, That the board may not authorize such

1 delegation to any position lower than the head of a major subdivision
2 of the agency;

3 ~~((18))~~ (6) Assuring persons who are or have been employed in
4 classified positions under chapter 28B.16 RCW before July 1, 1993, will
5 be eligible for employment, reemployment, transfer, and promotion in
6 respect to classified positions covered by this chapter;

7 ~~((19))~~ (7) Affirmative action in appointment, promotion,
8 transfer, recruitment, training, and career development; development
9 and implementation of affirmative action goals and timetables; and
10 monitoring of progress against those goals and timetables.

11 The ~~((board))~~ director shall consult with the human rights
12 commission in the development of rules pertaining to affirmative
13 action. The department of personnel shall transmit a report annually
14 to the human rights commission which states the progress each state
15 agency has made in meeting affirmative action goals and timetables.

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

20 Except for institutions of higher education, rules adopted pursuant
21 to this section and its provisions may not be superseded by the
22 provisions of collective bargaining agreements negotiated pursuant to
23 sections 316 through 321 of this act.

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

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

29 (1) The reduction, dismissal, suspension, or demotion of an
30 employee;

31 (2) Training and career development;

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

36 (4) Transfers;

37 (5) Promotional preferences;

38 (6) Sick leaves and vacations;

1 (7) Hours of work;

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

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

5 (10) Adoption and revision of a state salary schedule to reflect
6 the prevailing rates in Washington state private industries and other
7 governmental units. The rates in the salary schedules or plans shall
8 be increased if necessary to attain comparable worth under an
9 implementation plan under RCW 41.06.155 and, for institutions of higher
10 education and related boards, shall be competitive for positions of a
11 similar nature in the state or the locality in which an institution of
12 higher education or related board is located. Such adoption and
13 revision is subject to approval by the director of financial management
14 in accordance with chapter 43.88 RCW;

15 (11) Increment increases within the series of steps for each pay
16 grade based on length of service for all employees whose standards of
17 performance are such as to permit them to retain job status in the
18 classified service. However, beginning July 1, 1993, through June 30,
19 1995, increment increases shall not be provided to any classified or
20 exempt employees under the jurisdiction of the director whose monthly
21 salary on or after July 1, 1993, exceeds three thousand seven hundred
22 fifty dollars;

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

1 the veteran's length of active military service. For the purposes of
2 this section, "veteran" does not include any person who has voluntarily
3 retired with twenty or more years of active military service and whose
4 military retirement pay is in excess of five hundred dollars per month.

5 Rules adopted under this section by the director shall provide for
6 local administration and management by the institutions of higher
7 education and related boards, subject to periodic audit and review by
8 the director.

9 Rules adopted by the director under this section may be superseded
10 by the provisions of a collective bargaining agreement negotiated
11 pursuant to sections 316 through 321 of this act. The supersession of
12 such rules shall only effect employees in the respective collective
13 bargaining units.

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

16 (1) The board shall conduct a comprehensive review of all rules in
17 effect on the effective date of this section governing the
18 classification, allocation, and reallocation of positions within the
19 classified service. In conducting this review, the board shall consult
20 with state agencies, institutions of higher education, employee
21 organizations, and members of the general public. The department shall
22 assist the board in the conduct of this review, which shall be
23 completed by the board no later than July 1, 1996.

24 (2) By September 15, 1996, the board shall adopt new rules
25 governing the classification, allocation, and reallocation of positions
26 in the classified service. In adopting such rules, the board shall
27 adhere to the following goals:

28 (a) To improve the effectiveness and efficiency of the delivery of
29 services to the citizens of the state through the use of current
30 personnel management processes and to promote a workplace where the
31 overall focus is on the recipient of governmental services;

32 (b) To develop a simplified classification system that will
33 substantially reduce the number of job classifications in the
34 classified service and facilitate the most effective use of the state
35 personnel resources;

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

- 1 (d) To value workplace diversity;
- 2 (e) To facilitate the reorganization and decentralization of
3 governmental services; and
- 4 (f) To enhance mobility and career advancement opportunities.
- 5 (3) Rules adopted by the board under subsection (2) of this section
6 shall permit an appointing authority and an employee organization
7 representing classified employees of the appointing authority for
8 collective bargaining purposes to make a joint request for the
9 initiation of a classification study.

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

12 In accordance with rules adopted by the board under section 205 of
13 this act, the director shall, by March 15, 1997, begin to implement a
14 new classification system for positions in the classified service. Any
15 employee who believes that the director has incorrectly applied the
16 rules of the board in determining a job classification for a job held
17 by that employee may appeal the director's decision to the board by
18 filing a notice in writing within thirty days of the action from which
19 the appeal is taken. Decisions of the board concerning such appeals
20 are final.

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

- 23 For purposes of this chapter, "manager" means any employee who:
- 24 (1) Formulates state-wide policy or directs the work of an agency
25 or agency subdivision;
- 26 (2) Is responsible to administer one or more state-wide policies or
27 programs of an agency or agency subdivision;
- 28 (3) Manages, administers, and controls a local branch office of an
29 agency or agency subdivision, including the physical, financial, or
30 personnel resources;
- 31 (4) Has substantial responsibility in personnel administration,
32 legislative relations, public information, or the preparation and
33 administration of budgets; or
- 34 (5) Functionally is above the first level of supervision and
35 exercises authority that is not merely routine or clerical in nature
36 and requires the consistent use of independent judgment.

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

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

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

12 (2) Any provision contrary to or in conflict with this section in
13 any collective bargaining agreement in effect on the effective date of
14 this section is not effective beyond the expiration date of the
15 agreement.

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

19 (4) Any department, agency, or institution of higher education that
20 intends to purchase services under this act shall notify any exclusive
21 bargaining representative who represents any employee whose employment
22 status will be directly affected by such a contract. The exclusive
23 bargaining representative shall have the right to offer alternatives to
24 the proposed contract and such alternatives shall be considered by the
25 department, agency, or institution of higher education in making the
26 final decision to contract out services.

27 **Sec. 209.** RCW 41.06.070 and 1994 c 264 s 13 are each amended to
28 read as follows:

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

30 (a) The members of the legislature or to any employee of, or
31 position in, the legislative branch of the state government including
32 members, officers, and employees of the legislative council,
33 legislative budget committee, statute law committee, and any interim
34 committee of the legislature;

35 (b) The justices of the supreme court, judges of the court of
36 appeals, judges of the superior courts or of the inferior courts, or to

1 any employee of, or position in the judicial branch of state
2 government;

3 (c) Officers, academic personnel, and employees of technical
4 colleges;

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

6 (e) Elective officers of the state;

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

8 (g) In the departments of employment security and social and health
9 services, the director and the director's confidential secretary; in
10 all other departments, the executive head of which is an individual
11 appointed by the governor, the director, his or her confidential
12 secretary, and his or her statutory assistant directors;

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

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

17 (ii) If the members of the board, commission, or committee serve on
18 a part-time basis and there is a statutory executive officer: The
19 secretary of the board, commission, or committee; the chief executive
20 officer of the board, commission, or committee; and the confidential
21 secretary of the chief executive officer of the board, commission, or
22 committee;

23 (iii) If the members of the board, commission, or committee serve
24 on a full-time basis: The chief executive officer or administrative
25 officer as designated by the board, commission, or committee; and a
26 confidential secretary to the chair of the board, commission, or
27 committee;

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

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

33 (j) Assistant attorneys general;

34 (k) Commissioned and enlisted personnel in the military service of
35 the state;

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

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

3 (n) Officers and employees of the Washington state fruit
4 commission;

5 (o) Officers and employees of the Washington state apple
6 advertising commission;

7 (p) Officers and employees of the Washington state dairy products
8 commission;

9 (q) Officers and employees of the Washington tree fruit research
10 commission;

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

12 (s) Officers and employees of any commission formed under chapter
13 15.66 RCW;

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

16 (u) Officers and employees of agricultural commissions formed under
17 chapter 15.65 RCW;

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

20 (w) Liquor vendors appointed by the Washington state liquor control
21 board pursuant to RCW 66.08.050: PROVIDED, HOWEVER, That rules adopted
22 by the ((Washington personnel resources board)) director of personnel
23 pursuant to RCW 41.06.150 regarding the basis for, and procedures to be
24 followed for, the dismissal, suspension, or demotion of an employee,
25 and appeals therefrom shall be fully applicable to liquor vendors
26 except those part time agency vendors employed by the liquor control
27 board when, in addition to the sale of liquor for the state, they sell
28 goods, wares, merchandise, or services as a self-sustaining private
29 retail business;

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

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

1 (z) All employees of the marine employees' commission;

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

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

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

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

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

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

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

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

37 Any person holding a classified position subject to the provisions
38 of this chapter shall, when and if such position is subsequently
39 exempted from the application of this chapter, be afforded the

1 following rights: If such person previously held permanent status in
2 another classified position, such person shall have a right of
3 reversion to the highest class of position previously held, or to a
4 position of similar nature and salary.

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

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

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

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

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

35 (3) At its first meeting following the appointment of all of its
36 members, and annually thereafter, the board shall elect a chair and
37 vice-chair from among its members to serve one year. The presence of
38 at least two members of the board shall constitute a quorum to transact

1 business. A written public record shall be kept by the board of all
2 actions of the board. The director of personnel shall serve as
3 secretary.

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

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

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

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

35 (1) A total dollar figure which reflects the recommended increase
36 or decrease in state salaries as a direct result of the specific salary
37 and fringe benefit survey that has been conducted and which is
38 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, 1998, and to the
27 Washington personnel resources board after June 30, 1998. 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, 1998, and to the Washington personnel resources board after
38 June 30, 1998.

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 March 14, 1997, and to the
5 Washington personnel resources board after March 14, 1997. Notice of
6 such appeal must be filed in writing within thirty days of the action
7 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 316 through 321 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 1994 c 257 s 22 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 ((~~planning~~)) management hearings boards, the pollution control
19 hearings board, the shorelines hearings board, the forest practices
20 appeals board, the environmental hearings office, the board of
21 industrial insurance appeals, the Washington personnel resources board,
22 the public employment relations commission, ((~~the personnel appeals~~
23 ~~board,~~)) and the board of tax appeals.

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

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

36 (2) In January of the year following any year in which a minimum of
37 sixty days of sick leave is accrued, and each January thereafter, any

1 eligible employee may receive remuneration for unused sick leave
2 accumulated in the previous year at a rate equal to one day's monetary
3 compensation of the employee for each four full days of accrued sick
4 leave in excess of sixty days. Sick leave for which compensation has
5 been received shall be deducted from accrued sick leave at the rate of
6 four days for every one day's monetary compensation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 The state investment board shall maintain appropriate offices and
29 employ such personnel as may be necessary to perform its duties.
30 Employment by the investment board shall include but not be limited to
31 an executive director, investment officers, and a confidential
32 secretary, which positions are exempt from classified service under
33 chapter 41.06 RCW. Employment of the executive director by the board
34 shall be for a term of three years, and such employment shall be
35 subject to confirmation of the state finance committee: PROVIDED, That
36 nothing shall prevent the board from dismissing the director for cause
37 before the expiration of the term nor shall anything prohibit the

1 board, with the confirmation of the state finance committee, from
2 employing the same individual as director in succeeding terms.
3 Compensation levels for the investment officers employed by the
4 investment board shall be established by the (~~Washington personnel~~
5 ~~resources board~~) director of personnel.

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

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

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

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

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

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

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

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

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

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

15 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

26 (f) Any newspaper vendor or carrier;

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

29 (h) Any individual engaged in forest protection and fire prevention
30 activities;

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

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

1 (k) Any resident, inmate, or patient of a state, county, or
2 municipal correctional, detention, treatment or rehabilitative
3 institution;

4 (l) Any individual who holds a public elective or appointive office
5 of the state, any county, city, town, municipal corporation or quasi
6 municipal corporation, political subdivision, or any instrumentality
7 thereof, or any employee of the state legislature;

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

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

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

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

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

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

1 (1) With respect to collective bargaining as authorized by this
2 chapter, the state employment relations commission created by chapter
3 41.58 RCW shall have authority to adopt rules, on and after the
4 effective date of this section, relating to:

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

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

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

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

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

18 (2) A collective bargaining agreement entered into under this
19 subsection before July 1, 1996, covering employees subject to sections
20 316 through 321 of this act that expires after July 1, 1996, shall
21 remain in full force during its duration, or until superseded by a
22 collective bargaining agreement entered into by the parties under
23 sections 316 through 321 of this act, however an agreement entered into
24 before July 1, 1996, may not be renewed or extended beyond July 1,
25 1997, or until superseded by a collective bargaining agreement entered
26 into under sections 301 through 321 of this act, whichever is later.

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

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

35 (2)(a) All reports, documents, surveys, books, records, files,
36 papers, or written material in the possession of the personnel appeals
37 board shall be delivered to the custody of the Washington personnel
38 resources board. All cabinets, furniture, office equipment, motor

1 vehicles, and other tangible property employed by the personnel appeals
2 board shall be made available to the department of personnel. All
3 funds, credits, or other assets held by the personnel appeals board
4 shall be assigned to the department of personnel.

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

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

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

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

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

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

35 **Sec. 235.** RCW 13.40.320 and 1994 sp.s. c 7 s 532 are each amended
36 to read as follows:

37 (1) The department of social and health services shall establish
38 and operate a medium security juvenile offender basic training camp

1 program. The department shall site a juvenile offender basic training
2 camp facility in the most cost-effective facility possible and shall
3 review the possibility of using an existing abandoned and/or available
4 state, federally, or military-owned site or facility.

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

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

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

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

32 (5) Offenders eligible for the juvenile offender basic training
33 camp option shall be those with a disposition of at least fifty-two
34 weeks but not more than seventy-eight weeks. Violent and sex offenders
35 shall not be eligible for the juvenile offender basic training camp
36 program.

37 (6) If the court determines that the offender is eligible for the
38 juvenile offender basic training camp option, the court may recommend
39 that the department place the offender in the program. The department

1 shall evaluate the offender and may place the offender in the program.
2 No juvenile who suffers from any mental or physical problems that could
3 endanger his or her health or drastically affect his or her performance
4 in the program shall be admitted to or retained in the juvenile
5 offender basic training camp program.

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

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

32 (9) The department shall also develop and maintain a data base to
33 measure recidivism rates specific to this incarceration program. The
34 data base shall maintain data on all juvenile offenders who complete
35 the juvenile offender basic training camp program for a period of two
36 years after they have completed the program. The data base shall also
37 maintain data on the criminal activity, educational progress, and
38 employment activities of all juvenile offenders who participated in the
39 program. The department shall produce an outcome evaluation report on

1 the progress of the juvenile offender basic training camp program to
2 the appropriate committees of the legislature no later than December
3 12, 1996.

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

6 As used in this chapter:

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

11 (2) "Client services" means services provided directly to agency
12 clients including, but not limited to, medical and dental services,
13 employment and training programs, residential care, and subsidized
14 housing.

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

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

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

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

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

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

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

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

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

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

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

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

26 The legislature finds that (1) demographic, economic, and social
27 trends underlie a critical and increasing demand for child care in the
28 state of Washington; (2) working parents and their children benefit
29 when the employees' child care needs have been resolved; (3) the state
30 of Washington should serve as a model employer by creating a supportive
31 atmosphere, to the extent feasible, in which its employees may meet
32 their child care needs; and (4) the state of Washington should
33 encourage the development of partnerships between state agencies, state
34 employees, state employee labor organizations, and private employers to
35 expand the availability of affordable quality child care. The
36 legislature finds further that resolving employee child care concerns
37 not only benefits the employees and their children, but may benefit the
38 employer by reducing absenteeism, increasing employee productivity,

1 improving morale, and enhancing the employer's position in recruiting
2 and retaining employees. Therefore, the legislature declares that it
3 is the policy of the state of Washington to assist state employees by
4 creating a supportive atmosphere in which they may meet their child
5 care needs. Policies and procedures for state agencies to address
6 employee child care needs will be the responsibility of the director of
7 personnel in consultation with the child care coordinating committee,
8 as provided in RCW 74.13.090 (~~and state employee representatives as~~
9 ~~provided under RCW 41.06.140~~)).

10 **Sec. 238.** RCW 47.46.030 and 1993 c 370 s 3 are each amended to
11 read as follows:

12 The secretary or a designee shall solicit proposals from, and
13 negotiate and enter into agreements with, private entities to undertake
14 as appropriate, together with the department and other public entities,
15 all or a portion of the study, planning, design, construction,
16 operation, and maintenance of transportation systems and facilities,
17 using in whole or in part private sources of financing.

18 The public-private initiative program may develop up to six
19 demonstration projects. Each proposal shall be weighed on its own
20 merits, and each of the six agreements shall be negotiated
21 individually, and as a stand-alone project. The commission shall
22 approve each of the selected projects.

23 Proposals and demonstration projects may be selected by the public
24 and private sectors at their discretion. All projects designed,
25 constructed, and operated under this authority must comply with all
26 applicable rules and statutes in existence at the time the agreement is
27 executed, including but not limited to the following provisions:
28 Chapter 39.12 RCW, this title, (~~RCW 41.06.380~~) section 208 of this
29 act, chapter 47.64 RCW, RCW 49.60.180, and 49 C.F.R. Part 21.

30 The secretary or a designee shall consult with legal, financial,
31 and other experts within and outside state government in the
32 negotiation and development of the agreements.

33 **PART III**

34 **COLLECTIVE BARGAINING REFORM**

35 NEW SECTION. **Sec. 301.** APPLICATION OF CHAPTER. (1) Collective
36 bargaining negotiations under this chapter shall commence no later than

1 October 1, 1996, for collective bargaining agreements that are to
2 become effective no earlier than July 1, 1997. For subsequent
3 agreements, negotiations may commence and contracts become effective as
4 the parties agree subject to legislative ratification as outlined in
5 this chapter.

6 (2) Any collective bargaining agreement entered into before July 1,
7 1995, covering employees affected by sections 316 through 321 of this
8 act, that expires after July 1, 1996, shall, unless a superseding
9 agreement complying with sections 316 through 321 of this act is
10 negotiated by the parties, remain in full force during its duration,
11 but the agreement may not be renewed or extended beyond July 1, 1997,
12 or until superseded by a collective bargaining agreement entered into
13 under sections 301 through 321 of this act, whichever is later.

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

19 (2)(a) If an exclusive bargaining representative represents more
20 than one bargaining unit, the exclusive bargaining representative shall
21 negotiate one master collective bargaining agreement on behalf of all
22 the employees in bargaining units that the exclusive bargaining
23 representative represents. For those exclusive bargaining
24 representatives who represent fewer than a total of five hundred
25 employees each, negotiation shall be by a coalition of exclusive
26 bargaining representatives that together represent at least five
27 hundred employees and that include at least one exclusive bargaining
28 representative that individually represents fewer than five hundred
29 employees. The coalition shall bargain for a master collective
30 bargaining agreement covering all of the employees represented by the
31 coalition. The governor's designee and the exclusive bargaining
32 representative or representatives are authorized to enter into
33 supplemental bargaining of agency-specific issues for inclusion in or
34 as an addendum to the master collective bargaining agreement, subject
35 to the parties' agreement regarding the issues and procedures for
36 supplemental bargaining. This section does not prohibit cooperation
37 and coordination of bargaining between two or more exclusive bargaining
38 representatives.

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

4 (c) If five hundred or more employees of an independent state
5 elected official listed in RCW 43.01.010 are organized in a bargaining
6 unit or bargaining units under section 308 of this act, the official
7 shall be consulted by the governor or the governor's designee before
8 any agreement is reached under (a) of this subsection concerning
9 supplemental bargaining of agency specific issues affecting the
10 employees in such bargaining unit.

11 (3) The governor shall submit a request for funds necessary to
12 implement the compensation and fringe benefit provisions in the master
13 collective bargaining agreement or for legislation necessary to
14 implement the agreement within ten days of the date on which the
15 exclusive bargaining representative or representatives ratify the
16 agreement or, if the legislature is not in session, within ten days
17 after the legislature next convenes. Requests for funds necessary to
18 implement the provisions of bargaining agreements negotiated by
19 institutions of higher education according to subsection (4) of this
20 section shall not be submitted to the legislature by the governor
21 unless such requests:

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

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

26 The legislature shall approve or reject the submission of the
27 request for funds as a whole. If the legislature rejects or fails to
28 act on the submission, either party may reopen all or part of the
29 agreement or the exclusive bargaining representative may seek to
30 implement the procedures provided for in section 309 of this act.

31 (4) For the purpose of negotiating agreements for institutions of
32 higher education, the employer shall be the respective governing board
33 of each of the universities, colleges, or community colleges or a
34 designee chosen by the board to negotiate on its behalf. A governing
35 board may elect to have its negotiations conducted by the governor or
36 governor's designee under the procedures provided for general
37 government agencies in subsections (1), (2), and (3) of this section.
38 Prior to entering into negotiations under this chapter, the
39 institutions of higher education or their designees shall consult with

1 the director of the office of financial management regarding financial
2 and budgetary issues that are likely to arise in the impending
3 negotiations. If appropriations are necessary to implement the
4 compensation and fringe benefit provisions of the bargaining agreements
5 reached between institutions of higher education and exclusive
6 bargaining representatives agreed to under the provisions of this
7 chapter, the governor shall submit a request for such funds to the
8 legislature according to the provisions of subsection (3) of this
9 section.

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

15 (6) After the expiration date of a collective bargaining agreement
16 negotiated under this chapter, all of the terms and conditions
17 specified in the collective bargaining agreement remain in effect until
18 the effective date of a subsequently negotiated agreement, not to
19 exceed one year from the expiration date stated in the agreement.
20 Thereafter, the employer may unilaterally implement according to law.

21 NEW SECTION. **Sec. 303.** SCOPE OF BARGAINING. (1) Except as
22 otherwise provided in this chapter, the matters subject to bargaining
23 include wages, hours, and other terms and conditions of employment, and
24 the negotiation of any question arising under a collective bargaining
25 agreement.

26 (2) The employer is not required to bargain over matters pertaining
27 to:

28 (a) Inherent managerial policy as established in section 305 of
29 this act;

30 (b) Any retirement system or retirement benefit;

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

33 (d) Rules of the director of personnel or the Washington personnel
34 resources board adopted under section 204 of this act.

35 (3) Matters subject to bargaining include the number of names to be
36 certified for vacancies, promotional preferences, and the dollar amount
37 expended on behalf of each employee for health care benefits. However,
38 except as provided otherwise in this subsection for institutions of

1 higher education, negotiations regarding the number of names to be
2 certified for vacancies, promotional preferences, and the dollar amount
3 expended on behalf of each employee for health care benefits shall be
4 conducted between the employer and one coalition of all the exclusive
5 bargaining representatives subject to this chapter and any provision
6 agreed to by the employer and the coalition shall be included in all
7 master collective bargaining agreements negotiated by the parties. For
8 institutions of higher education, promotional preferences and the
9 number of names to be certified for vacancies shall be bargained under
10 the provisions of section 302(4) of this act.

11 (4) The employer and the exclusive bargaining representative shall
12 not agree to any proposal that would prevent the implementation of
13 approved affirmative action plans or that would be inconsistent with
14 the comparable worth agreement that provided the basis for the salary
15 changes implemented beginning with the 1983-1985 biennium to achieve
16 comparable worth.

17 (5) Except as otherwise provided in this chapter, if a conflict
18 exists between an executive order, administrative rule, or agency
19 policy relating to wages, hours, and terms and conditions of employment
20 and a collective bargaining agreement negotiated under this chapter,
21 the collective bargaining agreement shall prevail. A provision of a
22 collective bargaining agreement that conflicts with the terms of a
23 statute is invalid and unenforceable.

24 NEW SECTION. **Sec. 304.** CONTENTS OF COLLECTIVE BARGAINING
25 AGREEMENTS. (1) The parties to a collective bargaining agreement shall
26 reduce the agreement to writing and both shall execute it.

27 (2) A collective bargaining agreement shall contain provisions
28 that:

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

34 (b) Require processing of disciplinary actions or terminations of
35 employment of employees covered by the collective bargaining agreement
36 entirely under the procedures of the collective bargaining agreement.
37 Any employee, when fully reinstated, shall be guaranteed all employee
38 rights and benefits, including back pay, sick leave, vacation accrual,

1 and retirement and federal old age, survivors, and disability insurance
2 act credits, but without back pay for any period of suspension.

3 (3)(a) If a collective bargaining agreement between an employer
4 and an exclusive bargaining representative is concluded after the
5 termination date of the previous collective bargaining agreement
6 between the employer and an employee organization representing the same
7 bargaining units, the effective date of the collective bargaining
8 agreement may be the day after the termination of the previous
9 collective bargaining agreement, and all benefits included in the new
10 collective bargaining agreement, including wage or salary increases,
11 may accrue beginning with that effective date.

12 (b) If a collective bargaining agreement between an employer and an
13 exclusive bargaining representative is concluded after the termination
14 date of the previous collective bargaining agreement between the
15 employer and the exclusive bargaining representative representing
16 different bargaining units, the effective date of the collective
17 bargaining agreement may be the day after the termination date of
18 whichever previous collective bargaining agreement covering one or more
19 of the units terminated first, and all benefits included in the new
20 collective bargaining agreement, including wage or salary increases,
21 may accrue beginning with that effective date.

22 NEW SECTION. **Sec. 305.** MANAGEMENT RIGHTS. The employer shall not
23 be required to bargain over rights of management which, in addition to
24 all powers, duties, and rights established by constitutional provision
25 or statute, shall include but not be limited to the following:

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

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

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

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

33 NEW SECTION. **Sec. 306.** RIGHTS OF EMPLOYEES. Except as may be
34 specifically limited by this chapter, employees shall have the right to
35 self-organization, to form, join, or assist employee organizations, and
36 to bargain collectively through representatives of their own choosing
37 for the purpose of collective bargaining free from interference,

1 restraint, or coercion, and shall also have the right to refrain from
2 any or all such activities except to the extent that employees may be
3 required to pay a fee to an exclusive bargaining representative under
4 a union security provision authorized by this chapter.

5 NEW SECTION. **Sec. 307.** RIGHT TO STRIKE NOT GRANTED. Nothing
6 contained in chapter ..., Laws of 1995, (this act) permits or grants to
7 any employee the right to strike or refuse to perform his or her
8 official duties.

9 NEW SECTION. **Sec. 308.** BARGAINING UNITS. (1) A bargaining unit
10 of employees covered by this chapter existing on the effective date of
11 this section shall be considered an appropriate unit, unless the unit
12 does not meet the requirements of (a) and (b) of this subsection. The
13 commission, after hearing upon reasonable notice to all interested
14 parties, shall decide in each application for certification as an
15 exclusive bargaining representative, the unit appropriate for
16 certification. In determining the new units or modifications of
17 existing units, the commission shall consider: The duties, skills, and
18 working conditions of the employees; the history of collective
19 bargaining; the extent of organization among the employees; the desires
20 of the employees; and the avoidance of excessive fragmentation.
21 However, a unit is not appropriate if it includes:

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

26 (b) More than one institution of higher education. For the
27 purposes of this section, any branch or regional campus of an
28 institution of higher education is part of that institution of higher
29 education.

30 (2) The exclusive bargaining representatives certified to represent
31 the bargaining units existing on the effective date of this section
32 shall continue as the exclusive bargaining representative without the
33 necessity of an election.

34 (3) If a single employee organization is the exclusive bargaining
35 representative for two or more units, upon petition by the employee
36 organization, the units may be consolidated into a single larger unit
37 if the commission considers the larger unit to be appropriate. If

1 consolidation is appropriate, the commission shall certify the employee
2 organization as the exclusive bargaining representative of the new
3 unit.

4 NEW SECTION. **Sec. 309.** REPRESENTATION. (1) The commission shall
5 determine all questions pertaining to representation and shall
6 administer all elections and be responsible for the processing and
7 adjudication of all disputes that arise as a consequence of elections.
8 The commission shall adopt rules that provide for at least the
9 following:

- 10 (a) Secret balloting;
- 11 (b) Consulting with employee organizations;
- 12 (c) Access to lists of employees, job classification, work
13 locations, and home mailing addresses;
- 14 (d) Absentee voting;
- 15 (e) Procedures for the greatest possible participation in voting;
- 16 (f) Campaigning on the employer's property during working hours;
- 17 and
- 18 (g) Election observers.

19 (2)(a) If an employee organization has been certified as the
20 exclusive bargaining representative of the employees of a bargaining
21 unit, the employee organization may act for and negotiate master
22 collective bargaining agreements that will include within the coverage
23 of the agreement all employees in the bargaining unit as provided in
24 section 302(2)(a) of this act. However, if a master collective
25 bargaining agreement is in effect for the exclusive bargaining
26 representative, it shall apply to the bargaining unit for which the
27 certification has been issued. Nothing in this section requires the
28 parties to engage in new negotiations during the term of that
29 agreement.

30 (b) This subsection (2) does not apply to exclusive bargaining
31 representatives who represent employees of institutions of higher
32 education.

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

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

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

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

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

11 If a collective bargaining agreement previously negotiated under
12 this chapter should expire while negotiations are underway, the terms
13 and conditions specified in the collective bargaining agreement shall
14 remain in effect for a period not to exceed one year from the
15 expiration date stated in the agreement. Thereafter, the employer may
16 unilaterally implement according to law.

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

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

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

33 Nothing in this section shall be construed to prohibit an employer
34 and an exclusive bargaining representative from agreeing to substitute,
35 at their own expense, their own procedure for resolving impasses in
36 collective bargaining for that provided in this section or from
37 agreeing to utilize for the purposes of this section any other
38 governmental or other agency or person in lieu of the commission.

1 Costs for mediator services shall be borne by the commission, and
2 costs for fact-finding shall be borne equally by the negotiating
3 parties.

4 NEW SECTION. **Sec. 311.** UNION SECURITY. (1) A collective
5 bargaining agreement may contain a union security provision requiring
6 as a condition of employment the payment, no later than the thirtieth
7 day following the beginning of employment or the effective date of this
8 section, whichever is later, of an agency shop fee to the employee
9 organization that is the exclusive bargaining representative for the
10 bargaining unit in which the employee is employed. The amount of the
11 fee shall be equal to the amount required to become a member in good
12 standing of the employee organization. Each employee organization
13 shall establish a procedure by which any employee so requesting may pay
14 a representation fee no greater than the part of the membership fee
15 that represents a pro rata share of expenditures for purposes germane
16 to the collective bargaining process, to contract administration, or to
17 pursuing matters affecting wages, hours, and other conditions of
18 employment.

19 (2) An employee who is covered by a union security provision and
20 who asserts a right of nonassociation based on bona fide religious
21 tenets or teachings of a church or religious body of which the employee
22 is a member shall, as a condition of employment, make payments to the
23 employee organization, for purposes within the program of the employee
24 organization as designated by the employee that would be in harmony
25 with his or her individual conscience. The amount of the payments
26 shall be equal to the periodic dues and fees uniformly required as a
27 condition of acquiring or retaining membership in the employee
28 organization minus any included monthly premiums for insurance programs
29 sponsored by the employee organization. The employee shall not be a
30 member of the employee organization but is entitled to all the
31 representation rights of a member of the employee organization.

32 (3) Upon filing with the employer the written authorization of a
33 bargaining unit employee under this chapter, the employee organization
34 that is the exclusive bargaining representative of the bargaining unit
35 shall have the exclusive right to have deducted from the salary of the
36 employee an amount equal to the fees and dues uniformly required as a
37 condition of acquiring or retaining membership in the employee
38 organization. The fees and dues shall be deducted each pay period from

1 the pay of all employees who have given authorization for the deduction
2 and shall be transmitted by the employer as provided for by agreement
3 between the employer and the employee organization.

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

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

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

11 (b) Control, dominate, or interfere with an exclusive bargaining
12 representative;

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

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

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

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

18 (i) Employees in the exercise of the rights guaranteed in this
19 chapter. However, this subsection (2)(a)(i) shall not impair the right
20 of an employee organization to prescribe its own rules with respect to
21 the acquisition or retention of membership in the employee
22 organization; or

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

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

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

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

29 NEW SECTION. Sec. 313. UNFAIR LABOR PRACTICE PROCEDURES. (1)
30 The commission shall prevent any unfair labor practice and issue
31 appropriate remedial orders. A complaint shall not be processed for
32 any unfair labor practice occurring more than six months before the
33 filing of the complaint with the commission. The commission's
34 authority shall not be affected or impaired by any means of adjustment,
35 mediation, or conciliation in labor disputes that have been or may
36 hereafter be established by law.

1 (2) If a complaint is filed concerning any unfair labor practice,
2 the commission may issue and cause to be served a notice of hearing
3 before the commission at a place fixed in the complaint, to be held not
4 less than seven days after the serving of the complaint. Any such
5 complaint may be amended by the commission any time before the issuance
6 of an order based on the complaint. The person so complained of may
7 file an answer to the original or amended complaint and appear in
8 person or otherwise to give testimony at the place and time set in the
9 complaint. In the discretion of the commission, any other person may
10 be allowed to intervene in the proceedings and to present testimony.
11 In any such proceeding the commission shall not be bound by technical
12 rules of evidence prevailing in the courts of law or equity.

13 (3) For the purpose of all hearings and investigations, that, in
14 the opinion of the commission, are necessary and proper for the
15 exercise of the powers vested in it by this section, the commission
16 shall at all reasonable times have access to, for the purposes of
17 examination, and the right to examine, copy, or photograph any
18 evidence, including payrolls or lists of employees, of any person being
19 investigated or proceeded against that relates to any matter under
20 investigation or in question. The commission may issue subpoenas
21 requiring the attendance and testimony of witnesses and the production
22 of any evidence that relates to any matter under investigation or in
23 question before the commission. The commission, or any agent or agency
24 designated by the commission for such purposes, may administer oaths
25 and affirmations, examine witnesses, and receive evidence.

26 (4) The commission, or any party to the commission proceedings,
27 thirty days after the commission has entered its findings of fact, may
28 petition the superior court of Thurston county or the superior court
29 within the county where the unfair labor practice in question occurred
30 or where any person charged with the unfair labor practice resides or
31 transacts business, or if such court be on vacation or in recess, then
32 to the superior court of any county adjoining the county where the
33 unfair labor practice in question occurred or where any person charged
34 with the unfair labor practice resides or transacts business, for the
35 enforcement of the order and for appropriate temporary relief or
36 restraining order, and shall certify and file in the court a transcript
37 of the entire record in the proceeding, including the pleadings and
38 testimony upon which the order was made and the findings and order of
39 the commission. Upon filing the record, the court shall cause notice

1 of the record to be served upon such person, and thereupon shall have
2 jurisdiction of the proceeding and of the question determined in the
3 record, and may grant such temporary relief or restraining order as it
4 deems just and proper, and make and enter upon the pleadings,
5 testimony, and proceedings set forth in the transcript a decree
6 enforcing, modifying, and enforcing as so modified, or setting aside in
7 whole or in part the order of the commission.

8 NEW SECTION. **Sec. 314.** ENFORCEMENT OF COLLECTIVE BARGAINING
9 AGREEMENTS. (1) For the purposes of implementing arbitration under
10 grievance procedures required by section 304 of this act, the parties
11 to a collective bargaining agreement may agree on one or more permanent
12 umpires to serve as arbitrator, or may agree on any impartial person to
13 serve as arbitrator, or may agree to select arbitrators from any source
14 available to them, including federal and private agencies, in addition
15 to the staff and list of arbitrators maintained by the commission. If
16 the parties cannot agree to the selection of an arbitrator, the
17 commission shall supply a list of names in accordance with the
18 procedures established by the commission.

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

32 (3) The arbitrator shall appoint a time and place for the hearing
33 and notify the parties thereof, and may adjourn the hearing from time
34 to time as may be necessary, and, on application of either party and
35 for good cause, may postpone the hearing to a time not extending beyond
36 the date fixed by the collective bargaining agreement for making the
37 award. The arbitration award shall be in writing and signed by the

1 arbitrator. The arbitrator shall, promptly upon its rendition, serve
2 a true copy of the award on each of the parties or their attorneys.

3 (4) If a party to a collective bargaining agreement negotiated
4 under this chapter refuses to submit a grievance for arbitration, the
5 other party to the collective bargaining agreement may invoke the
6 jurisdiction of the superior court of Thurston county or of any county
7 in which the labor dispute exists and such court shall have
8 jurisdiction to issue an order compelling arbitration. Disputes
9 concerning compliance with grievance procedures shall be reserved for
10 determination by the arbitrator. Arbitration shall be ordered if the
11 grievance states a claim that on its face is covered by the collective
12 bargaining agreement. Doubts as to the coverage of the arbitration
13 clause shall be resolved in favor of arbitration.

14 (5) If a party to a collective bargaining agreement negotiated
15 under this chapter refuses to comply with the award of an arbitrator
16 determining a grievance arising under the collective bargaining
17 agreement, the other party to the collective bargaining agreement may
18 invoke the jurisdiction of the superior court of Thurston county or of
19 any county in which the labor dispute exists and such court shall have
20 jurisdiction to issue an order enforcing the arbitration award.

21 NEW SECTION. **Sec. 315.** OPTION BY INSTITUTIONS OF HIGHER
22 EDUCATION. At any time after July 1, 1993, an institution of higher
23 education and the exclusive bargaining representative of a bargaining
24 unit of employees classified under chapter 41.06 RCW may exercise their
25 option to have their relationship and corresponding obligations
26 governed entirely by the provisions of chapter 41.56 RCW, by filing
27 notice of the parties' intent to be so governed, subject to the mutual
28 adoption of a collective bargaining agreement recognizing the notice of
29 intent. The parties shall provide the notice to the Washington
30 personnel resources board, the state employment relations commission,
31 and the public employment relations commission. On the first day of
32 the month following the month during which the institution of higher
33 education and the exclusive bargaining representative provide notice to
34 the board and the commissions that they have executed an initial
35 collective bargaining agreement recognizing the notice of intent, this
36 chapter shall cease to apply to all employees in the bargaining unit
37 covered by the agreement, and all labor relations functions of the

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

3 NEW SECTION. **Sec. 316.** All powers, duties, and functions of the
4 department of personnel pertaining to collective bargaining are
5 transferred to the state employment relations commission except
6 mediation of grievances and contracts, arbitration of grievances and
7 contracts, and unfair labor practices, filed under a collective
8 bargaining agreement existing before the effective date of this
9 section. Any mediation, arbitration, or unfair labor practice issue
10 filed between July 1, 1996, and July 1, 1997, under a collective
11 bargaining agreement existing before the effective date of this
12 section, shall be resolved by the director of the department of
13 personnel in accordance with the authorities, rules, and procedures
14 that were established under RCW 41.06.150(11) as it existed prior to
15 the effective date of this section.

16 NEW SECTION. **Sec. 317.** All reports, documents, surveys, books,
17 records, files, papers, or written material in the possession of the
18 department of personnel pertaining to the powers, functions, and duties
19 transferred in section 316 of this act shall be delivered to the
20 custody of the state employment relations commission. All cabinets,
21 furniture, office equipment, motor vehicles, and other tangible
22 property employed by the department of personnel in carrying out the
23 powers, functions, and duties transferred in section 316 of this act
24 shall be made available to the state employment relations commission.
25 All funds, credits, or other assets held in connection with the powers,
26 functions, and duties transferred in section 316 of this act shall be
27 assigned to the state employment relations commission.

28 Any appropriations made to the department of personnel for carrying
29 out the powers, functions, and duties transferred in section 316 of
30 this act shall, on the effective date of this section, be transferred
31 and credited to the state employment relations commission.

32 Whenever any question arises as to the transfer of any personnel,
33 funds, books, documents, records, papers, files, equipment, or other
34 tangible property used or held in the exercise of the powers and the
35 performance of the duties and functions transferred, the director of
36 financial management shall make a determination as to the proper
37 allocation and certify the same to the state agencies concerned.

1 NEW SECTION. **Sec. 318.** After the effective date of this section,
2 the director of personnel and the director of the state employment
3 relations commission shall meet and agree upon a schedule for the
4 transfer of department of personnel labor relation employees and
5 property to the commission. Whenever a question arises as to the
6 transfer of any personnel, funds, books, documents, records, papers,
7 files, equipment, or other tangible property used or held in the
8 exercise of the powers and the performance of the duties and functions
9 transferred, the director of financial management shall make a
10 determination as to the proper allocation and certify the same to the
11 state agencies concerned.

12 NEW SECTION. **Sec. 319.** All business pending before the department
13 of personnel pertaining to the powers, functions, and duties
14 transferred in section 316 of this act shall be continued and acted
15 upon by the state employment relations commission. All existing
16 contracts and obligations of the department of personnel shall remain
17 in full force and shall be performed by the state employment relations
18 commission.

19 NEW SECTION. **Sec. 320.** The transfer of the powers, duties,
20 functions, and personnel of the department of personnel shall not
21 affect the validity of any act performed before the effective date of
22 this section.

23 NEW SECTION. **Sec. 321.** If apportionments of budgeted funds are
24 required because of the transfers directed by sections 317 through 320
25 of this act, the director of financial management shall certify the
26 apportionments to the agencies affected, the state auditor, and the
27 state treasurer. Each of these shall make the appropriate transfer and
28 adjustments in funds and appropriation accounts and equipment records
29 in accordance with the certification.

30 NEW SECTION. **Sec. 322.** DEFINITIONS. Unless the context clearly
31 requires otherwise, the definitions in this section apply throughout
32 this chapter.

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

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

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

9 (4) "Confidential employee" means an employee who, in the regular
10 course of his or her duties, assists in a confidential capacity persons
11 who formulate, determine, and effectuate management policies with
12 regard to labor relations or who, in the regular course of his or her
13 duties, has authorized access to information relating to the
14 effectuation or review of the employer's collective bargaining
15 policies, or who assists or aids a manager.

16 (5) "Director" means the director of the state employment relations
17 commission.

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

21 (a) Employees covered for collective bargaining by chapter 41.56
22 RCW;

23 (b) Confidential employees;

24 (c) Members of the Washington management service;

25 (d) Internal auditors in any agency; or

26 (e) Any employee of the commission, the office of financial
27 management, the department of personnel, or the attorney general's
28 office.

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

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

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

36 (10) "Institutions of higher education" means the University of
37 Washington, Washington State University, Central Washington University,
38 Eastern Washington University, Western Washington University, The
39 Evergreen State College, and the various state community colleges.

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

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

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

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

20 **PART IV**
21 **MISCELLANEOUS**

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

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

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

27 NEW SECTION. **Sec. 402.** The following acts or parts of acts are
28 each repealed:

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

30 (2) RCW 41.50.804 and 1993 c 281 s 40 & 1975-'76 2nd ex.s. c 105 s
31 17;

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

33 (4) RCW 28B.16.015 and 1993 c 379 s 310.

34 NEW SECTION. **Sec. 403.** The following acts or parts of acts are
35 each repealed:

- 1 (1) RCW 41.06.380 and 1979 ex.s. c 46 s 2; and
2 (2) RCW 41.06.382 and 1979 ex.s. c 46 s 1.

3 NEW SECTION. **Sec. 404.** The following acts or parts of acts are
4 each repealed:

- 5 (1) RCW 41.64.010 and 1981 c 311 s 1;
6 (2) RCW 41.64.020 and 1981 c 311 s 3;
7 (3) RCW 41.64.030 and 1984 c 287 c 73, 1984 c 34 s 4, & 1981 c 311
8 s 4;
9 (4) RCW 41.64.040 and 1981 c 311 s 5;
10 (5) RCW 41.64.050 and 1981 c 311 s 6;
11 (6) RCW 41.64.060 and 1981 c 311 s 7;
12 (7) RCW 41.64.070 and 1981 c 311 s 8;
13 (8) RCW 41.64.080 and 1981 c 311 s 9;
14 (9) RCW 41.64.090 and 1993 c 281 s 41 & 1981 c 311 s 10;
15 (10) RCW 41.64.100 and 1981 c 311 s 11;
16 (11) RCW 41.64.110 and 1985 c 461 s 7 & 1981 c 311 s 12;
17 (12) RCW 41.64.120 and 1981 c 311 s 13;
18 (13) RCW 41.64.130 and 1981 c 311 s 14;
19 (14) RCW 41.64.140 and 1988 c 202 s 42 & 1981 c 311 s 15; and
20 (15) RCW 41.64.910 and 1981 c 311 s 24.

21 NEW SECTION. **Sec. 405.** SECTION CAPTIONS. Part and section
22 captions used in this act constitute no part of the law.

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

25 NEW SECTION. **Sec. 407.** The governor shall take such action as is
26 necessary, including appointment of the members of the state employment
27 relations commission, to ensure that sections 301 through 322 of this
28 act are implemented on their effective dates.

29 NEW SECTION. **Sec. 408.** Until July 1, 1998, the state employment
30 relations commission is authorized to contract with the department of
31 personnel for labor relations staffing necessary to carry out its
32 functions.

1 NEW SECTION. **Sec. 409.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 410.** (1) Sections 203, 204, 213, 214 through
6 222, 226, 228 through 231, 237, 301 through 315, and 402 of this act
7 shall take effect July 1, 1996.

8 (2) Section 208 of this act shall take effect January 1, 1997.

9 (3) Section 223 of this act shall take effect March 15, 1997.

10 (4) Sections 403, 235, 236, and 238 of this act shall take effect
11 July 1, 1997.

12 (5) Sections 224, 225, 234 through 239, and 404 of this act shall
13 take effect July 1, 1998.

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