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HOUSE BILL 1745

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State of Washington

53rd Legislature

1993 Regular Session

By Representatives Heavey, Tate, R. Meyers, R. Johnson, Riley, L. Johnson, Orr, Kessler, Miller, Locke, Roland, Cothorn, Conway, H. Myers, Rayburn, Dellwo, Sheldon, Karahalios, Basich, Anderson, Ogden, Long, Appelwick, Wang, Eide, Wolfe, Quall, Ludwig, Wood, Forner, Vance, J. Kohl, Hansen, Thibaudeau, Wineberry, Brown, Holm, Pruitt, Jones, Romero, R. Fisher, Campbell, King, Kremen, Springer, G. Fisher, Johanson, Morris and Patterson

Read first time 02/08/93. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to employment relations for state employees;  
2 amending RCW 34.05.030, 41.06.070, 41.06.110, 41.06.150, 41.06.170,  
3 4.24.490, 28B.10.824, 28B.10.650, 28B.12.060, 28B.15.558, 28B.50.060,  
4 28B.80.350, 28B.80.430, 34.12.020, 41.04.340, 41.04.670, 41.06.079,  
5 41.06.155, 41.06.160, 41.06.163, 41.48.140, 41.60.015, 42.17.2401,  
6 41.60.160, 42.40.020, 43.06.410, 43.06.425, 43.23.010, 43.88.280,  
7 43.105.052, 49.46.010, 49.74.020, 49.74.030, 49.74.040, 50.13.060,  
8 51.32.300, and 70.24.300; reenacting and amending RCW 41.06.020; adding  
9 new sections to chapter 41.06 RCW; adding a new section to chapter  
10 41.04 RCW; adding a new section to chapter 41.05 RCW; adding a new  
11 chapter to Title 41 RCW; creating new sections; repealing RCW  
12 28B.16.010, 28B.16.020, 28B.16.030, 28B.16.040, 28B.16.041, 28B.16.042,  
13 28B.16.043, 28B.16.060, 28B.16.070, 28B.16.080, 28B.16.090, 28B.16.100,  
14 28B.16.101, 28B.16.105, 28B.16.110, 28B.16.112, 28B.16.113, 28B.16.116,  
15 28B.16.120, 28B.16.130, 28B.16.140, 28B.16.150, 28B.16.160, 28B.16.170,  
16 28B.16.180, 28B.16.190, 28B.16.200, 28B.16.210, 28B.16.220, 28B.16.230,  
17 28B.16.240, 28B.16.255, 28B.16.265, 28B.16.275, 28B.16.300, 28B.16.900,  
18 28B.16.910, 28B.16.920, 28B.16.930, 41.64.010, 41.64.020, 41.64.030,  
19 41.64.040, 41.64.050, 41.64.060, 41.64.070, 41.64.080, 41.64.090,  
20 41.64.100, 41.64.110, 41.64.120, 41.64.130, 41.64.140, 41.64.900,

1 41.64.910, 41.06.230, 41.06.310, and 41.06.340; and providing effective  
2 dates.

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

4 NEW SECTION. **Sec. 1.** POLICY STATEMENT. It is the purpose of this  
5 chapter to promote orderly and constructive relationships between the  
6 state of Washington and its employees, and to assure the effective and  
7 orderly operations of state government.

8 Such a public policy is best effectuated by recognizing the  
9 principles of collective bargaining, and by granting state employees  
10 the right to organize for the purpose of negotiating wages, hours, and  
11 other terms and conditions of employment.

12 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly  
13 requires otherwise, the definitions in this section apply throughout  
14 this chapter.

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

17 (2) "Arbitration" means the procedure whereby parties involved in  
18 an impasse submit their differences to a third party for a final and  
19 binding determination.

20 (3) "Collective bargaining" means the performance of the mutual  
21 obligation of the representatives of the employer and the exclusive  
22 bargaining representative to meet at reasonable times and to bargain in  
23 good faith in an effort to reach agreement with respect to the subjects  
24 of bargaining specified under section 9 of this act.

25 (4) "Commission" means the state employees' relations commission.

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

33 (6) "Director" means the director of the state employees' relations  
34 commission.

35 (7) "Employee" means any employee, including employees whose work  
36 has ceased in connection with the pursuit of lawful activities

1 protected by this chapter, covered by chapter 41.06 RCW, except  
2 confidential employees.

3 (8) "Employee organization" means any organization, union, or  
4 association which exists for the purpose, in whole or in part, of  
5 dealing with public employers concerning grievances, labor disputes,  
6 wages, hours, and other terms and conditions of employment.

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

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

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

16 (12) "Supervisor" means any employee whose principal work is  
17 substantially different from that of his or her subordinates and who  
18 has authority, in the interest of the employer, to hire, transfer,  
19 suspend, lay off, recall, promote, discharge, direct, reward, or  
20 discipline employees, or to adjust employee grievances, or to  
21 effectively recommend such an action, if the exercise of the authority  
22 is not of a merely routine or clerical nature but requires the  
23 consistent use of independent judgment. "Supervisor" includes only  
24 those individuals who devote a preponderance of their employment time  
25 to exercising that type of authority.

26 (13) "Unfair labor practice" means any unfair labor practice listed  
27 in section 18 of this act.

28 NEW SECTION. **Sec. 3.** STATE EMPLOYEES' RELATIONS COMMISSION. (1)  
29 There is created the state employees' relations commission to  
30 administer the provisions of this chapter. The commission shall  
31 consist of three members who shall be appointed by the governor,  
32 subject to confirmation by the senate. One of the original members  
33 shall be appointed for a term of two years, one for a term of three  
34 years, and one for a term of four years. Their successors shall be  
35 appointed for terms of four years each, except that any person chosen  
36 to fill a vacancy shall be appointed only for the unexpired term of the  
37 member whom he or she succeeds. Commission members shall be eligible  
38 for reappointment. Persons so appointed shall not hold any other

1 employment with the state, shall not have been an officer of a  
2 political party for a period of one year immediately prior to the  
3 appointment, and shall not be or become a candidate for partisan  
4 elective public office during the term to which they are appointed.  
5 Any member of the commission may be removed by the governor, upon  
6 notice and hearing, for neglect of duty or malfeasance in office, but  
7 for no other cause. Commission members shall not be eligible for state  
8 retirement under chapter 41.40 RCW by virtue of their service on the  
9 commission.

10 (2) In making member appointments initially, and subsequently  
11 thereafter, the governor shall appoint persons knowledgeable in the  
12 area of labor and employment relations. One member shall be a  
13 representative of management, one member shall be a representative of  
14 labor, and one member shall be a representative of the public.

15 (3) A vacancy in the commission shall not impair the right of the  
16 remaining members to exercise all of the powers of the commission, and  
17 two members of the commission shall, at all times, constitute a quorum  
18 of the commission.

19 (4) At its first meeting following the appointment of all of its  
20 members, and annually thereafter, the commission shall elect a chair  
21 and vice-chair from among its members to serve one year.

22 NEW SECTION. Sec. 4. COMMISSION COMPENSATION. (1) Each member of  
23 the commission shall be compensated in accordance with RCW 43.03.250.  
24 Members of the commission shall also be reimbursed for travel expenses  
25 incurred in the discharge of their official duties on the same basis as  
26 is provided in RCW 43.03.050 and 43.03.060.

27 (2) The payment of all of the expenses of the commission, including  
28 travel expenses incurred by the members or employees of the commission  
29 under its orders, is subject to the provisions of RCW 43.03.050 and  
30 43.03.060.

31 NEW SECTION. Sec. 5. COMMISSION DUTIES. (1) It shall be the duty  
32 of the commission, in order to prevent or minimize interruptions  
33 growing out of labor disputes, to assist employers and employees to  
34 settle such disputes through mediation.

35 (2) The commission shall appoint a director whose annual salary  
36 shall be determined under the provisions of RCW 43.03.028. The  
37 director shall perform such duties and have such powers as the

1 commission shall prescribe in order to implement and enforce the  
2 provisions of this chapter. In addition to the performance of  
3 administrative duties, the commission may delegate to the director  
4 authority with respect to, but not limited to, representation  
5 proceedings, unfair labor practice proceedings, mediation of labor  
6 disputes, arbitration of disputes concerning the interpretation or  
7 application of a collective bargaining agreement, and arbitration of  
8 disputes concerning the terms of a collective bargaining agreement.  
9 Such delegation shall not eliminate a party's right of appeal to the  
10 commission. The director, with such assistance as may be provided by  
11 the attorney general and such additional legal assistance consistent  
12 with chapter 43.10 RCW, shall have authority on behalf of the  
13 commission, when necessary to carry out or enforce any action or  
14 decision of the commission, to petition any court of competent  
15 jurisdiction for an order requiring compliance with the action or  
16 decision.

17 (3) The commission shall employ such employees as it may from time  
18 to time find necessary for the proper performance of its duties,  
19 consistent with the provisions of this chapter.

20 (4) The commission, through the director, may provide its services  
21 in any state employee labor dispute upon the request of one or more of  
22 the parties to the dispute.

23 NEW SECTION. **Sec. 6.** COMMISSION AUTHORITY. (1) The commission  
24 shall have authority to adopt rules as necessary to carry out the  
25 provisions of this chapter, consistent with the best standards of labor  
26 management relations.

27 (2) The commission shall adopt rules providing for employee  
28 participation in the development and administration of this chapter.  
29 To assure this right, the commission shall act on rules or rule changes  
30 only after the commission has given thirty days notice to, and  
31 considered proposals from, employee representatives and affected  
32 agencies. Complete and current compilations of all rules of the  
33 commission in printed form shall be available to the public free of  
34 charge.

35 NEW SECTION. **Sec. 7.** RIGHTS OF EMPLOYEES. (1) Employees shall  
36 have the right to self-organization, to form, join, or assist employee  
37 organizations, to bargain collectively through representatives of their

1 own choosing, and to engage in other lawful concerted activities for  
2 the purpose of collective bargaining or other mutual aid or protection,  
3 free from interference, restraint, or coercion, and shall also have the  
4 right to refrain from any or all such activities except to the extent  
5 that employees may be required to pay a fee to an exclusive bargaining  
6 representative under a union security provision authorized by this  
7 chapter.

8 (2) In the furtherance of the rights under subsection (1) of this  
9 section, the employer shall authorize leave without pay for employees  
10 in a bargaining unit upon the request of an employee organization.  
11 Upon certification of an employee organization as exclusive  
12 representative for a bargaining unit, the employee organization has  
13 exclusive right to make the request.

14 NEW SECTION. **Sec. 8.** MANAGEMENT RIGHTS. Nothing in this chapter  
15 shall interfere with the right of the employer to carry out its  
16 statutory mandate. The employer shall not be required to bargain over  
17 matters of inherent managerial policy, which shall include such areas  
18 of discretion or policy as the functions of the employer, its overall  
19 budget, and selection of new employees and direction of employees.  
20 Employers, however, shall be required to bargain on policy matters  
21 affecting wages, hours, insurances, and terms and conditions of  
22 employment as well as the impact thereon upon request by exclusive  
23 bargaining representatives.

24 NEW SECTION. **Sec. 9.** SCOPE OF BARGAINING. (1) Except as  
25 otherwise provided in this section, the subjects of bargaining shall  
26 include wages, hours, insurances, and other terms and conditions of  
27 employment, and the negotiation of any question arising under a  
28 collective bargaining agreement.

29 (2) The scope of bargaining shall not include matters pertaining  
30 to:

31 (a) Recruitment of employment candidates and conduct and grading of  
32 examinations; and

33 (b) Retirement benefits.

34 (3) The employer and the exclusive bargaining representative shall  
35 not agree to any proposal that would be inconsistent with the principle  
36 of comparable worth embodied in RCW 41.06.155.

1 (4) In case of any conflict between the provisions of this chapter  
2 and any other law, executive order, administrative rule, or agency  
3 policy relating to wages, hours, and conditions of employment or  
4 personnel relations, the provisions of this chapter or any collective  
5 bargaining agreement negotiated under this chapter shall prevail.

6 NEW SECTION. **Sec. 10.** CONTENTS OF COLLECTIVE BARGAINING  
7 AGREEMENTS. (1) The parties to a collective bargaining agreement shall  
8 reduce the agreement to writing and both shall execute it.

9 (2) A collective bargaining agreement shall contain provisions  
10 that:

11 (a) Provide for a grievance procedure which shall culminate with  
12 final and binding arbitration of unresolved grievances regarding  
13 interpretations or applications of the collective bargaining agreement,  
14 personnel policies, personnel system rules, and that is valid and  
15 enforceable under its terms when entered into in accordance with this  
16 chapter. The cost of the arbitration must be borne equally by the  
17 employer and the employee organization;

18 (b) Require layoffs and subsequent reemployment to be implemented  
19 according to seniority;

20 (c) Require processing of disciplinary actions or terminations of  
21 employment entirely under the procedures of the collective bargaining  
22 agreement if an employee covered under this chapter has a right to  
23 contest the disciplinary action or termination of employment. Any  
24 employee, when reinstated, shall be guaranteed all employee rights and  
25 benefits, including back pay, sick leave, vacation accrual, retirement,  
26 and federal old age, survivors and disability insurance act credits.

27 (3) Whenever a collective bargaining agreement between an employer  
28 and an exclusive bargaining representative is concluded after the  
29 termination date of the previous collective bargaining agreement  
30 between the employer and an employee organization representing the same  
31 or a substantially similar bargaining unit, the effective date of the  
32 collective bargaining agreement shall be the day after the termination  
33 of the previous collective bargaining agreement, and all benefits  
34 included in the new collective bargaining agreement, including wage or  
35 salary increases, may accrue beginning with such effective date.

36 NEW SECTION. **Sec. 11.** ENFORCEMENT OF COLLECTIVE BARGAINING  
37 AGREEMENTS. (1) Every collective bargaining agreement negotiated

1 pursuant to the provisions of this chapter shall contain provisions for  
2 the final and binding arbitration of grievances.

3 (2) The parties to a collective bargaining agreement may agree on  
4 one or more permanent umpires to serve as arbitrator, or may agree on  
5 any impartial person to serve as arbitrator, or may agree to select  
6 arbitrators from any source available to them, including federal and  
7 private agencies, in addition to the staff and list of arbitrators  
8 maintained by the commission. If the parties cannot agree to the  
9 selection of an arbitrator, the commission shall supply a list of names  
10 in accordance with the procedures established by the commission.

11 (3) An arbitrator may require any person to attend as a witness and  
12 to bring with him or her any book, record, document, or other evidence.  
13 The fees for such attendance shall be paid by the party requesting  
14 issuance of the subpoena and shall be the same as the fees of witnesses  
15 in the superior court. Arbitrators shall have the power to administer  
16 oaths. Subpoenas shall issue and be signed by the arbitrator or the  
17 director and shall be served in the same manner as subpoenas to testify  
18 before a court of record in this state. If any person so summoned to  
19 testify shall refuse or neglect to obey such subpoena, upon petition  
20 authorized by the arbitrator or director, the superior court may compel  
21 the attendance of such person before the arbitrator or punish said  
22 person for contempt in the same manner provided for the attendance of  
23 witnesses or the punishment of them in the courts of this state.

24 (4) The arbitrator shall appoint a time and place for the hearing  
25 and notify the parties thereof, and may adjourn the hearing from time  
26 to time as may be necessary, and, on application of either party and  
27 for good cause, may postpone the hearing to a time not extending beyond  
28 the date fixed by the collective bargaining agreement for making the  
29 award. The arbitration award shall be in writing and signed by the  
30 arbitrator. The arbitrator shall, promptly upon its rendition, serve  
31 a true copy of the award on each of the parties or their attorneys.

32 (5) If a party to a collective bargaining agreement negotiated  
33 pursuant to the provisions of this chapter refuses to submit a  
34 grievance for arbitration, the other party to the collective bargaining  
35 agreement may invoke the jurisdiction of the superior court of Thurston  
36 county or of any county in which the labor dispute exists and such  
37 court shall have jurisdiction to issue an order compelling arbitration.  
38 Disputes concerning compliance with grievance procedures shall be  
39 reserved for determination by the arbitrator. Arbitration shall be



1 ordered if the grievance states a claim which on its face is covered by  
2 the collective bargaining agreement, and doubts as to the coverage of  
3 the arbitration clause shall be resolved in favor of arbitration.

4 (6) If a party to a collective bargaining agreement negotiated  
5 pursuant to the provisions of this chapter refuses to comply with the  
6 award of an arbitrator determining a grievance arising under such  
7 collective bargaining agreement, the other party to the collective  
8 bargaining agreement may invoke the jurisdiction of the superior court  
9 of Thurston county or of any county in which the labor dispute exists  
10 and such court shall have jurisdiction to issue an order enforcing the  
11 arbitration award.

12 NEW SECTION. **Sec. 12.** REPRESENTATION. (1) The commission shall  
13 certify an employee organization as the exclusive bargaining  
14 representative of the employees of a bargaining unit established under  
15 section 13 of this act when the organization shows proof that it  
16 represents a majority of the employees at the close of the last  
17 preceding payroll period and such proof is not contested by the  
18 employer, the commission, or another employee organization. Prior to  
19 certification, the commission shall give ten calendar days' notice that  
20 an employee representative has petitioned to be named the exclusive  
21 bargaining representative of a bargaining unit. The notice shall  
22 inform all other interested parties that an election may be requested  
23 as provided in this section and that the proof of representation may be  
24 contested. If proof of representation is not satisfactory to the  
25 commission, the commission may require an election to be held.

26 (2) The commission shall conduct a secret vote for selection of an  
27 exclusive bargaining representative of the employees of a bargaining  
28 unit upon request from an employee organization showing satisfactory  
29 proof of at least thirty percent representation within the unit at the  
30 close of the last preceding payroll period. Upon granting a request  
31 for an election, the commission shall give notice of the election and  
32 allow ten calendar days for other employee organizations desiring their  
33 names placed on the ballot to show satisfactory proof of at least ten  
34 percent representation within the unit at the close of the last  
35 preceding payroll period.

36 (3) The commission, after consultation with interested employee  
37 organizations and the employer, shall set forth procedures for the  
38 conduct of the election and shall distribute sample ballots. The

1 ballot shall contain the name of the requesting employee organization  
2 and the name of any other employee organization showing satisfactory  
3 proof of at least ten percent representation within the unit and shall  
4 provide a choice for any employee within the unit to designate that he  
5 or she does not desire any representation. Where more than one  
6 organization is on the ballot and none of the choices receives a  
7 majority of all votes cast in such election, a run-off election shall  
8 be held. The run-off ballot shall contain the two choices which  
9 received the largest and the second largest number of votes.

10 (4) An employee organization receiving a majority of all votes cast  
11 in such an election, or run-off election, shall be certified by the  
12 commission as the exclusive bargaining representative of the employees  
13 of the bargaining unit. If no employee organization receives a  
14 majority of votes cast, the commission shall issue notification to that  
15 effect.

16 (5) When an employee organization has been certified as the  
17 exclusive bargaining representative of the employees of a bargaining  
18 unit, the employee organization shall be entitled to act for and to  
19 negotiate collective bargaining agreements covering all employees in  
20 the bargaining unit. The certified exclusive bargaining representative  
21 shall be responsible for representing the interests of all the  
22 employees in the bargaining unit. Nothing in this section shall be  
23 construed to limit an exclusive representative's right to exercise its  
24 discretion to refuse to process grievances of employees that are  
25 unmeritorious.

26 (6) The commission shall administer all elections and be  
27 responsible for the processing and adjudication of all disputes that  
28 arise as a consequence of elections.

29 (7) The commission shall conduct decertification or new  
30 certification elections in accordance with the requirements of this  
31 subsection.

32 (a) Upon being notified by the commission that a valid petition for  
33 an election has been received, the employer shall submit to the  
34 commission, the petitioning party, any intervenor, and the exclusive  
35 bargaining representative, if any, a list of all employees included in  
36 the bargaining unit as of the preceding payroll period. This list  
37 shall contain the employees' names, job classifications, work  
38 locations, and home mailing addresses. For purposes of an election, the  
39 commission shall also provide such listing to an affected employee

1 organization that has submitted proof that it represents at least ten  
2 percent of the employees in the bargaining unit.

3 (b) Upon receipt of a valid petition for an election, the  
4 commission shall conduct a preelection conference that shall include  
5 representatives of the employer, the employee organization, the  
6 petitioning party, and any intervenor. At the preelection conference,  
7 determinations shall be made on such matters as method of balloting,  
8 including mail ballots for remote locations, date of election, absentee  
9 voting, eligibility of voters, locations, personnel at each election  
10 site, campaign activities, and any other matter that should be resolved  
11 concerning that election. Following the preelection conference, the  
12 commission shall establish rules and procedures for holding the  
13 election.

14 (c) At least ten days prior to the scheduled date, the commission  
15 shall distribute a notice of election for posting in the work areas of  
16 affected employees. The notice shall contain information regarding the  
17 date, time, and location of balloting, the rules and procedures  
18 established for the election, and a sample ballot.

19 (d) To provide that elections are truly representative of the  
20 desires of the employees and that all employees eligible to vote have  
21 every opportunity to do so, employee participation in these elections  
22 shall be encouraged to the greatest extent possible.

23 (e) To the extent feasible, as determined by the commission, on-  
24 site voting shall take place during the employees' regular work  
25 schedules. Eligible voters shall be given ample opportunity to vote  
26 during work time while the polls are open.

27 (f) An employee who cannot appear at the voting site on the date of  
28 the vote may vote by absentee ballot. A request for an absentee ballot  
29 shall be submitted to the commission prior to the close of voting at  
30 the employee's voting site. To be counted, absentee ballots shall be  
31 postmarked within five calendar days of the close of the polls and  
32 shall be received by the commission within ten calendar days of the  
33 close of the polls.

34 (g) Rules governing campaign activities shall be determined at the  
35 preelection conference. Employees included in the affected bargaining  
36 unit and representatives of the petitioning party and the affected  
37 employee organization shall have the right to conduct such activities  
38 on the employer's grounds during work hours so long as the work of the  
39 employee and the operation of the employer are not disturbed.

1 (h) Each party to an election may have one observer present during  
2 on-site voting to assist the election agent in identifying eligible  
3 voters. An employee who serves as such an observer shall be released  
4 with pay from duties normally performed during his or her work hours.

5 (i) The commission shall maintain the official voter eligibility  
6 list and shall provide a copy of that list to each party. The official  
7 observer for either party may bring a copy of that list to the on-site  
8 polling place for his or her own use, provided such use does not  
9 interfere with the conduct of the election.

10 (j) Within five working days of the date of the tally of the  
11 ballots, the petitioning party, the affected employee organization, or  
12 an employee in the bargaining unit may file objections to the election.  
13 The objections shall be in writing and shall be received by the  
14 commission within the five working day period. The commission shall  
15 investigate and determine an appropriate remedy if the objection is  
16 found to be meritorious.

17 (8)(a) Upon petition to the commission by no less than thirty  
18 percent of the employees of a bargaining unit, decertification or a new  
19 certification shall be determined by an election as prescribed in  
20 subsection (7) of this section. However, no question concerning  
21 representation may be raised if:

22 (i) Less than twelve months have elapsed since the last  
23 certification or election; or

24 (ii) A valid collective bargaining agreement exists for the unit,  
25 except for that period of no more than one hundred twenty calendar days  
26 nor less than ninety calendar days prior to the expiration of the  
27 contract.

28 (b) The election shall be conducted at the close of the contract  
29 term, or at an appropriate time, if no contract exists for the unit.

30 (9) Any violation of these rules should be immediately reported to  
31 the commission. Upon receiving a complaint, the commission shall  
32 immediately investigate and, if necessary, take steps to stop the  
33 violation. If the commission finds that violations of these rules or  
34 the preelection agreements have affected the outcome of the election,  
35 the commission may invalidate the election, order a new election, or  
36 take other appropriate remedial action.

37 NEW SECTION. **Sec. 13.** BARGAINING UNITS. (1) The legislature  
38 finds that to foster meaningful collective bargaining, units must be

1 structured to avoid excessive fragmentation whenever possible. In  
2 accordance with this policy, and except as otherwise provided in  
3 subsection (2) of this section, collective bargaining units under this  
4 chapter shall be structured on a state-wide basis with one collective  
5 bargaining unit for each of the following:

6 (a) Clerical, office, and administrative support;

7 (b) Technical;

8 (c) Registered nurses and job classes requiring licensure as a  
9 registered nurse;

10 (d) Direct care institutions and related classes;

11 (e) Corrections custody classes in adult corrections institutions,  
12 excluding employees of the division of community corrections;

13 (f) Engineering and engineering technicians;

14 (g) Liquor store clerks and related classes;

15 (h) Licensed physicians;

16 (i) Professional employees, excluding professional employees who  
17 meet the standards of other professional units;

18 (j) General fund-state related revenue classes;

19 (k) Teachers of the school for the blind and school for the deaf;

20 (l) Service, maintenance, and trades and crafts;

21 (m) Regulatory and inspection;

22 (n) Driver's licenses examiners;

23 (o) Law enforcement, including all classes with power to arrest,  
24 whose work involves primarily the enforcement of statutes, ordinances,  
25 and regulations and the preservation of public order;

26 (p) Forestry and parks related classes; and

27 (q) Supervisory employees.

28 (2)(a) Bargaining units of the institutions of higher education  
29 shall not include more than one institution of higher education. For  
30 the purposes of this section, any branch or regional campus of an  
31 institution of higher education is part of that institution of higher  
32 education.

33 (b) All bargaining units of the institutions of higher education  
34 existing on the effective date of this section shall be considered  
35 appropriate units. However, new units or modifications of existing  
36 units shall be structured to avoid excessive fragmentation whenever  
37 possible.

38 (c) When a single employee organization is the exclusive bargaining  
39 representative for two or more units, upon petition by the employer or

1 employee organization, the units may be consolidated without a vote  
2 into a single larger unit if the commission considers the larger unit  
3 to be appropriate. If consolidation is appropriate, the commission  
4 shall certify the employee organization as the exclusive bargaining  
5 representative of the new unit.

6 (d) In determining the unit appropriate for collective bargaining,  
7 the commission shall consider: The duties, skills, and working  
8 conditions of the employees; the history of collective bargaining; the  
9 extent of organization among the employees; and the desires of the  
10 employees.

11 NEW SECTION. **Sec. 14.** UNION SECURITY. (1) The employer shall  
12 require as a condition of employment the payment, no later than the  
13 thirtieth day following the beginning of employment or the effective  
14 date of this section, of a union shop fee to the employee organization  
15 that, in accordance with the provisions of this chapter, is duly  
16 recognized by the employer or designated by the commission as the  
17 exclusive bargaining representative for the bargaining unit in which  
18 the employee is employed. The amount of the fee shall be equal to the  
19 amount required to become a member in good standing of the employee  
20 organization. Each employee organization shall establish a procedure  
21 by which any employee so requesting may obtain a rebate of that part of  
22 the union shop fee, if any, that represents a pro rata share of  
23 expenditures for purposes not germane to the collective bargaining  
24 process, to contract administration, or to pursuing matters affecting  
25 wages, hours, and other conditions of employment.

26 (2) Upon filing with the employer the written authorization of a  
27 bargaining unit employee under this chapter, the employee organization  
28 that is the exclusive bargaining representative of the bargaining unit  
29 shall have the exclusive right to have deducted from the salary of the  
30 employee an amount equal to the fees and dues uniformly required as a  
31 condition of acquiring or retaining membership in the employee  
32 organization. The fees and dues shall be deducted each pay period from  
33 the pay of all employees who have given authorization for the deduction  
34 and shall be transmitted by the employer as provided for by agreement  
35 between the employer and the employee organization.

36 (3) To safeguard the right of nonassociation of employees, based on  
37 bona fide religious tenets or teachings of a church or religious body  
38 of which the employee is a member, such employee shall pay to the

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

8 (4) Until an exclusive representative is selected for a bargaining  
9 unit under this chapter, employee organizations that prior to the  
10 effective date of this section were entitled to the benefits of this  
11 section shall continue to be entitled to these rights. Upon the  
12 selection of an exclusive representative, only the exclusive  
13 representative for the bargaining unit shall be entitled to the rights  
14 established under this section.

15 NEW SECTION. **Sec. 15.** TRANSITION OF EXISTING EXCLUSIVE BARGAINING  
16 REPRESENTATIVES AND BARGAINING UNITS. The transition of exclusive  
17 bargaining representatives and bargaining units existing prior to the  
18 effective date of this section to the units prescribed in section 13 of  
19 this act and to exclusive bargaining representatives under this chapter  
20 shall be implemented as follows:

21 (1)(a) When the employees in a bargaining unit or units existing  
22 prior to the effective date of this section and represented by a single  
23 certified exclusive bargaining representative comprise a majority of  
24 the employees to be included in a bargaining unit prescribed in section  
25 13 of this act, then the certified exclusive bargaining representative  
26 for the existing unit or units shall be entitled to a certification by  
27 the commission for the new bargaining unit without the necessity of a  
28 representation election.

29 (b) When the employees in two or more bargaining units existing  
30 prior to the effective date of this section are represented by two or  
31 more certified exclusive bargaining representatives, and one of the  
32 existing certified exclusive bargaining representatives currently  
33 represents a majority of the employees to be included in the new unit  
34 prescribed in section 13 of this act, then that certified  
35 representative shall be entitled to a certification by the commission  
36 for the new bargaining unit without the necessity of a representation  
37 election.

1 (c) When, on the effective date of this section, less than a  
2 majority of the employees to be included in a bargaining unit  
3 prescribed in section 13 of this act are represented by existing  
4 certified bargaining representatives, representation of employees in  
5 the new bargaining unit shall be determined pursuant to section 12 of  
6 this act. However, these existing certified bargaining representatives  
7 shall be the only choices on the ballot.

8 (2) Any employee organization that prior to the effective date of  
9 this section has been the exclusive bargaining representative of any  
10 employees may disclaim any interest in representation of the employees.  
11 The disclaimer shall be in writing and submitted to the competing  
12 exclusive bargaining representative and the commission.

13 NEW SECTION. **Sec. 16.** NEGOTIATION AND RATIFICATION OF COLLECTIVE  
14 BARGAINING AGREEMENTS. (1) Collective bargaining agreement  
15 negotiations under this chapter shall commence on or before October 1,  
16 1994, for collective bargaining agreements that are to become effective  
17 on July 1 of the following year for those units in which an exclusive  
18 representative has been selected, or as soon thereafter as an exclusive  
19 representative has been selected for a bargaining unit. In subsequent  
20 negotiations, negotiations shall commence on or before October 1 of the  
21 year prior to the expiration of the contract. For the purpose of  
22 negotiating collective bargaining agreements other than supplemental  
23 agreements, the employer shall be represented by the governor's office.  
24 The employer for negotiating collective bargaining agreements involving  
25 bargaining units in the institutions of higher education shall be  
26 represented by both the governor's office and management  
27 representatives of the respective institution of higher education.  
28 Supplementary bargaining with agencies and institutions of higher  
29 education is authorized on behalf of employees in whole or in part of  
30 a bargaining unit concerning matters uniquely affecting the employees.  
31 Nothing in this chapter shall prohibit cooperation and coordination of  
32 bargaining between two or more bargaining units.

33 (2) The governor's office shall submit a request for funds  
34 necessary to implement the compensation and fringe benefit provisions  
35 in the agreement within ten days of the date on which the parties  
36 ratify the agreement or, if the legislature is not in session, within  
37 ten days after the legislature convenes. The legislature shall approve  
38 or reject the submission of the request for funds as a whole and the



1 submission shall be deemed approved if the legislature fails to act  
2 within thirty days after the governor submits the request for funds.  
3 If the legislature rejects the submission, either party may reopen all  
4 or part of the agreement.

5 (3) After the termination date of a collective bargaining  
6 agreement, all of the terms and conditions specified in the collective  
7 bargaining agreement remain in effect until the effective date of a  
8 subsequently negotiated agreement.

9 NEW SECTION. **Sec. 17.** INTEREST ARBITRATION. (1) The  
10 uninterrupted and dedicated service of state employees is so vital to  
11 the welfare and public safety of the citizens of the state of  
12 Washington that the usual procedures of collective bargaining shall be  
13 suspended and an alternative means of settling such disputes be  
14 substituted, as provided in this section. Employee strikes arising  
15 from disputes regulated by this chapter are hereby expressly  
16 prohibited.

17 (2) If no agreement has been reached sixty days after the  
18 commencement of negotiations between an employer and the exclusive  
19 bargaining representative of a bargaining unit of employees, then, at  
20 any time thereafter, either party may declare that an impasse exists  
21 and may submit a request for mediation to the commission, with or  
22 without the concurrence of the other party. The parties involved shall  
23 mutually agree upon a mediator or request the commission to appoint an  
24 impartial mediator.

25 (3) If an agreement has not been reached following a reasonable  
26 period of negotiations and mediation, and the parties remain at  
27 impasse, then either party may request an interest arbitrator to  
28 resolve the dispute. The issues for determination by the interest  
29 arbitrator shall be limited to the issues at impasse in the mediation  
30 proceedings.

31 (4) The parties may voluntarily agree to select an arbitrator, or  
32 if agreement is not reached within seven days of either party's request  
33 for arbitration, the commission shall submit seven arbitrators' names  
34 to the parties. Each party shall alternately strike three names from  
35 the list, the order of striking to be determined by lot. The remaining  
36 arbitrator shall be appointed as the arbitrator. Each party shall  
37 share equally in paying the fees and expenses of the arbitrator.

1 (5) Within seven days following the designation of the arbitrator,  
2 each party shall file with the arbitrator and the commission and serve  
3 on the opposite party, the complete written proposals it intends to  
4 submit to interest arbitration.

5 (6) The arbitrator, in consultation with the parties, shall  
6 promptly establish a date, time, and place for hearing and shall  
7 provide reasonable notice thereof to the parties to the dispute. A  
8 hearing, which shall be informal, shall be held, and each party shall  
9 have the opportunity to present evidence and make argument. Any oral  
10 testimony or documentary evidence or other data deemed relevant by the  
11 arbitrator may be received in evidence. The arbitrator shall have the  
12 power to administer oaths, require the attendance of witnesses, and  
13 require the production of books, papers, contracts, agreements, and  
14 documents deemed to be material to a just determination of the issues  
15 in dispute. If any person refuses to obey a subpoena issued by the  
16 arbitrator or refuses to be sworn or to make an affirmation to testify,  
17 or any witness, party, or attorney for a party is guilty of any  
18 contempt while in attendance at any hearing held hereunder, the  
19 arbitrator or any party may invoke the jurisdiction of the superior  
20 court of Thurston county, and the court shall have jurisdiction to  
21 issue an appropriate order. Any failure to obey such order may be  
22 punished by the court as a contempt thereof. The hearing conducted by  
23 the arbitrator shall be concluded within twenty-five days following the  
24 designation of the arbitrator unless the parties agree to a longer  
25 period. Negotiations may continue throughout the impasse procedures.

26 (7) The arbitrator shall, within twenty days following the  
27 conclusion of the hearing, make written findings of fact and a written  
28 determination of the issues in dispute, based on the evidence  
29 presented. The parties shall submit a final offer on each separate  
30 issue remaining at impasse to the arbitrator and the other party. On  
31 each separate issue, the arbitrator shall determine that either the  
32 final offer of the employer or the final offer of the employee  
33 representative shall be incorporated into the final collective  
34 bargaining agreement. The arbitrator shall not amend the offer of  
35 either party on any issue. A copy of the interest arbitration award  
36 shall be served on the commission and on each of the parties to the  
37 dispute. The determination shall be final and binding upon both  
38 parties.

1 (8) In making the determination, the arbitrator shall be mindful of  
2 the legislative purpose enumerated in this section and, as additional  
3 standards or guidelines to aid it in reaching a decision, shall take  
4 into consideration the following factors:

5 (a) The constitutional and statutory authority of the employer;

6 (b) Stipulations of the parties;

7 (c) Comparison of the wages, hours, and conditions of employment of  
8 the employees involved in the proceedings with the wages, hours, and  
9 conditions of employment of other employees performing similar services  
10 and with other employees generally;

11 (d) The average consumer prices for goods and services, commonly  
12 known as the cost of living;

13 (e) Changes in any of the foregoing circumstances during the  
14 pendency of such proceedings; and

15 (f) Such other factors, not confined to the foregoing, which are  
16 normally or traditionally taken into consideration in the determination  
17 of wages, hours, and conditions of employment.

18 (9) In the performance of his or her duties under this chapter, the  
19 arbitrator exercises a state function and is, for the purposes of this  
20 chapter, a state agency. The provisions of chapter 34.05 RCW do not  
21 apply to proceedings before an interest arbitrator.

22 (10) Except as ordered through proceedings before an interest  
23 arbitrator, existing wages, hours, and other terms and conditions of  
24 employment shall not be changed by action of either party without the  
25 consent of the other, but a party may so consent without prejudice to  
26 its rights or position under this section.

27 (11) If a party to negotiations subject to this chapter refuses to  
28 submit to the procedures set forth in this section, the other party or  
29 the commission, on its own motion, may invoke the jurisdiction of the  
30 superior court of Thurston county and the court shall have jurisdiction  
31 to issue an appropriate order. A failure to obey such order may be  
32 punished by the court as a contempt thereof.

33 NEW SECTION. **Sec. 18.** UNFAIR LABOR PRACTICES ENUMERATED. (1) It  
34 shall be an unfair labor practice for an employer to:

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

37 (b) Control, dominate, or interfere with an exclusive bargaining  
38 representative;

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

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

4 (2) It shall be an unfair labor practice for an employee  
5 organization to:

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

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

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

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

12 NEW SECTION. **Sec. 19.** UNFAIR LABOR PRACTICE PROCEDURES. (1) The  
13 commission is empowered and directed to prevent any unfair labor  
14 practice and to issue appropriate remedial orders. A complaint shall  
15 not be processed for any unfair labor practice occurring more than six  
16 months before the filing of the complaint with the commission. This  
17 power shall not be affected or impaired by any means of adjustment,  
18 mediation, or conciliation in labor disputes that have been or may  
19 hereafter be established by law.

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

33 (3) For the purpose of all hearings and investigations, which, in  
34 the opinion of the commission, are necessary and proper for the  
35 exercise of the powers vested in it by this section, the commission  
36 shall at all reasonable times have access to, for the purposes of  
37 examination, and the right to examine, copy, or photograph any  
38 evidence, including payrolls or lists of employees, of any person being

1 investigated or proceeded against that relates to any matter under  
2 investigation or in question. The commission shall have power to issue  
3 subpoenas requiring the attendance and testimony of witnesses and the  
4 production of any evidence that relates to any matter under  
5 investigation or in question before the commission. The commission, or  
6 any agent or agency designated by the commission for such purposes, may  
7 administer oaths and affirmations, examine witnesses, and receive  
8 evidence.

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

30 NEW SECTION. **Sec. 20.** COURT JURISDICTION. Unless specifically  
31 provided otherwise, nothing in this chapter shall prohibit any party to  
32 a collective bargaining agreement from seeking enforcement of the  
33 rights granted under this chapter in a court of competent jurisdiction.

34 NEW SECTION. **Sec. 21.** A new section is added to chapter 41.06 RCW  
35 to read as follows:

36 (1) In addition to the exemptions set forth in RCW 41.06.070, the  
37 following classifications, positions, and employees of institutions of

1 higher education and related boards are hereby exempted from coverage  
2 of this chapter:

3 (a) Members of the governing board of each institution and related  
4 boards, all presidents, vice-presidents, and their confidential  
5 secretaries, administrative, and personal assistants; deans, directors,  
6 and chairpersons; academic personnel; executive heads of major  
7 administrative or academic divisions employed by institutions of higher  
8 education; and any employee of a community college district whose place  
9 of work is one which is physically located outside the state of  
10 Washington and who is employed pursuant to RCW 28B.50.092 and assigned  
11 to an educational program operating outside of the state of Washington.

12 (b) The director, the director's confidential secretary, assistant  
13 directors, and professional education employees of the state board for  
14 community college education.

15 (c) The governing board of each institution, and related boards,  
16 may also exempt from this chapter, subject to the employees' right of  
17 appeal to the state personnel board, classifications involving research  
18 activities, counseling of students, extension or continuing education  
19 activities, graphic arts or publications activities requiring  
20 prescribed academic preparation or special training, and principal  
21 assistants to executive heads of major administrative or academic  
22 divisions, as determined by the higher education personnel board:  
23 PROVIDED, That no nonacademic employee engaged in office clerical,  
24 maintenance, or food and trade services may be exempted by the state  
25 personnel board under this provision.

26 (2) For the purposes of this section, "related boards" means the  
27 state board for community college education and such other boards,  
28 councils, and commissions related to higher education as may be  
29 established.

30 NEW SECTION. **Sec. 22.** A new section is added to chapter 41.06 RCW  
31 to read as follows:

32 In addition to the exemptions set forth in RCW 41.06.070, the  
33 provisions of this chapter do not apply to printing craft employees in  
34 the department of printing of the University of Washington.

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

1 In case of any conflict between the provisions of this chapter or  
2 administrative rules adopted under this chapter and the provisions of  
3 chapter 41.-- RCW (sections 1 through 20 of this act) or a collective  
4 bargaining agreement negotiated under chapter 41.-- RCW (sections 1  
5 through 20 of this act), the provisions of chapter 41.-- RCW (sections  
6 1 through 20 of this act) or the collective bargaining agreement shall  
7 prevail.

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

10 The board may appoint one or more hearings examiners to preside  
11 over, conduct, and make recommended decisions, including findings of  
12 fact and conclusions of law in all cases of employee appeals to the  
13 board. The hearings examiner shall conduct hearings in the same manner  
14 and shall have the same authority as provided in hearings by the board.  
15 The recommended decisions shall be forthwith served upon the parties  
16 and transmitted to the board together with the record of the evidence.  
17 Within thirty days of service of the recommended decision, any party  
18 adversely affected may file exceptions, and thereafter all parties may  
19 present written and oral argument to the board, which shall consider  
20 the whole record or such portions of the record as may be cited by the  
21 parties.

22 NEW SECTION. **Sec. 25.** A new section is added to chapter 41.06 RCW  
23 to read as follows:

24 (1) In all appeals over which the board has jurisdiction involving  
25 reduction, dismissal, suspension, or demotion, the board shall set the  
26 case for hearing, and the final decision, including an appeal to the  
27 board from the hearing examiner, if any, shall be rendered within  
28 ninety days from the date the appeal was first received. An extension  
29 may be permitted if agreed to by the employee and the employing agency.  
30 The board shall furnish the agency with a copy of the appeal in advance  
31 of the hearing.

32 (2) In all appeals made pursuant to RCW 41.06.170(3), the decision  
33 of the board is final and not appealable to court.

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

1 (1) Hearings on appeals shall be open to the public, except for  
2 cases in which the board determines there is substantial reason for not  
3 having an open hearing or in cases where the employee so requests, and  
4 shall be informal with technical rules of evidence not applying to the  
5 proceedings except the rules of privilege recognized by law. Both the  
6 employee and his or her appointing agency shall be notified reasonably  
7 in advance of the hearing and may select representatives of their  
8 choosing, present and cross-examine witnesses, and give evidence before  
9 the board.

10 (2) Members of the board or the director may, and shall at the  
11 request of either party, issue subpoenas and subpoenas duces tecum.  
12 All testimony shall be on oath administered by a member of the board.  
13 The board shall certify to the superior court the facts of any refusals  
14 to obey a subpoena, take the oath, or testify. The court shall  
15 summarily hear the evidence on such refusal and, if the evidence  
16 warrants, punish such refusal in the same manner and to the same extent  
17 as for contempt committed before, or in connection with the proceedings  
18 of, the court.

19 (3) The board shall prepare an official record of the hearing,  
20 including all testimony, recorded manually or by mechanical device, and  
21 exhibits; but it may not be required to transcribe such record unless  
22 requested by the employee, who shall be furnished with a complete  
23 transcript upon payment of a reasonable charge. However, payment of the  
24 cost of a transcript used on appeal shall await determination of the  
25 appeal and shall be made by the employing agency if the employee  
26 prevails.

27 (4) Within thirty days after the conclusion of the hearing, the  
28 board shall make and fully record in its permanent records the  
29 following: (a) Findings of fact; (b) conclusions of law when the  
30 construction of a rule or statute is in question; (c) reasons for the  
31 action taken; and (d) the board's order based thereon. The order is  
32 final, subject to action by the court on appeal as provided in this  
33 chapter.

34 (5) The board shall simultaneously send a copy of the findings,  
35 conclusions, and order by certified mail to the employing agency and to  
36 the employee or the employee's designated representative.

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



1 (1) Within thirty days after the recording of the order and the  
2 mailing thereof, the employee may appeal the decision and order of the  
3 board on appeals made pursuant to RCW 41.06.170(2) to the superior  
4 court of Thurston county on one or more of the grounds that the order  
5 was:

6 (a) Founded on or contained an error of law, which shall  
7 specifically include error in construction or application of any  
8 pertinent rules;

9 (b) Contrary to a preponderance of the evidence as disclosed by the  
10 entire record with respect to any specified finding or findings of  
11 fact;

12 (c) Materially affected by unlawful procedure;

13 (d) Based on violation of any constitutional provision; or

14 (e) Arbitrary or capricious.

15 (2) Such grounds shall be stated in a written notice of appeal  
16 filed with the court, with copies thereof served on a member of the  
17 board or the director and on the employing agency, all within the time  
18 stated.

19 (3) Within thirty days after service of such notice, or within such  
20 further time as the court may allow, the board shall transmit to the  
21 court a certified transcript, with exhibits, of the hearing; but by  
22 stipulation between the employing agency and the employee the  
23 transcript may be shortened, and either party unreasonably refusing to  
24 stipulate to such limitation may be ordered by the court to pay the  
25 additional cost involved. The court may require or permit subsequent  
26 corrections or additions to the transcript.

27 (4) The court shall review the hearing without a jury on the basis  
28 of the transcript and exhibits, except that, in case of alleged  
29 irregularities in procedure before the board not shown by the  
30 transcript, the court may order testimony to be given thereon. The  
31 court shall upon request by either party hear oral argument and receive  
32 written briefs.

33 (5) The court may affirm the order of the board, remand the matter  
34 for further proceedings before the board, or reverse or modify the  
35 order if it finds that the objection to the order is well taken on any  
36 of the grounds stated. Appellate review of the order of the superior  
37 court may be sought as in other civil cases.

1       **Sec. 28.** RCW 34.05.030 and 1989 c 175 s 2 are each amended to read  
2 as follows:

3       (1) This chapter shall not apply to:

4       (a) The state militia, or

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

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

9       (2) The provisions of RCW 34.05.410 through 34.05.598 shall not  
10 apply:

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

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

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

20       (d) To actions of the state personnel board(~~(, the higher education~~  
21 ~~personnel board, or the personnel appeals board)) or the state  
22 employees' relations commission; or~~

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

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

28       (4) All other agencies, whether or not formerly specifically  
29 excluded from the provisions of all or any part of the Administrative  
30 Procedure Act, shall be subject to the entire act.

31       NEW SECTION. **Sec. 29.** A new section is added to chapter 41.04 RCW  
32 to read as follows:

33       Any official of the state authorized to disburse funds in payment  
34 of salaries and wages of public officers or employees is authorized,  
35 upon written request of the officer or employee, to deduct from the  
36 salaries or wages of the officers or employees the amount requested to  
37 pay labor or employee organization dues if a payroll deduction is not  
38 provided under a collective bargaining agreement under chapter 41.--

1 RCW (sections 1 through 20 of this act), if twenty-five or more  
2 officers or employees of a single agency, or a total of one hundred or  
3 more officers or employees of several agencies authorized the deduction  
4 for payment to the same labor or employee organization. In addition,  
5 labor or employee organizations with five hundred or more members in  
6 state government may have payroll deduction for employee benefit  
7 programs.

8 NEW SECTION. **Sec. 30.** A new section is added to chapter 41.05 RCW  
9 to read as follows:

10 In case of any conflict between the provisions of this chapter or  
11 administrative rules adopted under this chapter and the provisions of  
12 chapter 41.-- RCW (sections 1 through 20 of this act) or a collective  
13 bargaining agreement negotiated under chapter 41.-- RCW (sections 1  
14 through 20 of this act), the provisions of chapter 41.-- RCW (sections  
15 1 through 20 of this act) or the collective bargaining agreement shall  
16 prevail.

17 **Sec. 31.** RCW 41.06.020 and 1985 c 461 s 1 and 1985 c 365 s 3 are  
18 each reenacted and amended to read as follows:

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

21 (1) "Agency" means an office, department, board, commission,  
22 institution of higher education, or other separate unit or division,  
23 however designated, of the state government and all personnel thereof;  
24 it includes any unit of state government established by law, the  
25 executive officer or members of which are either elected or appointed,  
26 upon which the statutes confer powers and impose duties in connection  
27 with operations of either a governmental or proprietary nature.

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

31 (3) "Classified service" means all positions in the state service  
32 subject to the provisions of this chapter.

33 (4) "Competitive service" means all positions in the classified  
34 service for which a competitive examination is required as a condition  
35 precedent to appointment.

1 (5) "Comparable worth" means the provision of similar salaries for  
2 positions that require or impose similar responsibilities, judgments,  
3 knowledge, skills, and working conditions.

4 (6) "Institutions of higher education" means the University of  
5 Washington, Washington State University, Central Washington University,  
6 Eastern Washington University, Western Washington University, The  
7 Evergreen State College, and the various state community colleges.

8 (7) "Noncompetitive service" means all positions in the classified  
9 service for which a competitive examination is not required.

10 ((+7)) (8) "Department" means an agency of government that has as  
11 its governing officer a person, or combination of persons such as a  
12 commission, board, or council, by law empowered to operate the agency  
13 responsible either to (a) no other public officer or (b) the governor.

14 ((+8)) (9) "Career development" means the progressive development  
15 of employee capabilities to facilitate productivity, job satisfaction,  
16 and upward mobility through work assignments as well as education and  
17 training that are both state-sponsored and are achieved by individual  
18 employee efforts, all of which shall be consistent with the needs and  
19 obligations of the state and its agencies.

20 ((+9)) (10) "Training" means activities designed to develop job-  
21 related knowledge and skills of employees.

22 ((+10)) (11) "Director" means the director of personnel appointed  
23 under the provisions of RCW 41.06.130.

24 ((+11)) (12) "Affirmative action" means a procedure by which  
25 racial minorities, women, persons in the protected age category,  
26 persons with disabilities, Vietnam-era veterans, and disabled veterans  
27 are provided with increased employment opportunities. It shall not  
28 mean any sort of quota system.

29 **Sec. 32.** RCW 41.06.070 and 1990 c 60 s 101 are each amended to  
30 read as follows:

31 The provisions of this chapter do not apply to:

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

37 (2) The justices of the supreme court, judges of the court of  
38 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 ~~((3))~~ ~~((Officers, academic personnel, and employees of state  
4 institutions of higher education, the state board for community college  
5 education, and the higher education personnel board;~~

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

7 ~~((5))~~ (4) Elective officers of the state;

8 ~~((6))~~ (5) The chief executive officer of each agency;

9 ~~((7))~~ (6) In the departments of employment security, fisheries,  
10 social and health services, the director and his confidential  
11 secretary; in all other departments, the executive head of which is an  
12 individual appointed by the governor, the director, his confidential  
13 secretary, and his statutory assistant directors;

14 ~~((8))~~ (7) In the case of a multimember board, commission, or  
15 committee, whether the members thereof are elected, appointed by the  
16 governor or other authority, serve ex officio, or are otherwise chosen:

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

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

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

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

32 ~~((9))~~ (8) The confidential secretaries and administrative  
33 assistants in the immediate offices of the elective officers of the  
34 state;

35 ~~((10))~~ (9) Assistant attorneys general;

36 ~~((11))~~ (10) Commissioned and enlisted personnel in the military  
37 service of the state;

1       (~~(12)~~) (11) Inmate, student, (~~(part-time, or temporary~~  
2 ~~employees,~~) and part-time professional consultants, as defined by the  
3 state personnel board or the board having jurisdiction;  
4       (~~(13)~~) (12) The public printer or to any employees of or  
5 positions in the state printing plant;  
6       (~~(14)~~) (13) Officers and employees of the Washington state fruit  
7 commission;  
8       (~~(15)~~) (14) Officers and employees of the Washington state apple  
9 advertising commission;  
10       (~~(16)~~) (15) Officers and employees of the Washington state dairy  
11 products commission;  
12       (~~(17)~~) (16) Officers and employees of the Washington tree fruit  
13 research commission;  
14       (~~(18)~~) (17) Officers and employees of the Washington state beef  
15 commission;  
16       (~~(19)~~) (18) Officers and employees of any commission formed under  
17 the provisions of chapter 191, Laws of 1955, and chapter 15.66 RCW;  
18       (~~(20)~~) (19) Officers and employees of the state wheat commission  
19 formed under the provisions of chapter 87, Laws of 1961 (chapter 15.63  
20 RCW);  
21       (~~(21)~~) (20) Officers and employees of agricultural commissions  
22 formed under the provisions of chapter 256, Laws of 1961 (chapter 15.65  
23 RCW);  
24       (~~(22)~~) (21) Officers and employees of the nonprofit corporation  
25 formed under chapter 67.40 RCW;  
26       (~~(23)~~) (22) Liquor vendors appointed by the Washington state  
27 liquor control board pursuant to RCW 66.08.050: PROVIDED, HOWEVER,  
28 That rules and regulations adopted by the state personnel board  
29 pursuant to RCW 41.06.150 regarding the basis for, and procedures to be  
30 followed for, the dismissal, suspension, or demotion of an employee,  
31 and appeals therefrom shall be fully applicable to liquor vendors  
32 except those part time agency vendors employed by the liquor control  
33 board when, in addition to the sale of liquor for the state, they sell  
34 goods, wares, merchandise, or services as a self-sustaining private  
35 retail business;  
36       (~~(24)~~) (23) Executive assistants for personnel administration and  
37 labor relations in all state agencies employing such executive  
38 assistants including but not limited to all departments, offices,  
39 commissions, committees, boards, or other bodies subject to the

1 provisions of this chapter and this subsection shall prevail over any  
2 provision of law inconsistent herewith unless specific exception is  
3 made in such law;

4 ~~((+25+))~~ (24) In each agency with fifty or more employees: Deputy  
5 agency heads, assistant directors or division directors, and not more  
6 than three principal policy assistants who report directly to the  
7 agency head or deputy agency heads;

8 ~~((+26+))~~ (25) All employees of the marine employees' commission;

9 ~~((+27+))~~ (26) Up to a total of five senior staff positions of the  
10 western library network under chapter 27.26 RCW responsible for  
11 formulating policy or for directing program management of a major  
12 administrative unit. This subsection shall expire on June 30, 1997;

13 ~~((+28+))~~ (27) In addition to the exemptions specifically provided  
14 by this chapter, the state personnel board may provide for further  
15 exemptions pursuant to the following procedures. The governor or other  
16 appropriate elected official may submit requests for exemption to the  
17 personnel board stating the reasons for requesting such exemptions.  
18 The personnel board shall hold a public hearing, after proper notice,  
19 on requests submitted pursuant to this subsection. If the board  
20 determines that the position for which exemption is requested is one  
21 involving substantial responsibility for the formulation of basic  
22 agency or executive policy or one involving directing and controlling  
23 program operations of an agency or a major administrative division  
24 thereof, the personnel board shall grant the request and such  
25 determination shall be final. The total number of additional exemptions  
26 permitted under this subsection shall not exceed one hundred eighty-  
27 seven for those agencies not directly under the authority of any  
28 elected public official other than the governor, and shall not exceed  
29 a total of twenty-five for all agencies under the authority of elected  
30 public officials other than the governor. The state personnel board  
31 shall report to each regular session of the legislature during an odd-  
32 numbered year all exemptions granted under subsections (23), (24),  
33 ~~((+25+))~~ and ~~((+28+))~~ (27) of this section, together with the reasons  
34 for such exemptions.

35 The salary and fringe benefits of all positions presently or  
36 hereafter exempted except for the chief executive officer of each  
37 agency, full-time members of boards and commissions, administrative  
38 assistants and confidential secretaries in the immediate office of an  
39 elected state official, and the personnel listed in subsections

1 ((+10+)) (9) through ((+22+)) (21) of this section, shall be determined  
2 by the state personnel board.

3 Any person holding a classified position subject to the provisions  
4 of this chapter shall, when and if such position is subsequently  
5 exempted from the application of this chapter, be afforded the  
6 following rights: If such person previously held permanent status in  
7 another classified position, such person shall have a right of  
8 reversion to the highest class of position previously held, or to a  
9 position of similar nature and salary.

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

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

17 **Sec. 33.** RCW 41.06.110 and 1984 c 287 s 69 are each amended to  
18 read as follows:

19 (1) There is hereby created a state personnel board composed of  
20 three members appointed by the governor, subject to confirmation by the  
21 senate. The first such board shall be appointed within thirty days  
22 after December 8, 1960, for terms of two, four, and six years. Each  
23 odd-numbered year thereafter the governor shall appoint a member for a  
24 six-year term. Each member shall continue to hold office after the  
25 expiration of the member's term until a successor has been appointed.  
26 Persons so appointed shall have clearly demonstrated an interest and  
27 belief in the merit principle, shall not hold any other employment with  
28 the state, shall not have been an officer of a political party for a  
29 period of one year immediately prior to such appointment, and shall not  
30 be or become a candidate for partisan elective public office during the  
31 term to which they are appointed((+)).

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



1 (3) At its first meeting following the appointment of all of its  
2 members, and annually thereafter, the board shall elect a chairman and  
3 vice chairman from among its members to serve one year. The presence  
4 of at least two members of the board shall constitute a quorum to  
5 transact business. A written public record shall be kept by the board  
6 of all actions of the board. The director of personnel shall serve as  
7 secretary.

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

13 **Sec. 34.** RCW 41.06.150 and 1990 c 60 s 103 are each amended to  
14 read as follows:

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

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

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

27 (3) Examinations for all positions in the competitive and  
28 noncompetitive service;

29 (4) Appointments;

30 (5) Training and career development;

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

35 (7) Transfers;

36 (8) Sick leaves and vacations;

37 (9) Hours of work;

1 (10) Layoffs when necessary and subsequent reemployment, both  
2 according to seniority;

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

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

38 (13) ~~Agreements between agencies and certified exclusive bargaining~~  
39 ~~representatives providing for grievance procedures and collective~~

1 negotiations on all personnel matters over which the appointing  
2 authority of the appropriate bargaining unit of such agency may  
3 lawfully exercise discretion;

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

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

14 ~~((16))~~ (12) Allocation and reallocation of positions within the  
15 classification plan;

16 ~~((17))~~ (13) Adoption and revision of a state salary schedule to  
17 reflect the prevailing rates in Washington state private industries and  
18 other governmental units but the rates in the salary schedules or plans  
19 shall be increased if necessary to attain comparable worth under an  
20 implementation plan under RCW 41.06.155, such adoption and revision  
21 subject to approval by the director of financial management in  
22 accordance with the provisions of chapter 43.88 RCW;

23 ~~((18))~~ (14) Increment increases within the series of steps for  
24 each pay grade based on length of service for all employees whose  
25 standards of performance are such as to permit them to retain job  
26 status in the classified service;

27 ~~((19))~~ (15) Providing for veteran's preference as required by  
28 existing statutes, with recognition of preference in regard to layoffs  
29 and subsequent reemployment for veterans and their widows by giving  
30 such eligible veterans and their widows additional credit in computing  
31 their seniority by adding to their unbroken state service, as defined  
32 by the board, the veteran's service in the military not to exceed five  
33 years. For the purposes of this section, "veteran" means any person who  
34 has one or more years of active military service in any branch of the  
35 armed forces of the United States or who has less than one year's  
36 service and is discharged with a disability incurred in the line of  
37 duty or is discharged at the convenience of the government and who,  
38 upon termination of such service has received an honorable discharge,  
39 a discharge for physical reasons with an honorable record, or a release

1 from active military service with evidence of service other than that  
2 for which an undesirable, bad conduct, or dishonorable discharge shall  
3 be given: PROVIDED, HOWEVER, That the widow of a veteran is entitled to  
4 the benefits of this section regardless of the veteran's length of  
5 active military service: PROVIDED FURTHER, That for the purposes of  
6 this section "veteran" does not include any person who has voluntarily  
7 retired with twenty or more years of active military service and whose  
8 military retirement pay is in excess of five hundred dollars per month;

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

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

19 ~~(22))~~ (17) Affirmative action in appointment, promotion, transfer,  
20 recruitment, training, and career development; development and  
21 implementation of affirmative action goals and timetables; and  
22 monitoring of progress against those goals and timetables.

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

28 **Sec. 35.** RCW 41.06.170 and 1981 c 311 s 19 are each amended to  
29 read as follows:

30 (1) The board, in the promulgation of rules and regulations  
31 governing suspensions for cause, shall not authorize an appointing  
32 authority to suspend an employee for more than fifteen calendar days as  
33 a single penalty or more than thirty calendar days in any one calendar  
34 year as an accumulation of several penalties. The board shall require  
35 that the appointing authority give written notice to the employee not  
36 later than one day after the suspension takes effect, stating the  
37 reasons for and the duration thereof. The authority shall file a copy  
38 of the notice with the director of personnel.

1 (2) Any employee who is reduced, dismissed, suspended, or demoted,  
2 after completing his probationary period of service as provided by the  
3 rules and regulations of the board, or any employee who is adversely  
4 affected by a violation of the state civil service law, chapter 41.06  
5 RCW, as now or hereafter amended, or rules promulgated pursuant  
6 thereto, shall have the right to appeal to the ((~~personnel appeals~~))  
7 board ((~~created by RCW 41.64.010~~)) not later than thirty days after the  
8 effective date of such action. The employee shall be furnished with  
9 specified charges in writing when a reduction, dismissal, suspension,  
10 or demotion action is taken. Such appeal shall be in writing.

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

16 **Sec. 36.** RCW 4.24.490 and 1989 c 413 s 3 are each amended to read  
17 as follows:

18 (1) The state shall indemnify and hold harmless its employees in  
19 the amount of any judgment obtained or fine levied against an employee  
20 in any state or federal court, or in the amount of the settlement of a  
21 claim, or shall pay the judgment, fine, or settlement, if the act or  
22 omission that gave rise to the civil or criminal liability was in good  
23 faith and occurred while the employee was acting within the scope of  
24 his or her employment or duties and the employee is being represented  
25 in accordance with RCW 4.92.070.

26 (2) For purposes of this section "state employee" means a member of  
27 the civil service or an exempt person under chapter 41.06 RCW((~~, or~~  
28 ~~higher education personnel under chapter 28B.16 RCW~~)).

29 **Sec. 37.** RCW 28B.10.824 and 1973 c 62 s 5 are each amended to read  
30 as follows:

31 Subject to the provisions of chapter ((~~28B.16~~)) 41.06 RCW, the  
32 state ((~~higher education personnel~~)) civil service law, the commission  
33 shall appoint an executive director as chief administrator of the  
34 commission, and such employees as it deems advisable, and shall fix  
35 their compensation and prescribe their duties.

1       **Sec. 38.** RCW 28B.10.650 and 1985 c 370 s 53 are each amended to  
2 read as follows:

3       It is the intent of the legislature that when the state and  
4 regional universities, The Evergreen State College, and community  
5 colleges grant professional leaves to faculty and exempt staff, such  
6 leaves be for the purpose of providing opportunities for study,  
7 research, and creative activities for the enhancement of the  
8 institution's instructional and research programs.

9       The boards of regents of the state universities, the boards of  
10 trustees of the regional universities and of The Evergreen State  
11 College and the board of trustees of each community college district  
12 may grant remunerated professional leaves to faculty members and exempt  
13 staff, as ((defined in RCW 28B.16.040)) determined under chapter 41.06  
14 RCW, in accordance with regulations adopted by the respective governing  
15 boards for periods not to exceed twelve consecutive months in  
16 accordance with the following provisions:

17       (1) The remuneration from state general funds and general local  
18 funds for any such leave granted for any academic year shall not exceed  
19 the average of the highest quartile of a rank order of salaries of all  
20 full time teaching faculty holding academic year contracts or  
21 appointments at the institution or in the district.

22       (2) Remunerated professional leaves for a period of more or less  
23 than an academic year shall be compensated at rates not to exceed a  
24 proportional amount of the average salary as otherwise calculated for  
25 the purposes of subsection (1) of this section.

26       (3) The grant of any such professional leave shall be contingent  
27 upon a signed contractual agreement between the respective governing  
28 board and the recipient providing that the recipient shall return to  
29 the granting institution or district following his or her completion of  
30 such leave and serve in a professional status for a period commensurate  
31 with the amount of leave so granted. Failure to comply with the  
32 provisions of such signed agreement shall constitute an obligation of  
33 the recipient to repay to the institution any remuneration received  
34 from the institution during the leave.

35       (4) The aggregate cost of remunerated professional leaves awarded  
36 at the institution or district during any year, including the cost of  
37 replacement personnel, shall not exceed the cost of salaries which  
38 otherwise would have been paid to personnel on leaves: PROVIDED, That  
39 for community college districts the aggregate cost shall not exceed one

1 hundred fifty percent of the cost of salaries which would have  
2 otherwise been paid to personnel on leaves: PROVIDED FURTHER, That this  
3 subsection shall not apply to any community college district with fewer  
4 than seventy-five full time faculty members and granting fewer than  
5 three individuals such leaves in any given year.

6 (5) The average number of annual remunerated professional leaves  
7 awarded at any such institution or district shall not exceed four  
8 percent of the total number of full time equivalent faculty, as defined  
9 by the office of financial management, who are engaged in instruction,  
10 and exempt staff as defined in ((RCW 28B.16.040)) chapter 41.06 RCW.

11 (6) Negotiated agreements made in accordance with chapter 28B.52  
12 RCW and entered into after July 1, 1977, shall be in conformance with  
13 the provisions of this section.

14 (7) The respective institutions and districts shall maintain such  
15 information which will ensure compliance with the provisions of this  
16 section. The higher education coordinating board shall periodically  
17 request such information as to ensure institutions are in compliance.

18 **Sec. 39.** RCW 28B.12.060 and 1987 c 330 s 202 are each amended to  
19 read as follows:

20 The higher education coordinating board shall adopt rules and  
21 regulations as may be necessary or appropriate for effecting the  
22 provisions of this chapter, and not in conflict with this chapter, in  
23 accordance with the provisions of chapter ((28B.19)) 34.05 RCW, the  
24 ((state higher education)) administrative procedure act. Such rules  
25 and regulations shall include provisions designed to make employment  
26 under such work-study program reasonably available, to the extent of  
27 available funds, to all eligible students in eligible post-secondary  
28 institutions in need thereof. Such rules and regulations shall  
29 include:

30 (1) Providing work under the college work-study program which will  
31 not result in the displacement of employed workers or impair existing  
32 contracts for services.

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

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

37 (b) Has been accepted for enrollment as at least a half-time  
38 student at the eligible institution or, in the case of a student

1 already enrolled in and attending the eligible institution, is in good  
2 standing and in at least half-time attendance there either as an  
3 undergraduate, graduate or professional student; and

4 (c) Is not pursuing a degree in theology.

5 (3) Placing priority on the securing of work opportunities for  
6 students who are residents of the state of Washington as defined in RCW  
7 28B.15.011 through 28B.15.014.

8 (4) Provisions to assure that in the state institutions of higher  
9 education utilization of this student work-study program:

10 (a) Shall only supplement and not supplant classified positions  
11 under jurisdiction of chapter ((28B.16)) 41.06 RCW;

12 (b) That all positions established which are comparable shall be  
13 identified to a job classification under the ((higher education)) state  
14 personnel board's classification plan and shall receive equal  
15 compensation;

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

18 (d) That work study positions shall only be established at entry  
19 level positions of the classified service.

20 **Sec. 40.** RCW 28B.15.558 and 1992 c 231 s 20 are each amended to  
21 read as follows:

22 (1) The governing boards of the state universities, the regional  
23 universities, The Evergreen State College, and the community colleges  
24 may waive all or a portion of the tuition and services and activities  
25 fees for state employees as defined under subsection (2) of this  
26 section pursuant to the following conditions:

27 (a) Such state employees shall register for and be enrolled in  
28 courses on a space available basis and no new course sections shall be  
29 created as a result of the registration;

30 (b) Enrollment information on state employees registered pursuant  
31 to this section shall be maintained separately from other enrollment  
32 information and shall not be included in official enrollment reports,  
33 nor shall such state employees be considered in any enrollment  
34 statistics which would affect budgetary determinations; and

35 (c) State employees registering on a space available basis shall be  
36 charged a registration fee of not less than five dollars.



1 (2) For the purposes of this section, "state employees" means  
2 permanent full-time employees in classified service under chapter(~~s~~  
3 ~~28B.16~~and)) 41.06 RCW.

4 **Sec. 41.** RCW 28B.50.060 and 1991 c 238 s 31 are each amended to  
5 read as follows:

6 A director of the state system of community and technical colleges  
7 shall be appointed by the college board and shall serve at the pleasure  
8 of the college board. The director shall be appointed with due regard  
9 to the applicant's fitness and background in education, and knowledge  
10 of and recent practical experience in the field of educational  
11 administration particularly in institutions beyond the high school  
12 level. The college board may also take into consideration an  
13 applicant's proven management background even though not particularly  
14 in the field of education.

15 The director shall devote his or her time to the duties of his or  
16 her office and shall not have any direct pecuniary interest in or any  
17 stock or bonds of any business connected with or selling supplies to  
18 the field of education within this state, in keeping with chapter 42.18  
19 RCW, the executive conflict of interest act.

20 The director shall receive a salary to be fixed by the college  
21 board and shall be reimbursed for travel expenses incurred in the  
22 discharge of his or her official duties in accordance with RCW  
23 43.03.050 and 43.03.060, as now existing or hereafter amended.

24 The director shall be the executive officer of the college board  
25 and serve as its secretary and under its supervision shall administer  
26 the provisions of this chapter and the rules, regulations and orders  
27 established thereunder and all other laws of the state. The director  
28 shall attend, but not vote at, all meetings of the college board. The  
29 director shall be in charge of offices of the college board and  
30 responsible to the college board for the preparation of reports and the  
31 collection and dissemination of data and other public information  
32 relating to the state system of community and technical colleges. At  
33 the direction of the college board, the director shall, together with  
34 the chairman of the college board, execute all contracts entered into  
35 by the college board.

36 The director shall, with the approval of the college board: (1)  
37 Employ necessary assistant directors of major staff divisions who shall  
38 serve at the director's pleasure on such terms and conditions as the

1 director determines, and (2) subject to the provisions of chapter  
2 ((28B.16)) 41.06 RCW, the ((higher education personnel)) state civil  
3 service law, the director shall, with the approval of the college  
4 board, appoint and employ such field and office assistants, clerks and  
5 other employees as may be required and authorized for the proper  
6 discharge of the functions of the college board and for whose services  
7 funds have been appropriated.

8 The board may, by written order filed in its office, delegate to  
9 the director any of the powers and duties vested in or imposed upon it  
10 by this chapter. Such delegated powers and duties may be exercised by  
11 the director in the name of the college board.

12 **Sec. 42.** RCW 28B.80.350 and 1992 c 60 s 3 are each amended to read  
13 as follows:

14 The board shall coordinate educational activities among all  
15 segments of higher education taking into account the educational  
16 programs, facilities, and other resources of both public and  
17 independent two and four-year colleges and universities. The four-year  
18 institutions and the state board for community ((college education))  
19 and technical colleges shall coordinate information and activities with  
20 the board. The board shall have the following additional  
21 responsibilities:

22 (1) Promote interinstitutional cooperation;

23 (2) Establish minimum admission standards for four-year  
24 institutions, including a requirement that coursework in American sign  
25 language shall satisfy any foreign language requirement the board or  
26 the institutions may establish as a general undergraduate admissions  
27 requirement;

28 (3) Establish transfer policies;

29 (4) Adopt rules implementing statutory residency requirements;

30 (5) Develop and administer reciprocity agreements with bordering  
31 states and the province of British Columbia;

32 (6) Review and recommend compensation practices and levels for  
33 administrative employees, exempt under chapter ((28B.16)) 41.06 RCW,  
34 and faculty using comparative data from peer institutions;

35 (7) Monitor higher education activities for compliance with all  
36 relevant state policies for higher education;

37 (8) Arbitrate disputes between and among four-year institutions or  
38 between and among four-year institutions and community colleges at the

1 request of one or more of the institutions involved, or at the request  
2 of the governor, or from a resolution adopted by the legislature. The  
3 decision of the board shall be binding on the participants in the  
4 dispute;

5 (9) Establish and implement a state system for collecting,  
6 analyzing, and distributing information;

7 (10) Recommend to the governor and the legislature ways to remove  
8 any economic incentives to use off-campus program funds for on-campus  
9 activities; and

10 (11) Make recommendations to increase minority participation, and  
11 monitor and report on the progress of minority participation in higher  
12 education.

13 **Sec. 43.** RCW 28B.80.430 and 1987 c 330 s 301 are each amended to  
14 read as follows:

15 The board shall employ a director and may delegate agency  
16 management to the director. The director shall serve at the pleasure  
17 of the board, shall be the executive officer of the board, and shall,  
18 under the board's supervision, administer the provisions of this  
19 chapter. The executive director shall, with the approval of the board:

20 (1) Employ necessary deputy and assistant directors and other exempt  
21 staff under chapter ((28B.16)) 41.06 RCW who shall serve at his or her  
22 pleasure on such terms and conditions as he or she determines and (2)  
23 subject to the provisions of chapter ((28B.16)) 41.06 RCW, appoint and  
24 employ such other employees as may be required for the proper discharge  
25 of the functions of the board. The executive director shall exercise  
26 such additional powers, other than rulemaking, as may be delegated by  
27 the board by resolution. In fulfilling the duties under this chapter,  
28 the board shall make extensive use of those state agencies with  
29 responsibility for implementing and supporting postsecondary education  
30 plans and policies including but not limited to appropriate legislative  
31 groups, the postsecondary education institutions, the office of  
32 financial management, ((the commission for vocational education,)) and  
33 the state board for community ((college education)) and technical  
34 colleges. Outside consulting and service agencies may also be  
35 employed. The board may compensate these groups and consultants in  
36 appropriate ways.

1       **Sec. 44.** RCW 34.12.020 and 1989 c 175 s 33 are each amended to  
2 read as follows:

3       Unless the context clearly requires otherwise, the definitions in  
4 this section apply throughout this chapter.

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

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

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

12       (4) "State agency" means any state board, commission, department,  
13 or officer authorized by law to make rules or to conduct adjudicative  
14 proceedings, except those in the legislative or judicial branches, the  
15 pollution control hearings board, the shorelines hearings board, the  
16 forest practices appeals board, the environmental hearings office, the  
17 board of industrial insurance appeals, the state personnel board, the  
18 (~~higher education personnel board~~) state employees' relations  
19 commission, the public employment relations commission, the personnel  
20 appeals board, and the board of tax appeals.

21       **Sec. 45.** RCW 41.04.340 and 1991 c 249 s 1 are each amended to read  
22 as follows:

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

33       (2) In January of the year following any year in which a minimum of  
34 sixty days of sick leave is accrued, and each January thereafter, any  
35 eligible employee may receive remuneration for unused sick leave  
36 accumulated in the previous year at a rate equal to one day's monetary  
37 compensation of the employee for each four full days of accrued sick  
38 leave in excess of sixty days. Sick leave for which compensation has

1 been received shall be deducted from accrued sick leave at the rate of  
2 four days for every one day's monetary compensation.

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

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

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

23 (6) With the exception of subsection (~~(3)~~) (4) of this section,  
24 this section shall be administered, and rules shall be promulgated to  
25 carry out its purposes, by the state personnel board (~~and the higher~~  
26 ~~education personnel board~~) for persons subject to chapter(~~s~~) 41.06  
27 (~~and 28B.16~~) RCW, (~~respectively,~~) and by their respective personnel  
28 authorities for other eligible employees: PROVIDED, That determination  
29 of classes of eligible employees shall be subject to approval by the  
30 office of financial management.

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

34 **Sec. 46.** RCW 41.04.670 and 1990 c 23 s 3 are each amended to read  
35 as follows:

36 The state personnel board(~~(, the higher education personnel~~  
37 ~~board,~~) and other personnel authorities shall each adopt rules  
38 applicable to employees under their respective jurisdictions: (1)

1 Establishing appropriate parameters for the program which are  
2 consistent with the provisions of RCW 41.04.650 through 41.04.665; (2)  
3 providing for equivalent treatment of employees between their  
4 respective jurisdictions and allowing transfers of leave in accordance  
5 with RCW 41.04.665(5); (3) establishing procedures to ensure that the  
6 program does not significantly increase the cost of providing leave;  
7 and (4) providing for the administration of the program and providing  
8 for maintenance and collection of sufficient information on the program  
9 to allow a thorough legislative review.

10 **Sec. 47.** RCW 41.06.079 and 1985 c 178 s 1 are each amended to read  
11 as follows:

12 In addition to the exemptions set forth in RCW 41.06.070, the  
13 provisions of this chapter shall not apply in the department of  
14 transportation to the secretary, a deputy secretary, an administrative  
15 assistant to the secretary, if any, one assistant secretary for each  
16 division designated pursuant to RCW 47.01.081, one confidential  
17 secretary for each of the above-named officers, up to six  
18 transportation district administrators and one confidential secretary  
19 for each district administrator, up to six additional new  
20 administrators or confidential secretaries designated by the secretary  
21 of the department of transportation and approved by the state personnel  
22 board pursuant to the provisions of RCW 41.06.070(~~(+26)~~), the  
23 legislative liaison for the department, the state construction  
24 engineer, the state aid engineer, the personnel manager, the state  
25 project development engineer, the state maintenance and operations  
26 engineer, one confidential secretary for each of the last-named five  
27 positions, and a confidential secretary for the public affairs  
28 administrator. The individuals appointed under this section shall be  
29 exempt from the provisions of the state civil service law, and shall be  
30 paid salaries to be fixed by the governor in accordance with the  
31 procedure established by law for the fixing of salaries for individuals  
32 exempt from the operation of the state civil service law.

33 **Sec. 48.** RCW 41.06.155 and 1983 1st ex.s. c 75 s 6 are each  
34 amended to read as follows:

35 Salary changes necessary to achieve comparable worth shall be  
36 implemented during the 1983-85 biennium under a schedule developed by  
37 the department (~~in cooperation with the higher education personnel~~

1 board)). Increases in salaries and compensation solely for the purpose  
2 of achieving comparable worth shall be made at least annually.  
3 Comparable worth for the jobs of all employees under this chapter shall  
4 be fully achieved not later than June 30, 1993.

5 **Sec. 49.** RCW 41.06.160 and 1985 c 94 s 2 are each amended to read  
6 as follows:

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

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

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

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

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

9 (3) A list of class codes and titles indicating recommended monthly  
10 salary ranges for all state classes under the control of the department  
11 of personnel with( (+

12 (a)) those salary ranges which do not substantially conform to the  
13 prevailing rates developed from the salary and fringe benefit survey  
14 distinctly marked and an explanation of the reason for the deviation  
15 included; ((and

16 (b) ~~Those department of personnel classes which are substantially~~  
17 ~~the same as classes being used by the higher education personnel board~~  
18 ~~clearly marked to show the commonality of the classes between the two~~  
19 ~~jurisdictions;))~~

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

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

37 It is the intention of the legislature that requests for funds to  
38 support recommendations for salary deviations from the prevailing rate  
39 survey data shall be kept to a minimum, and that the requests be fully



1 documented when forwarded by the department of personnel. (~~Further,~~  
2 ~~it is the intention of the legislature that the department of personnel~~  
3 ~~and the higher education personnel board jointly determine job classes~~  
4 ~~which are substantially common to both jurisdictions and that basic~~  
5 ~~salaries for these job classes shall be equal based on salary and~~  
6 ~~fringe benefit survey findings.))~~

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

11 The first comprehensive salary and fringe benefit survey required  
12 by this section shall be completed and forwarded to the governor and  
13 the director of financial management by September 30, 1986. The first  
14 trend salary and fringe benefit survey required by this section shall  
15 be completed and forwarded to the governor and the director of  
16 financial management by September 30, 1988.

17 **Sec. 50.** RCW 41.06.163 and 1987 c 185 s 9 are each amended to read  
18 as follows:

19 (1) In the conduct of salary and fringe benefit surveys under RCW  
20 41.06.160 (~~as now or hereafter amended~~), it is the intention of the  
21 legislature that the surveys be undertaken in a manner consistent with  
22 statistically accurate sampling techniques. For this purpose, a  
23 comprehensive salary and fringe benefit survey plan shall be submitted  
24 to the director of financial management, employee organizations, and  
25 the standing committees for appropriations of the senate and house of  
26 representatives six months before the beginning of each periodic survey  
27 required before regular legislative sessions. This comprehensive plan  
28 shall include but not be limited to the following:

29 (a) A complete explanation of the technical, statistical process to  
30 be used in the salary and fringe benefit survey including the  
31 percentage of accuracy expected from the planned statistical sample  
32 chosen for the survey and a definition of the term "prevailing rates"  
33 which is to be used in the planned survey;

34 (b) A comprehensive salary and fringe benefit survey model based on  
35 scientific statistical principles which:

36 (i) Encompasses the interrelationships among the various elements  
37 of the survey sample including sources of salary and fringe benefit  
38 data by organization type, size, and regional location;

1 (ii) Is representative of private and public employment in this  
2 state;

3 (iii) Ensures that, wherever practical, data from smaller, private  
4 firms are included and proportionally weighted in the survey sample;  
5 and

6 (iv) Indicates the methodology to be used in application of survey  
7 data to job classes used by state government;

8 (c) A prediction of the increase or decrease in total funding  
9 requirements expected to result from the pending salary and fringe  
10 benefit survey based on consumer price index information and other  
11 available trend data pertaining to Washington state salaries and fringe  
12 benefits.

13 (2) Every comprehensive survey plan shall fully consider fringe  
14 benefits as an element of compensation in addition to basic salary  
15 data. The plans prepared under this section shall be developed  
16 ~~((jointly))~~ by the department of personnel ~~((in conjunction with the  
17 higher education personnel board established under chapter 28B.16 RCW.  
18 All comprehensive salary and fringe benefit survey plans shall be  
19 submitted on a joint signature basis by the department of personnel and  
20 the higher education personnel board))~~.

21 (3) Interim or special surveys conducted under RCW 41.06.160 as now  
22 or hereafter amended shall conform when possible to the statistical  
23 techniques and principles developed for regular periodic surveys under  
24 this section.

25 (4) The term "fringe benefits" as used in this section and in  
26 conjunction with salary surveys shall include but not be limited to  
27 compensation for:

28 (a) Leave time, including vacation, holiday, civil, and personal  
29 leave;

30 (b) Employer retirement contributions;

31 (c) Health and insurance payments, including life, accident, and  
32 health insurance, workers' compensation, and sick leave; and

33 (d) Stock options, bonuses, and purchase discounts where  
34 appropriate.

35 **Sec. 51.** RCW 41.48.140 and 1979 c 152 s 3 are each amended to read  
36 as follows:

37 Nothing in RCW 41.48.120 or 41.48.130 shall affect the power of the  
38 state personnel board(~~(, the higher education personnel board,)~~) or any

1 other state personnel authority to establish sick leave regulations  
2 except as may be required under RCW 41.48.120 or 41.48.130: PROVIDED,  
3 That each personnel board and personnel authority shall establish the  
4 maximum number of working days an employee under its jurisdiction may  
5 be absent on account of sickness or accident disability without a  
6 medical certificate.

7 "Personnel authority" as used in this section, means a state  
8 agency, board, committee, or similar body having general authority to  
9 establish personnel regulations.

10 **Sec. 52.** RCW 41.60.015 and 1987 c 387 s 2 are each amended to read  
11 as follows:

12 (1) There is hereby created the productivity board. The board  
13 shall administer the employee suggestion program under this chapter and  
14 shall review applications for teamwork incentive pay for state  
15 employees under RCW 41.60.100, 41.60.110, and 41.60.120.

16 (2) The board shall be composed of:

17 (a) The secretary of state who shall act as chairperson;

18 (b) The director of personnel appointed under the provisions of RCW  
19 41.06.130 or the director's designee;

20 (c) The director of financial management or the director's  
21 designee;

22 ~~(d) ((The personnel director appointed under the provisions of RCW  
23 28B.16.060 or the director's designee;~~

24 ~~(e))~~ (e)) The director of general administration or the director's  
25 designee;

26 ~~((f))~~ (e) Three persons with experience in administering  
27 incentives such as those used by industry, with the governor,  
28 lieutenant governor, and speaker of the house of representatives each  
29 appointing one person. The governor's appointee shall be a  
30 representative of an employee organization certified as an exclusive  
31 representative of at least one bargaining unit of classified employees,  
32 but no one organization may be represented for two consecutive terms;

33 ~~((g))~~ (f) One person representing state agencies and institutions  
34 with employees subject to chapter 41.06 RCW ~~((, and one person  
35 representing those subject to chapter 28B.16 RCW, both))~~ to be  
36 appointed by the governor; and

37 ~~((h))~~ (g) In addition, the governor and board chairperson may  
38 jointly appoint persons to the board on an ad hoc basis. Ad hoc members

1 shall serve in an advisory capacity and shall not have the right to  
2 vote.

3 Members under subsection (2) (e) and (f) (~~(and—(g))~~) of this  
4 section shall be appointed to serve three-year terms.

5 Members of the board appointed pursuant to subsection (2) ~~((+f))~~  
6 (e) of this section may be compensated in accordance with RCW  
7 43.03.240. Any board member who is not a state employee may be  
8 reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

9 **Sec. 53.** RCW 42.17.2401 and 1991 c 200 s 404 are each amended to  
10 read as follows:

11 For the purposes of RCW 42.17.240, the term "executive state  
12 officer" includes:

13 (1) The chief administrative law judge, the director of  
14 agriculture, the administrator of the office of marine safety, the  
15 administrator of the Washington basic health plan, the director of the  
16 department of services for the blind, the director of the state system  
17 of community and technical colleges, the director of community  
18 development, the secretary of corrections, the director of ecology, the  
19 commissioner of employment security, the chairman of the energy  
20 facility site evaluation council, the director of the energy office,  
21 the secretary of the state finance committee, the director of financial  
22 management, the director of fisheries, the executive secretary of the  
23 forest practices appeals board, the director of the gambling  
24 commission, the director of general administration, the secretary of  
25 health, the administrator of the Washington state health care  
26 authority, the executive secretary of the health care facilities  
27 authority, the executive secretary of the higher education facilities  
28 authority, (~~the director of the higher education personnel board,~~)  
29 the executive secretary of the horse racing commission, the executive  
30 secretary of the human rights commission, the executive secretary of  
31 the indeterminate sentence review board, the director of the department  
32 of information services, the director of the interagency committee for  
33 outdoor recreation, the executive director of the state investment  
34 board, the director of labor and industries, the director of licensing,  
35 the director of the lottery commission, the director of the office of  
36 minority and women's business enterprises, the director of parks and  
37 recreation, the director of personnel, the executive director of the  
38 public disclosure commission, the director of retirement systems, the

1 director of revenue, the secretary of social and health services, the  
2 chief of the Washington state patrol, the executive secretary of the  
3 board of tax appeals, the director of trade and economic development,  
4 the secretary of transportation, the secretary of the utilities and  
5 transportation commission, the director of veterans affairs, the  
6 director of wildlife, the president of each of the regional and state  
7 universities and the president of The Evergreen State College, each  
8 district and each campus president of each state community college;

9 (2) Each professional staff member of the office of the governor;

10 (3) Each professional staff member of the legislature; and

11 (4) Central Washington University board of trustees, board of  
12 trustees of each community college, each member of the state board for  
13 community ~~((college—education))~~ and technical colleges, state  
14 convention and trade center board of directors, committee for deferred  
15 compensation, Eastern Washington University board of trustees,  
16 Washington economic development finance authority, The Evergreen State  
17 College board of trustees, forest practices appeals board, forest  
18 practices board, gambling commission, Washington health care facilities  
19 authority, higher education coordinating board, higher education  
20 facilities authority, ~~((higher—education—personnel—board,))~~ horse  
21 racing commission, state housing finance commission, human rights  
22 commission, indeterminate sentence review board, board of industrial  
23 insurance appeals, information services board, interagency committee  
24 for outdoor recreation, state investment board, liquor control board,  
25 lottery commission, marine oversight board, oil and gas conservation  
26 committee, Pacific Northwest electric power and conservation planning  
27 council, parks and recreation commission, personnel appeals board,  
28 personnel board, board of pilotage ~~((commissioners))~~ commissioners,  
29 pollution control hearings board, public disclosure commission, public  
30 pension commission, shorelines hearing board, state employees' benefits  
31 board, board of tax appeals, transportation commission, University of  
32 Washington board of regents, utilities and transportation commission,  
33 Washington state maritime commission, Washington public power supply  
34 system executive board, Washington State University board of regents,  
35 Western Washington University board of trustees, and wildlife  
36 commission.

37 **Sec. 54.** RCW 41.60.160 and 1987 c 387 s 8 are each amended to read  
38 as follows:

1 No award may be made under this chapter to any elected state  
2 official or state agency director. No monetary award may be made to  
3 persons exempt from the state civil service law under RCW 41.06.070  
4 (~~(5)~~) (4) or (~~(9)~~) (8).

5 **Sec. 55.** RCW 42.40.020 and 1992 c 118 s 1 are each amended to read  
6 as follows:

7 As used in this chapter, the terms defined in this section shall  
8 have the meanings indicated unless the context clearly requires  
9 otherwise.

10 (1) "Auditor" means the office of the state auditor.

11 (2) "Employee" means any individual employed or holding office in  
12 any department or agency of state government.

13 (3)(a) "Improper governmental action" means any action by an  
14 employee:

15 (i) Which is undertaken in the performance of the employee's  
16 official duties, whether or not the action is within the scope of the  
17 employee's employment; and

18 (ii) Which is in violation of any state law or rule, is an abuse of  
19 authority, is of substantial and specific danger to the public health  
20 or safety, or is a gross waste of public funds.

21 (b) "Improper governmental action" does not include personnel  
22 actions including but not limited to employee grievances, complaints,  
23 appointments, promotions, transfers, assignments, reassignments,  
24 reinstatements, restorations, reemployments, performance evaluations,  
25 reductions in pay, dismissals, suspensions, demotions, violations of  
26 the state civil service law, alleged labor agreement violations,  
27 reprimands, or any action which may be taken under chapter 41.06 or  
28 28B.16 RCW, or other disciplinary action except as provided in RCW  
29 42.40.030.

30 (4) "Use of official authority or influence" includes taking,  
31 directing others to take, recommending, processing, or approving any  
32 personnel action such as an appointment, promotion, transfer,  
33 assignment, reassignment, reinstatement, restoration, reemployment,  
34 performance evaluation, or any adverse action under chapter 41.06 (~~or~~  
35 ~~28B.16~~) RCW, or other disciplinary action.

36 (5) "Whistleblower" means an employee who in good faith reports  
37 alleged improper governmental action to the auditor, initiating an  
38 investigation under RCW 42.40.040. For purposes of the provisions of

1 this chapter and chapter 49.60 RCW relating to reprisals and  
2 retaliatory action, the term "whistleblower" also means an employee who  
3 in good faith provides information to the auditor in connection with an  
4 investigation under RCW 42.40.040 and an employee who is believed to  
5 have reported alleged improper governmental action to the auditor or to  
6 have provided information to the auditor in connection with an  
7 investigation under RCW 42.40.040 but who, in fact, has not reported  
8 such action or provided such information.

9       **Sec. 56.** RCW 43.06.410 and 1985 c 442 s 1 are each amended to read  
10 as follows:

11       There is established within the office of the governor the  
12 Washington state internship program to assist students and state  
13 employees in gaining valuable experience and knowledge in various areas  
14 of state government. In administering the program, the governor shall:

15       (1) Consult with the secretary of state, the director of personnel,  
16 (~~the director of the higher education personnel board,~~) the  
17 commissioner of the employment security department, and representatives  
18 of labor;

19       (2) Encourage and assist agencies in developing intern positions;

20       (3) Develop and coordinate a selection process for placing  
21 individuals in intern positions. This selection process shall give due  
22 regard to the responsibilities of the state to provide equal employment  
23 opportunities;

24       (4) Develop and coordinate a training component of the internship  
25 program which balances the need for training and exposure to new ideas  
26 with the intern's and agency's need for on-the-job work experience;

27       (5) Work with institutions of higher education in developing the  
28 program, soliciting qualified applicants, and selecting participants;  
29 and

30       (6) Develop guidelines for compensation of the participants.

31       **Sec. 57.** RCW 43.06.425 and 1985 c 442 s 4 are each amended to read  
32 as follows:

33       The state personnel board (~~and the higher education personnel~~  
34 ~~board~~) shall (~~each~~) adopt rules to provide that:

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

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

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

10 (4) Participants in the executive fellows program who were not  
11 public employees prior to accepting a position in the program receive  
12 sick and vacation leave allowances commensurate with other state  
13 employees.

14 **Sec. 58.** RCW 43.23.010 and 1990 c 37 s 1 are each amended to read  
15 as follows:

16 In order to obtain maximum efficiency and effectiveness within the  
17 department of agriculture, the director may create such administrative  
18 divisions within the department as he or she deems necessary. The  
19 director shall appoint a deputy director as well as such assistant  
20 directors as shall be needed to administer the several divisions within  
21 the department. The director shall appoint no more than eight  
22 assistant directors. The officers appointed under this section are  
23 exempt from the provisions of the state civil service law as provided  
24 in RCW 41.06.070(~~(+7)~~), and shall be paid salaries to be fixed by the  
25 governor in accordance with the procedure established by law for the  
26 fixing of salaries for officers exempt from the operation of the state  
27 civil service law. The director shall also appoint and deputize a  
28 state veterinarian who shall be an experienced veterinarian properly  
29 licensed to practice veterinary medicine in this state.

30 The director of agriculture shall have charge and general  
31 supervision of the department and may assign supervisory and  
32 administrative duties other than those specified in RCW 43.23.070 to  
33 the division which in his or her judgment can most efficiently carry on  
34 those functions.

35 **Sec. 59.** RCW 43.88.280 and 1977 ex.s. c 320 s 1 are each amended  
36 to read as follows:



1 As used in RCW 43.88.290 and 43.88.300 the term "state officer or  
2 employee" includes the members of the governing body of any state  
3 agency, as state agency is defined in RCW 43.88.020(4) and those  
4 generally known as executive management but excludes nonsupervisory  
5 state employees covered by civil service under chapter((s)) 41.06 ((and  
6 28B.16)) RCW.

7 **Sec. 60.** RCW 43.105.052 and 1992 c 20 s 10 are each amended to  
8 read as follows:

9 The department shall:

10 (1) Perform all duties and responsibilities the board delegates to  
11 the department, including but not limited to:

12 (a) The review of agency acquisition plans and requests; and

13 (b) Implementation of state-wide and interagency policies,  
14 standards, and guidelines;

15 (2) Make available information services to state agencies and local  
16 governments on a full cost-recovery basis. These services may include,  
17 but are not limited to:

18 (a) Telecommunications services for voice, data, and video;

19 (b) Mainframe computing services;

20 (c) Support for departmental and microcomputer evaluation,  
21 installation, and use;

22 (d) Equipment acquisition assistance, including leasing, brokering,  
23 and establishing master contracts;

24 (e) Facilities management services for information technology  
25 equipment, equipment repair, and maintenance service;

26 (f) Negotiation with local cable companies and local governments to  
27 provide for connection to local cable services to allow for access to  
28 these public and educational channels in the state;

29 (g) Office automation services;

30 (h) System development services; and

31 (i) Training.

32 These services are for discretionary use by customers and customers  
33 may elect other alternatives for service if those alternatives are more  
34 cost-effective or provide better service. Agencies may be required to  
35 use the backbone network portions of the telecommunications services  
36 during an initial start-up period not to exceed three years;

37 (3) Establish rates and fees for services provided by the  
38 department to assure that the services component of the department is

1 self-supporting. A billing rate plan shall be developed for a two-year  
2 period to coincide with the budgeting process. The rate plan shall be  
3 subject to review at least annually by the customer oversight  
4 committees. The rate plan shall show the proposed rates by each cost  
5 center and will show the components of the rate structure as mutually  
6 determined by the department and the customer oversight committees.  
7 The same rate structure will apply to all user agencies of each cost  
8 center. The rate plan and any adjustments to rates shall be approved  
9 by the office of financial management. The services component shall  
10 not subsidize the operations of the planning component;

11 (4) With the advice of the information services board and agencies,  
12 develop a state strategic information technology plan and performance  
13 reports as required under RCW 43.105.160;

14 (5) Develop plans for the department's achievement of state-wide  
15 goals and objectives set forth in the state strategic information  
16 technology plan required under RCW 43.105.160. These plans shall  
17 address such services as telecommunications, central and distributed  
18 computing, local area networks, office automation, and end user  
19 computing. The department shall seek the advice of customer oversight  
20 committees and the board in the development of these plans;

21 (6) Under direction of the information services board and in  
22 collaboration with the department of personnel(~~(, the higher education~~  
23 ~~personnel board,)) and other agencies as may be appropriate, develop  
24 training plans and coordinate training programs that are responsive to  
25 the needs of agencies;~~

26 (7) Identify opportunities for the effective use of information  
27 services and coordinate appropriate responses to those opportunities;

28 (8) Assess agencies' projects, acquisitions, plans, or overall  
29 information processing performance as requested by the board, agencies,  
30 the director of financial management, or the legislature. Agencies may  
31 be required to reimburse the department for agency-requested reviews;

32 (9) Develop planning, budgeting, and expenditure reporting  
33 requirements, in conjunction with the office of financial management,  
34 for agencies to follow;

35 (10) Assist the office of financial management with budgetary and  
36 policy review of agency plans for information services;

37 (11) Provide staff support from the planning component to the board  
38 for:

39 (a) Meeting preparation, notices, and minutes;

1 (b) Promulgation of policies, standards, and guidelines adopted by  
2 the board;

3 (c) Supervision of studies and reports requested by the board;

4 (d) Conducting reviews and assessments as directed by the board;

5 (12) Be the lead agency in coordinating video telecommunications  
6 services for all state agencies and develop, pursuant to board  
7 policies, standards and common specifications for leased and purchased  
8 telecommunications equipment. The department shall not evaluate the  
9 merits of school curriculum, higher education course offerings, or  
10 other education and training programs proposed for transmission and/or  
11 reception using video telecommunications resources. Nothing in this  
12 section shall abrogate or abridge the legal responsibilities of  
13 licensees of telecommunications facilities as licensed by the federal  
14 communication commission on March 27, 1990; and

15 (13) Perform all other matters and things necessary to carry out  
16 the purposes and provisions of this chapter.

17 **Sec. 61.** RCW 49.46.010 and 1989 c 1 s 1 are each amended to read  
18 as follows:

19 As used in this chapter:

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

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

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

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

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

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

1 (iii) who has been employed in agriculture less than thirteen weeks  
2 during the preceding calendar year;

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

6 (c) Any individual employed in a bona fide executive,  
7 administrative, or professional capacity or in the capacity of outside  
8 salesman as those terms are defined and delimited by regulations of the  
9 director. However, those terms shall be defined and delimited by the  
10 state personnel board pursuant to chapter 41.06 RCW (~~and the higher~~  
11 ~~education personnel board pursuant to chapter 28B.16 RCW~~) for  
12 employees employed under (~~their respective~~) its jurisdiction(~~s~~);

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

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

31 (f) Any newspaper vendor or carrier;

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

34 (h) Any individual engaged in forest protection and fire prevention  
35 activities;

36 (i) Any individual employed by any charitable institution charged  
37 with child care responsibilities engaged primarily in the development  
38 of character or citizenship or promoting health or physical fitness or

1 providing or sponsoring recreational opportunities or facilities for  
2 young people or members of the armed forces of the United States;

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

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

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

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

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

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

21 **Sec. 62.** RCW 49.74.020 and 1985 c 365 s 9 are each amended to read  
22 as follows:

23 If the commission reasonably believes that a state agency, an  
24 institution of higher education, or the state patrol has failed to  
25 comply with an affirmative action rule adopted under RCW  
26 (~~28B.16.1007~~) 41.06.150(~~7~~) or 43.43.340, the commission shall  
27 notify the director of the state agency, president of the institution  
28 of higher education, or chief of the Washington state patrol of the  
29 noncompliance, as well as the director of personnel (~~or the director~~  
30 ~~of the higher education personnel board, whichever is appropriate~~).  
31 The commission shall give the director of the state agency, president  
32 of the institution of higher education, or chief of the Washington  
33 state patrol an opportunity to be heard on the failure to comply.

34 **Sec. 63.** RCW 49.74.030 and 1985 c 365 s 10 are each amended to  
35 read as follows:

36 The commission in conjunction with the department of personnel(~~7~~  
37 ~~the higher education personnel board,~~) or the state patrol, whichever

1 is appropriate, shall attempt to resolve the noncompliance through  
2 conciliation. If an agreement is reached for the elimination of  
3 noncompliance, the agreement shall be reduced to writing and an order  
4 shall be issued by the commission setting forth the terms of the  
5 agreement. The noncomplying state agency, institution of higher  
6 education, or state patrol shall make a good faith effort to conciliate  
7 and make a full commitment to correct the noncompliance with any action  
8 that may be necessary to achieve compliance, provided such action is  
9 not inconsistent with the rules adopted under RCW (~~(28B.16.100(20),~~  
10 ~~41.06.150(21),~~ and)) 41.06.150 or 43.43.340(5), whichever is  
11 appropriate.

12 **Sec. 64.** RCW 49.74.040 and 1985 c 365 s 11 are each amended to  
13 read as follows:

14 If no agreement can be reached under RCW 49.74.030, the commission  
15 may refer the matter to the administrative law judge for hearing  
16 pursuant to RCW 49.60.250. If the administrative law judge finds that  
17 the state agency, institution of higher education, or state patrol has  
18 not made a good faith effort to correct the noncompliance, the  
19 administrative law judge shall order the state agency, institution of  
20 higher education, or state patrol to comply with this chapter. The  
21 administrative law judge may order any action that may be necessary to  
22 achieve compliance, provided such action is not inconsistent with the  
23 rules adopted under RCW (~~(28B.16.100(20), 41.06.150(21),~~) 41.06.150  
24 and 43.43.340(5), whichever is appropriate.

25 An order by the administrative law judge may be appealed to  
26 superior court.

27 **Sec. 65.** RCW 50.13.060 and 1981 c 177 s 1 are each amended to read  
28 as follows:

29 (1) Governmental agencies, including law enforcement agencies,  
30 prosecuting agencies, and the executive branch, whether state, local,  
31 or federal shall have access to information or records deemed private  
32 and confidential under this chapter if the information or records are  
33 needed by the agency for official purposes and:

34 (a) The agency submits an application in writing to the employment  
35 security department for the records or information containing a  
36 statement of the official purposes for which the information or records

1 are needed and specific identification of the records or information  
2 sought from the department; and

3 (b) The director, commissioner, chief executive, or other official  
4 of the agency has verified the need for the specific information in  
5 writing either on the application or on a separate document; and

6 (c) The agency requesting access has served a copy of the  
7 application for records or information on the individual or employing  
8 unit whose records or information are sought and has provided the  
9 department with proof of service. Service shall be made in a manner  
10 which conforms to the civil rules for superior court. The requesting  
11 agency shall include with the copy of the application a statement to  
12 the effect that the individual or employing unit may contact the public  
13 records officer of the employment security department to state any  
14 objections to the release of the records or information. The employment  
15 security department shall not act upon the application of the  
16 requesting agency until at least five days after service on the  
17 concerned individual or employing unit. The employment security  
18 department shall consider any objections raised by the concerned  
19 individual or employing unit in deciding whether the requesting agency  
20 needs the information or records for official purposes.

21 (2) The requirements of subsections (1) and (7) of this section  
22 shall not apply to the state legislative branch. The state legislature  
23 shall have access to information or records deemed private and  
24 confidential under this chapter, if the legislature or a legislative  
25 committee finds that the information or records are necessary and for  
26 official purposes. If the employment security department does not make  
27 information or records available as provided in this subsection, the  
28 legislature may exercise its authority granted by chapter 44.16 RCW.

29 (3) In cases of emergency the governmental agency requesting access  
30 shall not be required to formally comply with the provisions of  
31 subsection (1) of this section at the time of the request if the  
32 procedures required by subsection (1) of this section are complied with  
33 by the requesting agency following the receipt of any records or  
34 information deemed private and confidential under this chapter. An  
35 emergency is defined as a situation in which irreparable harm or damage  
36 could occur if records or information are not released immediately.

37 (4) The requirements of subsection (1)(c) of this section shall not  
38 apply to governmental agencies where the procedures would frustrate the  
39 investigation of possible violations of criminal laws.

1 (5) Governmental agencies shall have access to certain records or  
2 information, limited to such items as names, addresses, social security  
3 numbers, and general information about benefit entitlement or employer  
4 information possessed by the department, for comparison purposes with  
5 records or information possessed by the requesting agency to detect  
6 improper or fraudulent claims, or to determine potential tax liability  
7 or employer compliance with registration and licensing requirements.  
8 In those cases the governmental agency shall not be required to comply  
9 with subsection (1)(c) of this section, but the requirements of the  
10 remainder of subsection (1) must be satisfied.

11 (6) Disclosure to governmental agencies of information or records  
12 obtained by the employment security department from the federal  
13 government shall be governed by any applicable federal law or any  
14 agreement between the federal government and the employment security  
15 department where so required by federal law. When federal law does not  
16 apply to the records or information state law shall control.

17 (7) The disclosure of any records or information by a governmental  
18 agency which has obtained the records or information under this section  
19 is prohibited unless the disclosure is directly connected to the  
20 official purpose for which the records or information were obtained.

21 (8) In conducting periodic salary or fringe benefit studies  
22 pursuant to law, the department of personnel (~~and the higher education~~  
23 ~~personnel board~~) shall have access to records of the employment  
24 security department as may be required for such studies. For such  
25 purposes, the requirements of subsection (1)(c) of this section need  
26 not apply.

27 **Sec. 66.** RCW 51.32.300 and 1990 c 204 s 5 are each amended to read  
28 as follows:

29 The director shall appoint a state employee vocational  
30 rehabilitation coordinator who shall provide technical assistance and  
31 coordination of claims management to state agencies and institutions of  
32 higher education under the state return-to-work programs created by RCW  
33 41.06.490 (~~and 28B.16.300~~).

34 **Sec. 67.** RCW 70.24.300 and 1988 c 206 s 607 are each amended to  
35 read as follows:

36 The state personnel board(~~(, the higher education personnel~~  
37 ~~board,)) and each unit of local government shall determine whether any~~



1 employees under their jurisdiction have a substantial likelihood of  
2 exposure in the course of their employment to the human  
3 immunodeficiency virus. If so, the agency or unit of government shall  
4 adopt rules requiring appropriate training and education for the  
5 employees on the prevention, transmission, and treatment of AIDS. The  
6 rules shall specifically provide for such training and education for  
7 law enforcement, correctional, and health care workers. The state  
8 personnel board(~~(, the higher education personnel board,)~~) and each  
9 unit of local government shall work with the office on AIDS under RCW  
10 70.24.250 to develop the educational and training material necessary  
11 for employees.

12 NEW SECTION. **Sec. 68.** (1) The state personnel appeals board and  
13 the higher education personnel board are hereby abolished. All powers,  
14 duties, and functions of these agencies are transferred to the state  
15 personnel board.

16 (2) All references to the abolished agencies in the Revised Code of  
17 Washington shall be construed to mean the state personnel board.

18 NEW SECTION. **Sec. 69.** All reports, documents, surveys, books,  
19 records, files, papers, or written material in the possession of the  
20 agencies abolished in section 68 of this act and pertaining to the  
21 powers, functions, and duties transferred by section 68 of this act  
22 shall be delivered to the custody of the state personnel board. All  
23 cabinets, furniture, office equipment, motor vehicles, and other  
24 tangible property employed by the abolished agencies in carrying out  
25 the powers, functions, and duties transferred by section 68 of this act  
26 shall be made available to the state personnel board. All funds,  
27 credits, or other assets held in connection with the powers, functions,  
28 and duties transferred by section 68 of this act shall be assigned to  
29 the state personnel board. Any appropriations made to the abolished  
30 agencies for carrying out the powers, functions, and duties transferred  
31 by section 68 of this act shall, on the effective date of this section,  
32 be transferred and credited to the state personnel board. Whenever any  
33 question arises as to the transfer of any personnel, funds, books,  
34 documents, records, papers, files, equipment, or other tangible  
35 property used or held in the exercise of the powers and the performance  
36 of the duties and functions transferred, the director of financial

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

3 NEW SECTION. **Sec. 70.** (1) All classified employees of the state  
4 personnel appeals board engaged in performing the powers, functions,  
5 and duties transferred by section 68 of this act are transferred to the  
6 jurisdiction of the state personnel board.

7 (2) All employees of the higher education personnel board  
8 classified under chapter 28B.16 RCW are assigned to the department of  
9 personnel to perform their usual duties upon the same terms as  
10 formerly, without any loss of rights, subject to any action that may be  
11 appropriate thereafter in accordance with the laws and rules governing  
12 state civil service.

13 (3) All employees of the department of personnel assigned to labor  
14 relations functions are assigned to the state employees' relations  
15 commission to perform their usual duties upon the same terms as  
16 formerly, without any loss of rights, subject to any action that may be  
17 appropriate thereafter in accordance with the laws and rules governing  
18 state civil service.

19 NEW SECTION. **Sec. 71.** All rules and all pending business before  
20 the abolished agencies pertaining to the powers, functions, and duties  
21 transferred by section 68 of this act shall be continued and acted upon  
22 by the state personnel board. All existing contracts and obligations  
23 shall remain in full force and shall be performed by the state  
24 personnel board.

25 NEW SECTION. **Sec. 72.** The transfer of the powers, duties,  
26 functions, and personnel of the abolished agencies under section 68 of  
27 this act shall not affect the validity of any act performed by such  
28 employee prior to the effective date of this section.

29 NEW SECTION. **Sec. 73.** If apportionments of budgeted funds are  
30 required because of the transfers directed by sections 68 through 72 of  
31 this act, the director of financial management shall certify the  
32 apportionments to the agencies affected, the state auditor, and the  
33 state treasurer. Each of these shall make the appropriate transfer and  
34 adjustments in funds and appropriation accounts and equipment records  
35 in accordance with the certification.

1        NEW SECTION.    **Sec. 74.** Rules, classification plans, compensation  
2 plans, and bargaining units adopted or established pursuant to chapter  
3 28B.16 RCW shall remain in effect until superseded by action of the  
4 state personnel board or state employees' relations commission,  
5 respectively.

6        NEW SECTION.    **Sec. 75.** SECTION CAPTIONS. Section captions used in  
7 this act constitute no part of the law.

8        NEW SECTION.    **Sec. 76.** The following acts or parts of acts are  
9 each repealed:

- 10        (1) RCW 28B.16.010 and 1969 ex.s. c 36 s 1;
- 11        (2) RCW 28B.16.020 and 1985 c 461 s 8, 1985 c 365 s 2, 1983 1st  
12 ex.s. c 75 s 1, 1982 1st ex.s. c 53 s 14, 1977 ex.s. c 169 s 41, & 1969  
13 ex.s. c 36 s 2;
- 14        (3) RCW 28B.16.030 and 1969 ex.s. c 36 s 3;
- 15        (4) RCW 28B.16.040 and 1990 c 60 s 201, 1982 1st ex.s. c 53 s 15,  
16 1977 ex.s. c 94 s 1, & 1969 ex.s. c 36 s 4;
- 17        (5) RCW 28B.16.041 and 1985 c 442 s 9;
- 18        (6) RCW 28B.16.042 and 1985 c 266 s 1;
- 19        (7) RCW 28B.16.043 and 1991 c 238 s 107;
- 20        (8) RCW 28B.16.060 and 1984 c 287 s 63, 1981 c 338 s 19, 1975-'76  
21 2nd ex.s. c 34 s 73, & 1969 ex.s. c 36 s 6;
- 22        (9) RCW 28B.16.070 and 1983 c 23 s 1 & 1969 ex.s. c 36 s 7;
- 23        (10) RCW 28B.16.080 and 1969 ex.s. c 36 s 8;
- 24        (11) RCW 28B.16.090 and 1969 ex.s. c 36 s 9;
- 25        (12) RCW 28B.16.100 and 1990 c 60 s 202;
- 26        (13) RCW 28B.16.101 and 1982 1st ex.s. c 53 s 19 & 1977 ex.s. c 152  
27 s 9;
- 28        (14) RCW 28B.16.105 and 1985 c 461 s 10, 1982 1st ex.s. c 53 s 17,  
29 & 1977 c 152 s 13;
- 30        (15) RCW 28B.16.110 and 1985 c 94 s 1, 1980 c 11 s 3, 1979 c 151 s  
31 16, 1977 ex.s. c 152 s 10, 1975 1st ex.s. c 122 s 2, & 1969 ex.s. c 36  
32 s 11;
- 33        (16) RCW 28B.16.112 and 1987 c 185 s 3, 1986 c 158 s 4, 1979 c 151  
34 s 17, & 1977 ex.s. c 152 s 11;
- 35        (17) RCW 28B.16.113 and 1977 ex.s. c 152 s 12;
- 36        (18) RCW 28B.16.116 and 1983 1st ex.s. c 75 s 3;
- 37        (19) RCW 28B.16.120 and 1969 ex.s. c 36 s 12;

1 (20) RCW 28B.16.130 and 1969 ex.s. c 36 s 13;  
2 (21) RCW 28B.16.140 and 1969 ex.s. c 36 s 14;  
3 (22) RCW 28B.16.150 and 1969 ex.s. c 36 s 15;  
4 (23) RCW 28B.16.160 and 1988 c 202 s 27, 1971 c 81 s 72, & 1969  
5 ex.s. c 36 s 16;  
6 (24) RCW 28B.16.170 and 1969 ex.s. c 36 s 26;  
7 (25) RCW 28B.16.180 and 1973 1st ex.s. c 46 s 3 & 1969 ex.s. c 36  
8 s 17;  
9 (26) RCW 28B.16.190 and 1969 ex.s. c 36 s 19;  
10 (27) RCW 28B.16.200 and 1979 c 151 s 18 & 1969 ex.s. c 36 s 20;  
11 (28) RCW 28B.16.210 and 1969 ex.s. c 36 s 29;  
12 (29) RCW 28B.16.220 and 1969 ex.s. c 36 s 31;  
13 (30) RCW 28B.16.230 and 1973 ex.s. c 62 s 6 & 1969 ex.s. c 215 s  
14 14;  
15 (31) RCW 28B.16.240 and 1979 ex.s. c 46 s 1;  
16 (32) RCW 28B.16.255 and 1985 c 461 s 11;  
17 (33) RCW 28B.16.265 and 1985 c 461 s 12;  
18 (34) RCW 28B.16.275 and 1985 c 461 s 13;  
19 (35) RCW 28B.16.300 and 1990 c 204 s 4;  
20 (36) RCW 28B.16.900 and 1969 ex.s. c 36 s 18;  
21 (37) RCW 28B.16.910 and 1969 ex.s. c 36 s 27;  
22 (38) RCW 28B.16.920 and 1969 ex.s. c 36 s 30;  
23 (39) RCW 28B.16.930 and 1969 ex.s. c 36 s 28;  
24 (40) RCW 41.64.010 and 1981 c 311 s 1;  
25 (41) RCW 41.64.020 and 1981 c 311 s 3;  
26 (42) RCW 41.64.030 and 1984 c 287 s 73, 1984 c 34 s 4, & 1981 c 311  
27 s 4;  
28 (43) RCW 41.64.040 and 1981 c 311 s 5;  
29 (44) RCW 41.64.050 and 1981 c 311 s 6;  
30 (45) RCW 41.64.060 and 1981 c 311 s 7;  
31 (46) RCW 41.64.070 and 1981 c 311 s 8;  
32 (47) RCW 41.64.080 and 1981 c 311 s 9;  
33 (48) RCW 41.64.090 and 1981 c 311 s 10;  
34 (49) RCW 41.64.100 and 1981 c 311 s 11;  
35 (50) RCW 41.64.110 and 1985 c 461 s 7 & 1981 c 311 s 12;  
36 (51) RCW 41.64.120 and 1981 c 311 s 13;  
37 (52) RCW 41.64.130 and 1981 c 311 s 14;  
38 (53) RCW 41.64.140 and 1988 c 202 s 42 & 1981 c 311 s 15;  
39 (54) RCW 41.64.900 and 1981 c 311 s 2;

- 1 (55) RCW 41.64.910 and 1981 c 311 s 24;  
2 (56) RCW 41.06.230 and 1961 c 1 s 23;  
3 (57) RCW 41.06.310 and 1969 c 45 s 2; and  
4 (58) RCW 41.06.340 and 1969 ex.s. c 215 s 13.

5 NEW SECTION. **Sec. 77.** CODIFICATION DIRECTIONS. Sections 1  
6 through 20 of this act shall constitute a new chapter in Title 41 RCW.

7 NEW SECTION. **Sec. 78.** SEVERABILITY. If any provision of this act  
8 or its application to any person or circumstance is held invalid, the  
9 remainder of the act or the application of the provision to other  
10 persons or circumstances is not affected.

11 NEW SECTION. **Sec. 79.** EFFECTIVE DATE AND TRANSITION PROVISIONS.  
12 (1) This act shall take effect July 1, 1995, except for sections 1  
13 through 20 of this act which shall take effect January 1, 1994. The  
14 governor shall take such action as is necessary, including appointment  
15 of the members of the state employees' relations commission, to ensure  
16 that sections 1 through 20 of this act are implemented on their  
17 effective date. Until July 1, 1995, the state employees' relations  
18 commission shall contract with the department of personnel for labor  
19 relations staffing necessary to carry out its functions.

20 (2) The provisions of all collective bargaining agreements in  
21 effect covering employees affected by sections 1 through 20 of this act  
22 as of the effective date of sections 1 through 20 of this act and that  
23 expire prior to July 1, 1995, shall be extended without change through  
24 and including June 30, 1995, at which time all such agreements shall  
25 expire.

26 (3) Any collective bargaining agreement entered into prior to the  
27 effective date of sections 1 through 20 of this act covering employees  
28 affected by sections 1 through 20 of this act that expires after the  
29 effective date of sections 1 through 20 of this act shall, unless a  
30 superseding agreement complying with this chapter is negotiated by the  
31 parties, remain in full force during its duration, but shall not be  
32 renewed or extended. Negotiations for an agreement to succeed  
33 agreements under this subsection shall commence one year prior to  
34 expiration of the agreement or by July 1 preceding expiration,  
35 whichever occurs first. The succeeding contract shall expire on July  
36 1 of the next odd-numbered year.

1       (4) Collective bargaining under this act concerning employees  
2 affected by sections 1 through 20 of this act shall not commence prior  
3 to July 1, 1994, and the provisions of any collective bargaining  
4 agreement negotiated under this chapter shall not be effective prior to  
5 July 1, 1995.

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