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**SUBSTITUTE HOUSE BILL 2054**

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**State of Washington**

**53rd Legislature**

**1993 Regular Session**

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

Read first time 03/08/93.

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

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

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

13 NEW SECTION. **Sec. 2.** The department of personnel, the higher  
14 education personnel board, and the personnel board are hereby abolished  
15 and except as provided in section 149 of this act their powers, duties,  
16 and functions are hereby transferred to the department of human  
17 resources.

18 **PART I**

19 **CIVIL SERVICE REFORM AND REORGANIZATION**

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

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

- 24 (1) "Department" means the department of human resources.  
25 (2) "Director" means the director of human resources.

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

31 NEW SECTION. **Sec. 104.** The executive head and appointing  
32 authority of the department shall be the director. The director shall

1 be appointed by the governor, with the consent of the senate, and shall  
2 serve at the pleasure of the governor. The director shall be paid a  
3 salary to be fixed by the governor in accordance with RCW 43.03.040.  
4 If a vacancy occurs in the position while the senate is not in session,  
5 the governor shall make a temporary appointment until the next meeting  
6 of the senate.

7 NEW SECTION. **Sec. 105.** (1) It is the intent of the legislature  
8 that the internal affairs of the department be under the control of the  
9 director. Therefore, unless the director's authority is specifically  
10 limited by law, the director shall have complete charge and supervisory  
11 powers over the department. The director may establish subdivisions  
12 and create other administrative structures as the director considers  
13 appropriate, except as otherwise specified by law. The director may  
14 employ the assistants and other personnel that are necessary for the  
15 general administration of the department. This employment shall be in  
16 accordance with the state civil service law, chapter 41.06 RCW, except  
17 as otherwise provided.

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

20 (a) To promote efficient public management;

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

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

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

30 NEW SECTION. **Sec. 106.** (1) The director shall appoint advisory  
31 committees or councils as may be required by any federal legislation as  
32 a condition to the receipt of federal funds by the department. The  
33 director may also appoint state advisory committees or councils on  
34 subject matters as are or come within the department's  
35 responsibilities.

1 (2) Members of state advisory committees or councils appointed by  
2 the director may be paid their travel expenses in accordance with RCW  
3 43.03.050 and 43.03.060.

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

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

22 In addition to the exemptions under RCW 41.06.070, this chapter  
23 shall not apply in the department of human resources to the director,  
24 the director's personal secretary, the deputy director, all division  
25 directors and assistant directors, and one confidential secretary for  
26 each of these officers.

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

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

31 (1) "Agency" means an office, department, board, commission, or  
32 other separate unit or division, however designated, of the state  
33 government and all personnel thereof; it includes any unit of state  
34 government established by law, the executive officer or members of  
35 which are either elected or appointed, upon which the statutes confer

1 powers and impose duties in connection with operations of either a  
2 governmental or proprietary nature.

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

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

8 ~~((4))~~ (3) "Competitive service" means all positions in the  
9 classified service for which a competitive examination is required as  
10 a condition precedent to appointment.

11 ~~((5))~~ (4) "Comparable worth" means the provision of similar  
12 salaries for positions that require or impose similar responsibilities,  
13 judgments, knowledge, skills, and working conditions.

14 ~~((6))~~ (5) "Noncompetitive service" means all positions in the  
15 classified service for which a competitive examination is not required.

16 ~~((7))~~ (6) "Department" means an agency of government that has as  
17 its governing officer a person, or combination of persons such as a  
18 commission, board, or council, by law empowered to operate the agency  
19 responsible either to (a) no other public officer or (b) the governor.

20 ~~((8))~~ (7) "Career development" means the progressive development  
21 of employee capabilities to facilitate productivity, job satisfaction,  
22 and upward mobility through work assignments as well as education and  
23 training that are both state-sponsored and are achieved by individual  
24 employee efforts, all of which shall be consistent with the needs and  
25 obligations of the state and its agencies.

26 ~~((9))~~ (8) "Institutions of higher education" means the same as  
27 defined in RCW 28B.10.016, but does not include technical colleges.

28 (9) "Related boards" means the state board for community and  
29 technical colleges, the higher education coordinating board, and such  
30 other boards, councils, and commissions related to higher education as  
31 may be established.

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

34 ~~((10))~~ (11) "Director" means the director of ~~((personnel~~  
35 ~~appointed under the provisions of RCW 41.06.130))~~ human resources.

36 ~~((11))~~ (12) "Affirmative action" means a procedure by which  
37 racial minorities, women, persons in the protected age category,  
38 persons with disabilities, Vietnam-era veterans, and disabled veterans

1 are provided with increased employment opportunities. It shall not  
2 mean any sort of quota system.

3 NEW SECTION. **Sec. 110.** A new section is added to chapter 41.06  
4 RCW to read as follows:

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

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

29 The provisions of this chapter do not apply to:

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

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

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

3 ~~((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 or her confidential  
11 secretary; in all other departments, the executive head of which is an  
12 individual appointed by the governor, the director, his or her  
13 confidential secretary, and his or her 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;

38 ~~((12))~~ (11) Within agencies, inmate, student, part-time, or  
39 temporary employees, and part-time professional consultants, as defined

1 by the (~~(state personnel board or the board having jurisdiction)~~)  
2 director of human resources;

3 (~~(13)~~) (12) The public printer or to any employees of or  
4 positions in the state printing plant;

5 (~~(14)~~) (13) Officers and employees of the Washington state fruit  
6 commission;

7 (~~(15)~~) (14) Officers and employees of the Washington state apple  
8 advertising commission;

9 (~~(16)~~) (15) Officers and employees of the Washington state dairy  
10 products commission;

11 (~~(17)~~) (16) Officers and employees of the Washington tree fruit  
12 research commission;

13 (~~(18)~~) (17) Officers and employees of the Washington state beef  
14 commission;

15 (~~(19)~~) (18) Officers and employees of any commission formed under  
16 the provisions of chapter 191, Laws of 1955, and chapter 15.66 RCW;

17 (~~(20)~~) (19) Officers and employees of the state wheat commission  
18 formed under the provisions of chapter 87, Laws of 1961 (chapter 15.63  
19 RCW);

20 (~~(21)~~) (20) Officers and employees of agricultural commissions  
21 formed under the provisions of chapter 256, Laws of 1961 (chapter 15.65  
22 RCW);

23 (~~(22)~~) (21) Officers and employees of the nonprofit corporation  
24 formed under chapter 67.40 RCW;

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

35 (~~(24)~~) (23) Executive assistants for personnel administration and  
36 labor relations in all state agencies employing such executive  
37 assistants including but not limited to all departments, offices,  
38 commissions, committees, boards, or other bodies subject to the  
39 provisions of this chapter and this subsection shall prevail over any



1 provision of law inconsistent herewith unless specific exception is  
2 made in such law;

3 ~~((25))~~ (24) In each agency with fifty or more employees: Deputy  
4 agency heads, assistant directors or division directors, and not more  
5 than three principal policy assistants who report directly to the  
6 agency head or deputy agency heads;

7 ~~((26))~~ (25) All employees of the marine employees' commission;

8 ~~((27))~~ (26) Up to a total of five senior staff positions of the  
9 western library network under chapter 27.26 RCW responsible for  
10 formulating policy or for directing program management of a major  
11 administrative unit. This subsection shall expire on June 30, 1997;

12 ~~((28))~~ (27) In addition to the exemptions specifically provided  
13 by this chapter, the ~~((state personnel board))~~ director may provide for  
14 further exemptions pursuant to the following procedures. The governor  
15 or other appropriate elected official may submit requests for exemption  
16 to the ~~((personnel board))~~ director stating the reasons for requesting  
17 such exemptions. ~~((The personnel board shall hold a public hearing,  
18 after proper notice, on requests submitted pursuant to this  
19 subsection.))~~ If the ~~((board))~~ director determines that the position  
20 for which exemption is requested is one involving substantial  
21 responsibility for the formulation of basic agency or executive policy  
22 or one involving directing and controlling program operations of an  
23 agency or a major administrative division thereof, the ~~((personnel  
24 board))~~ director shall grant the request and such determination shall  
25 be final. The total number of additional exemptions permitted under  
26 this subsection shall not exceed ~~((one hundred eighty seven))~~ two  
27 percent of the number of employees in the classified service not  
28 including employees of higher education, for those agencies not  
29 directly under the authority of any elected public official other than  
30 the governor, and shall not exceed a total of twenty-five for all  
31 agencies under the authority of elected public officials other than the  
32 governor~~((-))~~;

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

35 (a) Members of the governing board of each institution of higher  
36 education and related boards, all presidents, vice-presidents and their  
37 confidential secretaries, administrative and personal assistants;  
38 deans, directors, and chairpersons; academic personnel; and executive  
39 heads of major administrative or academic divisions employed by

1 institutions of higher education; principal assistants to executive  
2 heads of major administrative or academic divisions; other managerial  
3 or professional employees in an institution of higher education or  
4 related board having substantial responsibility for directing or  
5 controlling program operations and accountable for allocation of  
6 resources and program results, or for the formulation of institutional  
7 policy, or for carrying out personnel administration or labor relations  
8 functions, legislative relations, public information, development,  
9 senior computer systems and network programming, or internal audits and  
10 investigations; and any employee of a community college district whose  
11 place of work is one that is physically located outside the state of  
12 Washington and who is employed pursuant to RCW 28B.50.092 and assigned  
13 to an educational program operating outside of the state of Washington;

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

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

20 (d) Printing craft employees in the department of printing at the  
21 University of Washington;

22 (e) The governing board of each institution of higher education,  
23 and related boards, may also exempt from this chapter, subject to the  
24 employees' right of appeal to the personnel appeals board,  
25 classifications involving research activities, counseling of students,  
26 extension or continuing education activities, and graphic arts or  
27 publications activities requiring prescribed academic preparation or  
28 special training, as determined by the director, however no nonacademic  
29 employee engaged in office, clerical, maintenance, or food and trade  
30 services may be exempted by the director under this subsection (28)(d);

31 (29) The governor's designee under section 317 of this act for  
32 collective bargaining and any employees working for the governor's  
33 designee;

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

1 The salary and fringe benefits of all positions presently or  
2 hereafter exempted except for the chief executive officer of each  
3 agency, full-time members of boards and commissions, administrative  
4 assistants and confidential secretaries in the immediate office of an  
5 elected state official, and the personnel listed in subsections (~~(10)~~  
6 ~~through (22)~~) (9) through (21) and (28) of this section, shall be  
7 determined by the (~~state personnel board~~) director.

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

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

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

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

24 Notwithstanding the provisions of this chapter, the department of  
25 (~~personnel~~) human resources may make its services available on  
26 request, on a reimbursable basis, to:

27 (1) Either the legislative or the judicial branch of the state  
28 government;

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

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

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

35 The director may delegate to any agency the authority to perform  
36 administrative and technical personnel activities if the agency  
37 requests such authority and the director is satisfied that the agency

1 has the personnel management capabilities to effectively perform the  
2 delegated activities. The director shall prescribe standards and  
3 guidelines for the performance of delegated activities. If the  
4 director determines that an agency is not performing delegated  
5 activities within the prescribed standards and guidelines, the director  
6 shall withdraw the authority from the agency to perform such  
7 activities.

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

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

23 The state board for community and technical colleges shall have  
24 general supervision and control over activities undertaken by the  
25 various state community and technical colleges under this section.

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

28 It shall be the duty of the ((board)) director to make rules ((and  
29 regulations)) providing for employee participation in the development  
30 and administration of personnel policies. To assure this right,  
31 permanent personnel policies, rules, classification and pay plans, and  
32 amendments thereto, shall be acted on only after the ((board)) director  
33 has given twenty days notice to, and considered proposals from,  
34 employee representatives and agencies affected. Complete and current  
35 compilations of all rules ((and regulations)) of the ((board in  
36 printed, mimeographed or multigraphed form)) department of human

1 resources shall be available to the public in the office of the  
2 director (~~(of personnel free of charge)~~).

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

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

9 (1) The reduction, dismissal, suspension, or demotion of an  
10 employee;

11 (2) Certification of names for vacancies, including departmental  
12 promotions, with the number of names equal to (~~four~~) fourteen more  
13 names than there are vacancies to be filled, such names representing  
14 applicants rated highest on eligibility lists(~~(:—PROVIDED, That~~  
15 ~~when))~~. However, if other applicants have scores equal to the lowest  
16 score among the names certified, their names shall also be certified;

17 (3) Examinations for all positions in the competitive and  
18 noncompetitive service;

19 (4) Appointments;

20 (5) Training and career development;

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

25 (7) Transfers;

26 (8) Sick leaves and vacations;

27 (9) Hours of work;

28 (10) Layoffs when necessary and subsequent reemployment, both  
29 (~~according to~~) based on seniority and maintenance and implementation  
30 of approved affirmative action plans;

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

37 (12) Certification and decertification of exclusive bargaining  
38 representatives: PROVIDED, That after certification of an exclusive

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

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

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

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

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

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

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

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

38 (20) Permitting agency heads to delegate the authority to appoint,  
39 reduce, dismiss, suspend, or demote employees within their agencies if

1 such agency heads do not have specific statutory authority to so  
2 delegate: PROVIDED, That the board may not authorize such delegation  
3 to any position lower than the head of a major subdivision of the  
4 agency;

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

9 (22) Affirmative action in appointment, promotion, transfer,  
10 recruitment, training, and career development; development and  
11 implementation of affirmative action goals and timetables; and  
12 monitoring of progress against those goals and timetables.

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

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

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

24 (1) The reduction, dismissal, suspension, or demotion of an  
25 employee;

26 (2) Certification of names for vacancies, including departmental  
27 promotions, with the number of names equal to ((~~four~~)) fourteen more  
28 names than there are vacancies to be filled, such names representing  
29 applicants rated highest on eligibility lists(~~(: PROVIDED, That~~  
30 ~~when))~~). However, if other applicants have scores equal to the lowest  
31 score among the names certified, their names shall also be certified;

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

34 (4) Appointments;

35 (5) Training and career development;

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



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

3 (7) Transfers;

4 (8) Sick leaves and vacations;

5 (9) Hours of work;

6 (10) Layoffs when necessary and subsequent reemployment, both  
7 ~~((according to))~~ based on seniority and maintenance and implementation  
8 of approved affirmative action plans;

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

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

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

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

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

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

20 ~~((16)) (12) Allocation and reallocation of positions within the~~  
21 ~~classification plan;~~

22 ~~((17)) (13) Adoption and revision of a state salary schedule to~~  
23 ~~reflect the prevailing rates in Washington state private industries and~~  
24 ~~other governmental units but the rates in the salary schedules or plans~~  
25 ~~shall be increased if necessary to attain comparable worth under an~~  
26 ~~implementation plan under RCW 41.06.155, and in the institutions of~~  
27 ~~higher education and related boards shall be competitive in the state~~  
28 ~~or locality in which the institution of higher education or related~~  
29 ~~boards are located, such adoption and revision subject to approval by~~  
30 ~~the director of financial management in accordance with the provisions~~  
31 ~~of chapter 43.88 RCW and after consultation with the chief financial~~  
32 ~~officer of each institution of higher education or related board, as~~  
33 ~~applicable;~~

34 ~~((18)) (14) Increment increases within the series of steps for~~  
35 ~~each pay grade based on length of service for all employees whose~~  
36 ~~standards of performance are such as to permit them to retain job~~  
37 ~~status in the classified service;~~

38 ~~((19)) (15) Providing for veteran's preference as required by~~  
39 ~~existing statutes, with recognition of preference in regard to layoffs~~

1 and subsequent reemployment for veterans and (~~their widows~~) deceased  
2 veterans' surviving spouses by giving such eligible veterans and  
3 (~~their widows~~) deceased veterans' surviving spouses additional credit  
4 in computing their seniority by adding to their unbroken state service,  
5 as defined by the (~~board~~) director, the veteran's service in the  
6 military not to exceed five years. For the purposes of this section,  
7 "veteran" means any person who has one or more years of active military  
8 service in any branch of the armed forces of the United States or who  
9 has less than one year's service and is discharged with a disability  
10 incurred in the line of duty or is discharged at the convenience of the  
11 government and who, upon termination of such service has received an  
12 honorable discharge, a discharge for physical reasons with an honorable  
13 record, or a release from active military service with evidence of  
14 service other than that for which an undesirable, bad conduct, or  
15 dishonorable discharge shall be given: PROVIDED, HOWEVER, That the  
16 (~~widow of a veteran~~) deceased veteran's surviving spouse is entitled  
17 to the benefits of this section regardless of the veteran's length of  
18 active military service: PROVIDED FURTHER, That for the purposes of  
19 this section "veteran" does not include any person who has voluntarily  
20 retired with twenty or more years of active military service and whose  
21 military retirement pay is in excess of five hundred dollars per month;  
22 (~~(+20)~~) (16) Permitting agency heads to delegate the authority to  
23 appoint, reduce, dismiss, suspend, or demote employees within their  
24 agencies if such agency heads do not have specific statutory authority  
25 to so delegate: PROVIDED, That the (~~board~~) director may not  
26 authorize such delegation to any position lower than the head of a  
27 major subdivision of the agency;  
28 (~~(+21)~~) (17) Assuring that persons who are or have been employed  
29 in classified positions under this chapter (~~(28B.16 RCW)~~) in an agency  
30 or institution of higher education or related boards will be eligible  
31 for employment, reemployment, transfer, and promotion in respect to  
32 classified positions covered by this chapter at any other agency or  
33 institution of higher education or related boards;  
34 (~~(+22)~~) (18) Affirmative action in appointment, promotion,  
35 transfer, layoff and subsequent reemployment, recruitment, training,  
36 and career development; development and implementation of affirmative  
37 action goals and timetables; and monitoring of progress against those  
38 goals and timetables.

1       The (~~board~~) director shall consult with the human rights  
2 commission in the development of rules pertaining to affirmative  
3 action. The (~~department of personnel~~) director shall transmit a  
4 report annually to the human rights commission which states the  
5 progress each state agency has made in meeting affirmative action goals  
6 and timetables.

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

9       (1) Rules adopted by the director shall provide for local  
10 administration and management by the institutions of higher education  
11 and related boards, subject to periodic audit and review by the  
12 director, of the following:

- 13       (a) Appointment, promotion, and transfer of employees;
- 14       (b) Dismissal, suspension, or demotion of an employee;
- 15       (c) Examinations for all positions in the competitive and  
16 noncompetitive service;
- 17       (d) Probationary periods of six to twelve months and rejections  
18 therein;
- 19       (e) Sick leaves and vacations;
- 20       (f) Hours of work;
- 21       (g) Layoffs when necessary and subsequent reemployment;
- 22       (h) Allocation and reallocation of positions within the  
23 classification plans;
- 24       (i) Training programs; and
- 25       (j) Maintenance of personnel records.

26       (2) The director may authorize local administration and management  
27 by agencies other than institutions of higher education and related  
28 boards.

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

31       (1) In preparing classification and salary schedules as set forth  
32 in RCW 41.06.150 (~~as now or hereafter amended~~) the department of  
33 (~~personnel~~) human resources shall give full consideration to  
34 prevailing rates in other public employment and in private employment  
35 in this state. For this purpose the department shall undertake  
36 (~~comprehensive~~) salary and fringe benefit surveys (~~to be planned and~~  
37 ~~conducted on a joint basis with the higher education personnel board,~~

1 with such surveys)) to be conducted in the year prior to the convening  
2 of every ((other)) one hundred five day regular session of the state  
3 legislature or as requested by the governor or the governor's designee  
4 for the purpose of collective bargaining. ((In the year prior to the  
5 convening of each one hundred five day regular session during which a  
6 comprehensive salary and fringe benefit survey is not conducted, the  
7 department shall plan and conduct on a joint basis with the higher  
8 education personnel board a trend salary and fringe benefit survey.  
9 This survey shall measure average salary and fringe benefit movement  
10 for broad occupational groups which has occurred since the last  
11 comprehensive salary and fringe benefit survey was conducted. The  
12 results of each comprehensive and trend salary and fringe benefit  
13 survey shall be completed and forwarded by September 30 with a  
14 recommended state salary schedule to the governor and director of  
15 financial management for their use in preparing budgets to be submitted  
16 to the succeeding legislature. A copy of the data and supporting  
17 documentation shall be furnished by the department of personnel to the  
18 standing committees for appropriations of the senate and house of  
19 representatives.

20 In the case of comprehensive salary and fringe benefit surveys, the  
21 department shall furnish the following supplementary data in support of  
22 its recommended salary schedule:

23 (1) A total dollar figure which reflects the recommended increase  
24 or decrease in state salaries as a direct result of the specific salary  
25 and fringe benefit survey that has been conducted and which is  
26 categorized to indicate what portion of the increase or decrease is  
27 represented by salary survey data and what portion is represented by  
28 fringe benefit survey data;

29 (2) An additional total dollar figure which reflects the impact of  
30 recommended increases or decreases to state salaries based on other  
31 factors rather than directly on prevailing rate data obtained through  
32 the survey process and which is categorized to indicate the sources of  
33 the requests for deviation from prevailing rates and the reasons for  
34 the changes;

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

38 (a) Those salary ranges which do not substantially conform to the  
39 prevailing rates developed from the salary and fringe benefit survey

1 distinctly marked and an explanation of the reason for the deviation  
2 included; and

3 (b) Those department of personnel classes which are substantially  
4 the same as classes being used by the higher education personnel board  
5 clearly marked to show the commonality of the classes between the two  
6 jurisdictions;

7 (4) A supplemental salary schedule which indicates the additional  
8 salary to be paid state employees for hazardous duties or other  
9 considerations requiring extra compensation under specific  
10 circumstances. Additional compensation for these circumstances shall  
11 not be included in the basic salary schedule but shall be maintained as  
12 a separate pay schedule for purposes of full disclosure and visibility;  
13 and

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

24 It is the intention of the legislature that requests for funds to  
25 support recommendations for salary deviations from the prevailing rate  
26 survey data shall be kept to a minimum, and that the requests be fully  
27 documented when forwarded by the department of personnel. Further, it  
28 is the intention of the legislature that the department of personnel  
29 and the higher education personnel board jointly determine job classes  
30 which are substantially common to both jurisdictions and that basic  
31 salaries for these job classes shall be equal based on salary and  
32 fringe benefit survey findings.))

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

37 ((The first comprehensive salary and fringe benefit survey required  
38 by this section shall be completed and forwarded to the governor and  
39 the director of financial management by September 30, 1986. The first

1 trend salary and fringe benefit survey required by this section shall  
2 be completed and forwarded to the governor and the director of  
3 financial management by September 30, 1988.))

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

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

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

37 A comprehensive compensation survey plan and the recommendations of  
38 the chief of the Washington state patrol shall be submitted jointly by

1 the department of (~~personnel~~) human resources and the Washington  
2 state patrol to the director of financial management, the legislative  
3 transportation committee, the committee on ways and means of the  
4 senate, and the committee on appropriations of the house of  
5 representatives six months before the beginning of each periodic  
6 survey.

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

9 After consultation with state agency heads, heads of institutions  
10 of higher education and related boards, employee organizations, and  
11 other interested parties, the (~~state personnel~~) director shall  
12 develop standardized employee performance evaluation procedures and  
13 forms which shall be used by state agencies and institutions of higher  
14 education and related boards for the appraisal of employee job  
15 performance at least annually. These procedures shall include means  
16 whereby individual agencies and institutions of higher education and  
17 related boards may supplement the standardized evaluation process with  
18 special performance factors peculiar to specific organizational needs.  
19 Performance evaluation procedures shall place primary emphasis on  
20 recording how well the employee has contributed to efficiency,  
21 effectiveness, and economy in fulfilling state agency and job  
22 objectives.

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

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

35 (2) Any employee who is reduced, dismissed, suspended, or demoted,  
36 after completing his or her probationary period of service as provided  
37 by the rules (~~and regulations~~) of the (~~board~~) director, whose



1 position has been exempted after the effective date of this section, or  
2 any employee who is adversely affected by a violation of the state  
3 civil service law, chapter 41.06 RCW(~~(, as now or hereafter amended)~~),  
4 or rules (~~((promulgated pursuant thereto))~~) adopted under it, shall have  
5 the right to appeal to the personnel appeals board created by RCW  
6 41.64.010 not later than thirty days after the effective date of such  
7 action. The employee shall be furnished with specified charges in  
8 writing when a reduction, dismissal, suspension, or demotion action is  
9 taken. Such appeal shall be in writing.

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

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

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

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

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

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

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

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

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

3       If any part of this chapter (~~(shall be)~~) is found to be in conflict  
4 with federal requirements which are a condition precedent to the  
5 allocation of federal funds to the state, such conflicting part of this  
6 chapter is hereby declared to be inoperative solely to the extent of  
7 such conflict and with respect to the agencies directly affected, and  
8 such findings or determination shall not affect the operation of the  
9 remainder of this chapter in its application to the agencies concerned.  
10 The (~~(board)~~) director shall make such rules (~~(and regulations)~~) as may  
11 be necessary to meet federal requirements which are a condition  
12 precedent to the receipt of federal funds by the state.

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

15       A disbursing officer shall not pay any employee holding a position  
16 covered by this chapter unless the employment is in accordance with  
17 this chapter or the rules, regulations and orders issued hereunder.  
18 The (~~(board)~~) director and the director of financial management shall  
19 jointly establish procedures for the certification of payrolls.

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

22       (1) There is hereby created a fund within the state treasury,  
23 designated as the "department of (~~(Personnel)~~) human resources service  
24 fund," to be used by the (~~(board)~~) director as a revolving fund for the  
25 payment of salaries, wages, and operations required for the  
26 administration of the provisions of this chapter, applicable provisions  
27 of chapter 41.04 RCW, and chapter 41.60 RCW. An amount not to exceed  
28 one percent of the approved allotments of salaries and wages for all  
29 positions in the classified service in each of the agencies subject to  
30 this chapter, (~~(except)~~) and an amount not to exceed one-half of one  
31 percent of the approved allotments of salaries and wages in the  
32 institutions of higher (~~(learning)~~) education, shall be charged to the  
33 operations appropriations of each agency, institution of higher  
34 education, and the state board for community and technical colleges and  
35 credited to the department of (~~(personnel)~~) human resources service  
36 fund as the allotments are approved pursuant to chapter 43.88 RCW.  
37 Subject to the above limitations, the amount shall be charged against

1 the allotments pro rata, at a rate to be fixed by the director from  
2 time to time which, together with income derived from services rendered  
3 under RCW 41.06.080, will provide the department with funds to meet its  
4 anticipated expenditures during the allotment period.

5 The director of (~~personnel~~) human resources shall fix the terms  
6 and charges for services rendered by the department of (~~personnel~~)  
7 human resources pursuant to RCW 41.06.080, which amounts shall be  
8 credited to the department of (~~personnel~~) human resources service  
9 fund and charged against the proper fund or appropriation of the  
10 recipient of such services on a quarterly basis. Payment for services  
11 so rendered under RCW 41.06.080 shall be made on a quarterly basis to  
12 the state treasurer and deposited by him or her in the department of  
13 (~~personnel~~) human resources service fund.

14 (2) If employees cease to be classified under this chapter pursuant  
15 to an agreement authorized by section 203 of this act, each institution  
16 of higher education and the state board for community and technical  
17 colleges shall continue, for six months after the effective date of the  
18 agreement, to make contributions to the department of human resources  
19 service fund based on employee salaries and wages that includes the  
20 employees under the agreement. At the expiration of the six-month  
21 period, the director of financial management shall make across-the-  
22 board reductions in allotments of the department of human resources  
23 service fund for the remainder of the biennium so that the charge to  
24 the institutions of higher education and state board based on the  
25 salaries and wages of the remaining employees classified under this  
26 chapter does not increase during the biennium, unless an increase is  
27 authorized by the legislature. The director of financial management  
28 shall report the amount and impact of any across-the-board reductions  
29 made under this section to the appropriations committee of the house of  
30 representatives and the ways and means committee of the senate, or  
31 appropriate successor committees, within thirty days of making the  
32 reductions.

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

36 (4) The director is authorized to receive federal funds available  
37 on the effective date of this section or thereafter made available for  
38 the assistance and improvement of public personnel administration,

1 which may be expended in addition to the department of human resources  
2 service fund established by this section.

3 NEW SECTION. **Sec. 129.** A new section is added to chapter 41.06  
4 RCW to read as follows:

5 (1) An agency may purchase services customarily and historically  
6 provided by employees in classified service under this chapter by  
7 contracting with individuals or business entities, without the  
8 necessity of showing that classified employees could not provide these  
9 services, if the purchase would be fiscally prudent and result in  
10 reduced expenditures of public funds. However, decisions to contract  
11 for services may be made only after the affected agency has conducted  
12 a feasibility study determining the potential costs and benefits that  
13 would result from contracting for the services and the decision to  
14 contract for the services has been reviewed and approved by the  
15 director of financial management. A contract to purchase services  
16 shall provide that the contractor will pay to its employees performing  
17 the contract work wages that are similar to those generally paid for  
18 such work in the locality in which the work is to be performed and will  
19 provide health benefits that are similar to, but in any case no less  
20 than, the benefits provided for basic health care services under  
21 chapter 70.47 RCW.

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

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

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

32 (1) In addition to other powers and duties specified in this  
33 chapter, the ((board)) director shall, by rule, prescribe the purpose  
34 and minimum standards for training and career development programs and,  
35 in so doing, regularly consult with and consider the needs of  
36 individual agencies and employees.

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

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

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

9 (c) Promote interagency sharing of resources for training and  
10 career development;

11 (d) Monitor and review the impact of training and career  
12 development programs to ensure that the responsibilities of the state  
13 to provide equal employment opportunities are diligently carried out.  
14 The director shall report to the ((~~board~~)) governor the impact of  
15 training and career development programs on the fulfillment of such  
16 responsibilities.

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

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

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

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

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

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

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

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

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

5 (1) The ((board)) director, by rule, shall prescribe the conditions  
6 under which an employee appointed to a supervisory or management  
7 position after June 12, 1980, shall be required to successfully  
8 complete an entry-level management training course as approved by the  
9 director. The training course shall focus on the critical knowledge,  
10 skills, and abilities for successful management performance and include  
11 instruction on managing and valuing diversity in the workplace. Such  
12 training shall not be required of any employee who has completed a  
13 management training course prior to the employee's appointment which  
14 is, in the judgment of the director, at least equivalent to the entry-  
15 level course required by this section.

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

21 (3) Agencies subject to the provisions of this chapter, in  
22 accordance with rules prescribed by the ((board)) director, shall  
23 designate individual positions, or groups of positions, as being  
24 "supervisory" or "management" positions. Such designations shall be  
25 subject to review by the director as part of the director's evaluation  
26 of training and career development programs prescribed by RCW  
27 41.06.400(2).

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

30 (1) The ((board)) director, by rule, shall develop a career  
31 executive program which recognizes the profession of management and  
32 recognizes excellence in managerial skills in order to (a) identify,  
33 attract, and retain highly qualified executive candidates, (b) provide  
34 outstanding employees a broad opportunity for career development, and  
35 (c) provide for the mobility of such employees among agencies, it being  
36 to the advantage of the state to make the most beneficial use of  
37 individual managerial skills.

1 (2) To accomplish the purposes of subsection (1) of this section,  
2 the ((board)) director, notwithstanding any other provision of this  
3 chapter, may provide policies and standards for recruitment,  
4 appointment, examination, training, probation, employment register  
5 control, certification, classification, salary administration,  
6 transfer, promotion, reemployment, conditions of employment, and  
7 separation separate from procedures established for other employment.

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

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

21 (5) The director shall monitor and review the impact of the career  
22 executive program to ensure that the responsibilities of the state to  
23 provide equal employment opportunities are diligently carried out. The  
24 director shall report to the ((board)) governor the impact of the  
25 career executive program on the fulfillment of such responsibilities.

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

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

33 (1) The Washington management service is created. The purpose of  
34 the management service is to strive for excellence in the management of  
35 the state's resources, attract and retain qualified managers, and  
36 establish a management identity in state government through separate  
37 personnel rules for management employees that are unique to the  
38 responsibilities of management employees.

1 (2) Notwithstanding any other provisions of this chapter, the  
2 director, after consultation with state agencies and employee  
3 organizations, shall adopt personnel rules for the classified members  
4 of the management service. These rules shall govern recruitment,  
5 appointment, classification and allocation of positions, examination,  
6 training and career development, hours of work, probation,  
7 certification, compensation, transfer, affirmative action, promotion,  
8 layoff, reemployment, performance appraisals, discipline, and other  
9 personnel practices for management employees. These rules shall be  
10 separate from rules established for other employees.

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

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

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

18 (c) To establish a performance appraisal system that emphasizes  
19 individual accountability for program results and efficient management  
20 of resources; effective planning, organization, and communication  
21 skills; valuing and managing workplace diversity; development of  
22 leadership and interpersonal abilities; and employee development;

23 (d) To strengthen management training and career development  
24 programs that build critical management knowledge, skills, and  
25 abilities; focus on managing and valuing workplace diversity; and  
26 enhance mobility and career advancement opportunities;

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

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

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

37 (a) Formulate policy or direct the work of an agency or subdivision  
38 thereof; or



- 1 (b) Are responsible to administer and carry out policies and  
2 programs of an agency or subdivision thereof; or  
3 (c) Manage, administer, and control a local branch office of an  
4 agency or subdivision thereof, including the physical, financial, or  
5 personnel resources thereof; or  
6 (d) Have substantial responsibility in personnel administration,  
7 legislative relations, public information, or the preparation and  
8 administration of budgets; or  
9 (e) Functionally or organizationally are above the first level of  
10 supervision.

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

13 (1) The legislature recognizes that:

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

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

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

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

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

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

30 (i) Voluntary mentorship programs;

31 (ii) Alternative testing practices for persons of disability where  
32 deemed appropriate;

33 (iii) Career counseling;

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

37 (v) Recruitment strategies;

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

3 (vii) Alternative work arrangements.

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

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

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

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

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

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

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

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

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

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

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

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

1 RCW 41.06.450 does not prohibit an agency, institution of higher  
2 education, or related board from destroying identifying information in  
3 records relating to employee misconduct or alleged misconduct if the  
4 agency, institution of higher education, or related board deems the  
5 action is consistent with the policy expressed in RCW 41.06.450 and in  
6 chapter 42.17 RCW.

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

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

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

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

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

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

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

32 (b) Provide for eligibility in the return-to-work program, for a  
33 minimum of two years from the date the temporary disability commenced,  
34 for any permanent employee who is receiving compensation under RCW  
35 51.32.090 and who is, by reason of his or her temporary disability,

1 unable to return to his or her previous work, but who is physically  
2 capable of carrying out work of a lighter or modified nature;

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

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

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

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

13 (g) Coordinate participation of applicable employee assistance  
14 programs, as appropriate.

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

19 NEW SECTION. **Sec. 141.** All reports, documents, surveys, books,  
20 records, files, papers, or written material in the possession of the  
21 department of personnel, state personnel board, and higher education  
22 personnel board pertaining to the powers, duties, and functions  
23 transferred in section 2 of this act shall be delivered to the custody  
24 of the department of human resources. All cabinets, furniture, office  
25 equipment, motor vehicles, and other tangible property employed in  
26 connection with the powers, duties, and functions transferred in  
27 section 2 of this act shall be made available to the department of  
28 human resources. All funds, credits, or other assets held in  
29 connection with the powers, duties, and functions transferred in  
30 section 2 of this act shall be assigned to the department of human  
31 resources.

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

36 Whenever any question arises as to the transfer of any personnel,  
37 funds, books, documents, records, papers, files, equipment, or other  
38 tangible property used or held in the exercise of the powers and the

1 performance of the duties and functions transferred, or as to the  
2 powers, duties, and functions transferred, the director of financial  
3 management shall make a determination as to the proper allocation and  
4 certify the same to the state agencies concerned.

5 NEW SECTION. **Sec. 142.** All employees employed in connection with  
6 the powers, duties, and functions transferred in section 2 of this act  
7 are transferred to the jurisdiction of the department of human  
8 resources. All employees classified under chapter 41.06 or 28B.16 RCW,  
9 the state civil service and higher education personnel law, are  
10 assigned to the department of human resources to perform their usual  
11 duties upon the same terms as formerly, without any loss of rights,  
12 subject to any action that may be appropriate thereafter in accordance  
13 with the laws and rules governing state civil service.

14 NEW SECTION. **Sec. 143.** All rules adopted by the state personnel  
15 board pursuant to chapter 41.06 RCW and all rules adopted by the higher  
16 education personnel board under chapter 28B.16 RCW that relate to  
17 functions transferred to the department of human resources in section  
18 2 of this act shall continue in effect until acted upon by the  
19 director. All pending business before any agency of state government  
20 pertaining to the powers, duties, and functions transferred in section  
21 2 of this act shall be continued and acted upon by the department of  
22 human resources. All existing contracts and obligations shall remain  
23 in full force and shall be performed by the department of human  
24 resources.

25 NEW SECTION. **Sec. 144.** The transfer of the powers, duties,  
26 functions, and personnel shall not affect the validity of any act  
27 performed before the effective date of this section.

28 NEW SECTION. **Sec. 145.** If apportionments of budgeted funds are  
29 required because of the transfers directed by sections 141 through 144  
30 of this act, the director of financial management shall certify the  
31 apportionments to the agencies affected, the state auditor, and the  
32 state treasurer. Each of these shall make the appropriate transfer and  
33 adjustments in funds and appropriation accounts and equipment records  
34 in accordance with the certification.

1       **Sec. 146.** RCW 43.03.028 and 1991 c 3 s 294 are each amended to  
2 read as follows:

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

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

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

34       The committee shall report to the governor or the chairperson of  
35 the appropriate salary fixing authority at least once in each fiscal  
36 biennium on such date as the governor may designate, but not later than  
37 seventy-five days prior to the convening of each regular session of the  
38 legislature during an odd-numbered year, its recommendations for the  
39 salaries to be fixed for each position.

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

4 **Sec. 147.** RCW 43.17.010 and 1989 1st ex.s. c 9 s 810 are each  
5 amended to read as follows:

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

20 **Sec. 148.** RCW 43.17.020 and 1989 1st ex.s. c 9 s 811 are each  
21 amended to read as follows:

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

33 Such officers, except the secretary of transportation, shall be  
34 appointed by the governor, with the consent of the senate, and hold  
35 office at the pleasure of the governor. The director of wildlife,  
36 however, shall be appointed according to the provisions of RCW  
37 77.04.080. If a vacancy occurs while the senate is not in session, the

1 governor shall make a temporary appointment until the next meeting of  
2 the senate. A temporary director of wildlife shall not serve more than  
3 one year. The secretary of transportation shall be appointed by the  
4 transportation commission as prescribed by RCW 47.01.041.

5 NEW SECTION. **Sec. 149.** All powers, duties, and functions of the  
6 department of personnel, the personnel board, and the higher education  
7 personnel board pertaining to collective bargaining are transferred to  
8 the public employment relations commission except that arbitration of  
9 grievances filed under a collective bargaining agreement existing  
10 before the effective date of this section and not yet finally  
11 determined by the effective date of this section, shall be transferred  
12 to the personnel appeals board as specified in section 156 of this act.

13 NEW SECTION. **Sec. 150.** All reports, documents, surveys, books,  
14 records, files, papers, or written material in the possession of the  
15 department of personnel, the personnel board, and the higher education  
16 personnel board pertaining to the powers, functions, and duties  
17 transferred in section 149 of this act shall be delivered to the  
18 custody of the public employment relations commission. All cabinets,  
19 furniture, office equipment, motor vehicles, and other tangible  
20 property employed by the department of personnel in carrying out the  
21 powers, functions, and duties transferred in section 149 of this act  
22 shall be made available to the public employment relations commission.  
23 All funds, credits, or other assets held in connection with the powers,  
24 functions, and duties transferred in section 149 of this act shall be  
25 assigned to the public employment relations commission.

26 Any appropriations made to the department of personnel, the  
27 personnel board, or the higher education personnel board for carrying  
28 out the powers, functions, and duties transferred in section 149 of  
29 this act shall, on the effective date of this section, be transferred  
30 and credited to the public employment relations commission.

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



1        NEW SECTION.    **Sec. 151.**    All employees of the department of  
2 personnel engaged in performing the powers, functions, and duties  
3 transferred in section 149 of this act are transferred to the  
4 jurisdiction of the public employment relations commission. All  
5 employees classified under chapter 41.06 RCW, the state civil service  
6 law, are assigned to the public employment relations commission without  
7 any loss of rights, subject to any action that may be appropriate  
8 thereafter in accordance with the laws and rules governing state civil  
9 service.

10       NEW SECTION.    **Sec. 152.** All business pending before the department  
11 of personnel, the personnel board, and the higher education personnel  
12 board pertaining to the powers, functions, and duties transferred in  
13 section 149 of this act shall be continued and acted upon by the public  
14 employment relations commission under the rules in effect at the time  
15 of the transfer. All existing contracts and obligations of the  
16 department of personnel, the personnel board, and the higher education  
17 personnel board shall remain in full force and shall be performed by  
18 the public employment relations commission.

19       NEW SECTION.    **Sec. 153.** The transfer of the powers, duties,  
20 functions, and personnel of the department of personnel, the personnel  
21 board, and the higher education personnel board shall not affect the  
22 validity of any act performed before the effective date of this  
23 section.

24       NEW SECTION.    **Sec. 154.** If apportionments of budgeted funds are  
25 required because of the transfers directed by sections 150 through 153  
26 or 156 of this act, the director of financial management shall certify  
27 the apportionments to the agencies affected, the state auditor, and the  
28 state treasurer. Each of these shall make the appropriate transfer and  
29 adjustments in funds and appropriation accounts and equipment records  
30 in accordance with the certification.

31       NEW SECTION.    **Sec. 155.** All rules adopted by the state personnel  
32 board under chapter 41.06 RCW and all rules adopted by the higher  
33 education personnel board under chapter 28B.16 RCW that relate to  
34 functions transferred to the public employment relations commission or  
35 the personnel appeals board pursuant to section 149 of this act shall

1 continue in effect until acted upon by the agency assuming those  
2 functions.

3 NEW SECTION. **Sec. 156.** All business pending before the department  
4 of personnel or the higher education personnel board pertaining to  
5 arbitration of grievances transferred by section 148 of this act shall  
6 be continued and acted upon by the personnel appeals board unless the  
7 parties to the grievance agree to submit the matter to an independent  
8 arbitrator for resolution of the grievance. Determinations of  
9 grievances transferred under this section shall be made according to  
10 the rules in effect and applicable to the grievance at the time of  
11 filing the grievance.

12 NEW SECTION. **Sec. 157.** The following acts or parts of acts are  
13 each repealed:

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

1 (16) RCW 28B.16.112 and 1987 c 185 s 3, 1986 c 158 s 4, 1979 c 151  
2 s 17, & 1977 ex.s. c 152 s 11;  
3 (17) RCW 28B.16.113 and 1977 ex.s. c 152 s 12;  
4 (18) RCW 28B.16.116 and 1983 1st ex.s. c 75 s 3;  
5 (19) RCW 28B.16.120 and 1969 ex.s. c 36 s 12;  
6 (20) RCW 28B.16.130 and 1969 ex.s. c 36 s 13;  
7 (21) RCW 28B.16.140 and 1969 ex.s. c 36 s 14;  
8 (22) RCW 28B.16.150 and 1969 ex.s. c 36 s 15;  
9 (23) RCW 28B.16.160 and 1988 c 202 s 27, 1971 c 81 s 72, & 1969  
10 ex.s. c 36 s 16;  
11 (24) RCW 28B.16.170 and 1969 ex.s. c 36 s 26;  
12 (25) RCW 28B.16.180 and 1973 1st ex.s. c 46 s 3 & 1969 ex.s. c 36  
13 s 17;  
14 (26) RCW 28B.16.190 and 1969 ex.s. c 36 s 19;  
15 (27) RCW 28B.16.200 and 1979 c 151 s 18 & 1969 ex.s. c 36 s 20;  
16 (28) RCW 28B.16.210 and 1969 ex.s. c 36 s 29;  
17 (29) RCW 28B.16.220 and 1969 ex.s. c 36 s 31;  
18 (30) RCW 28B.16.230 and 1973 c 62 s 6 & 1969 ex.s. c 215 s 14;  
19 (31) RCW 28B.16.240 and 1979 ex.s. c 46 s 1;  
20 (32) RCW 28B.16.255 and 1985 c 461 s 11;  
21 (33) RCW 28B.16.265 and 1985 c 461 s 12;  
22 (34) RCW 28B.16.275 and 1985 c 461 s 13;  
23 (35) RCW 28B.16.300 and 1990 c 204 s 4;  
24 (36) RCW 28B.16.900 and 1969 ex.s. c 36 s 18;  
25 (37) RCW 28B.16.910 and 1969 ex.s. c 36 s 27;  
26 (38) RCW 28B.16.920 and 1969 ex.s. c 36 s 30;  
27 (39) RCW 28B.16.930 and 1969 ex.s. c 36 s 28;  
28 (40) RCW 41.06.010 and 1980 c 118 s 1 & 1961 c 1 s 1;  
29 (41) RCW 41.06.030 and 1961 c 1 s 3;  
30 (42) RCW 41.06.110 and 1984 c 287 s 69 & 1982 c 10 s 8;  
31 (43) RCW 41.06.120 and 1981 c 311 s 17, 1975-'76 2nd ex.s. c 43 s  
32 2, & 1961 c 1 s 12;  
33 (44) RCW 41.06.130 and 1982 1st ex.s. c 53 s 3 & 1961 c 1 s 13;  
34 (45) RCW 41.06.163 and 1987 c 185 s 9, 1986 c 158 s 6, 1979 c 151  
35 s 59, & 1977 ex.s. c 152 s 3;  
36 (46) RCW 41.06.165 and 1977 ex.s. c 152 s 4;  
37 (47) RCW 41.06.230 and 1961 c 1 s 23;  
38 (48) RCW 41.06.240 and 1961 c 1 s 24;  
39 (49) RCW 41.06.310 and 1969 c 45 s 2;

1 (50) RCW 41.06.340 and 1969 ex.s. c 215 s 13;  
2 (51) RCW 41.06.350 and 1969 ex.s. c 152 s 1; and  
3 (52) RCW 41.06.380 and 1979 ex.s. c 46 s 2.

4 NEW SECTION. **Sec. 158.** Sections 101 through 107 of this act shall  
5 constitute a new chapter in Title 43 RCW.

6 **PART II**  
7 **COLLECTIVE BARGAINING FOR INSTITUTIONS OF HIGHER EDUCATION**

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

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

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

17 As used in this chapter:

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

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

1 of the public employer, or (d) who is a personal assistant to a  
2 district court judge, superior court judge, or court commissioner. For  
3 the purpose of (d) of this subsection, no more than one assistant for  
4 each judge or commissioner may be excluded from a bargaining unit.

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

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

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

20 (6) "Executive director" means the executive director of the  
21 commission.

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

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

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

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

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

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

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

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

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

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

33 (a) Salary increases shall continue to be appropriated by the  
34 legislature. The exclusive bargaining representative shall meet before  
35 a legislative session with the governor or governor's designee and the  
36 representative of the institution of higher education concerning the  
37 total dollar amount for salary increases and health care contributions  
38 that will be contained in the appropriations proposed by the governor  
39 under RCW 43.88.060.

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

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

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

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

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

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

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

5        (1) Salary increases shall continue to be appropriated by the  
6    legislature.

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

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

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

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

29        Each board of trustees:

30        (1) Shall operate all existing community and technical colleges in  
31    its district;

32        (2) Shall create comprehensive programs of community and technical  
33    college education and training and maintain an open-door policy in  
34    accordance with the provisions of RCW 28B.50.090(3). However,  
35    technical colleges, and college districts containing only technical  
36    colleges, shall maintain programs solely for occupational education,  
37    basic skills, and literacy purposes. For as long as a need exists,  
38    technical colleges may continue those programs, activities, and



1 services they offered during the twelve-month period preceding  
2 September 1, 1991;

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

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

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

31 (6) May, with the approval of the college board, borrow money and  
32 issue and sell revenue bonds or other evidences of indebtedness for the  
33 construction, reconstruction, erection, equipping with permanent  
34 fixtures, demolition and major alteration of buildings or other capital  
35 assets, and the acquisition of sites, rights-of-way, easements,  
36 improvements or appurtenances, for dormitories, food service  
37 facilities, and other self-supporting facilities connected with the  
38 operation of the community and technical college in accordance with the  
39 provisions of RCW 28B.10.300 through 28B.10.330 where applicable;

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

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

11 (b) Employ necessary employees to govern, manage and operate the  
12 same;

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

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

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

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

34 (12) May grant to every student, upon graduation or completion of  
35 a course of study, a suitable diploma, nonbaccalaureate degree or  
36 certificate. Technical colleges shall offer only nonbaccalaureate  
37 technical degrees, certificates, or diplomas for occupational courses  
38 of study under rules of the college board. Technical colleges in  
39 districts twenty-eight and twenty-nine may offer nonbaccalaureate

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

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

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

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

33 (16) Notwithstanding any other provision of law, may offer  
34 educational services on a contractual basis other than the tuition and  
35 fee basis set forth in chapter 28B.15 RCW for a special fee to private  
36 or governmental entities, consistent with rules and regulations adopted  
37 by the state board for community and technical colleges: PROVIDED,  
38 That the whole of such special fee shall go to the college district and  
39 be not less than the full instructional costs of such services

1 including any salary increases authorized by the legislature for  
2 community and technical college employees during the term of the  
3 agreement: PROVIDED FURTHER, That enrollments generated hereunder  
4 shall not be counted toward the official enrollment level of the  
5 college district for state funding purposes;

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

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

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

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

### 32 PART III

### 33 COLLECTIVE BARGAINING FOR STATE EMPLOYEES

34 NEW SECTION. **Sec. 301.** DEFINITIONS. Unless the context clearly  
35 requires otherwise, the definitions in this section apply throughout  
36 this chapter.

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

3 (2) "Collective bargaining" means the performance of the mutual  
4 obligation of the representatives of the employer and the exclusive  
5 bargaining representative to meet at reasonable times and to bargain in  
6 good faith in an effort to reach agreement with respect to the subjects  
7 of bargaining specified under section 306 of this act except by such  
8 obligation neither party shall be compelled to agree to a proposal or  
9 be required to make a concession.

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

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

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

22 (a) Employees covered by chapter 41.56 RCW;  
23 (b) Confidential employees;  
24 (c) Management employees;  
25 (d) Internal auditors in any agency; and  
26 (e) Any employee of the commission, the personnel appeals board,  
27 the office of financial management, the department of human resources,  
28 or the attorney general's office or their successor organizations.

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

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

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

36 (9) "Exclusive bargaining representative" means any employee  
37 organization that has been certified or recognized under this chapter  
38 as the representative of the employees in an appropriate bargaining  
39 unit.

1 (10) "Executive director" means the executive director of the  
2 public employment relations commission.

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

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

11 (a) Formulate policy or direct the work of an agency or subdivision  
12 thereof; or

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

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

18 (d) Have substantial responsibility in personnel administration,  
19 legislative relations, public information, or the preparation and  
20 administration of budgets; or

21 (e) Functionally or organizationally are above the first level of  
22 supervision.

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

32 (14) "Unfair labor practice" means any unfair labor practice listed  
33 in section 315 of this act.

34 (15) "Union security provision" means a provision in a collective  
35 bargaining agreement under which some or all of the employees in the  
36 bargaining unit may be required, as a condition of continued employment  
37 on or after the thirtieth day following the beginning of such  
38 employment or the effective date of the provision, whichever is later,  
39 to become a member of the exclusive bargaining representative or pay a

1 representation fee not greater than the periodic dues and initiation  
2 fees uniformly required as a condition of acquiring or retaining  
3 membership in the exclusive bargaining representative.

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

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

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

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

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

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

35 (2) To resolve disputes concerning the assignment of  
36 classifications covered by this chapter to the appropriate bargaining  
37 unit established under section 310 of this act;

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

3 (4) To resolve any issue arising under this chapter with respect to  
4 representation matters covered by section 309 of this act.

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

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

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

23 NEW SECTION. **Sec. 305.** MANAGEMENT RIGHTS. This chapter shall not  
24 interfere with the right of the employer to carry out its statutory  
25 mandate. An employer shall not be required to bargain over matters of  
26 inherent managerial policy, which shall include such areas of  
27 discretion or policy as the functions and programs of the employer, its  
28 hours of operation, standards of service, use of technology, and  
29 organizational structure. Management rights, which in addition to all  
30 powers, duties, and rights established by constitutional provision,  
31 statute or special act, also include, but are not limited to, the  
32 exclusive power and right to:

33 (1) Direct, supervise, evaluate, or hire employees;

34 (2) Maintain and improve the efficiency and effectiveness of  
35 governmental operations;



1 (3) Determine and implement methods, process, means, procedures and  
2 type and number of personnel by which governmental operations are to be  
3 conducted;

4 (4) Suspend, reduce pay, demote, or discharge for just cause, or  
5 lay off, transfer, assign, schedule, promote, or retain employees; and

6 (5) Take whatever actions are deemed necessary to carry out the  
7 mission of the state and its agencies during an emergency.

8 NEW SECTION. **Sec. 306.** SCOPE OF BARGAINING. (1) Except as  
9 otherwise provided in this section, the matters subject to collective  
10 bargaining are wages, hours, and other terms and conditions of  
11 employment, and the negotiation of any question arising under a  
12 collective bargaining agreement.

13 (2) The scope of bargaining shall not include matters pertaining  
14 to:

15 (a) Rules, policies, practices, and procedures regarding merit  
16 system principles relating to:

17 (i) Original appointments and promotions including recruitment,  
18 examinations, grading, certification, probationary and trial service  
19 periods and appointments;

20 (ii) The job evaluation system including position classification  
21 and reclassification, position qualification standards, establishment  
22 and abolition of classifications, allocation and reallocation of  
23 positions to classifications, and the determination of an incumbent's  
24 status resulting from position reallocations;

25 (iii) Training and career development, the career executive  
26 program, the Washington management services program, veteran's  
27 preferences, and equal opportunity and affirmative action;

28 (b) Any retirement system, retirement benefit, or retirement  
29 statute of the state of Washington;

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

32 (d) A decision to contract for services as provided in section 129  
33 of this act; and

34 (e) Management rights as covered by section 305 of this act.

35 (3) In the event of a dispute between the employer and the  
36 exclusive bargaining representative over which matters are mandatory  
37 subjects for bargaining, the dispute shall be submitted to the  
38 commission for determination. Prior law, practice, or interpretation

1 shall be neither restrictive, expansive, nor determinative with respect  
2 to the scope of bargaining.

3 NEW SECTION. **Sec. 307.** COLLECTIVE BARGAINING AGREEMENTS. (1) The  
4 parties to a collective bargaining agreement shall reduce the agreement  
5 to writing and both shall execute it.

6 (2) A collective bargaining agreement shall contain provisions  
7 that:

8 (a) Require layoffs and subsequent reemployment to be implemented  
9 based on seniority and the maintenance and implementation of approved  
10 affirmative action plans; and

11 (b) Require processing of disciplinary actions or termination of  
12 employment entirely under the procedures of the collective bargaining  
13 agreement if an employee covered under this chapter has a right to  
14 contest the disciplinary action or termination of employment.

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

24 NEW SECTION. **Sec. 308.** ENFORCEMENT OF COLLECTIVE BARGAINING  
25 AGREEMENTS. (1) Collective bargaining agreements negotiated under this  
26 chapter shall contain provisions for the final and binding arbitration  
27 of all disputes arising over the interpretation or application of the  
28 agreement.

29 (2) The parties to a collective bargaining agreement may agree on  
30 one or more permanent umpires to serve as arbitrator, may agree on any  
31 impartial person to serve as an ad hoc arbitrator, or may agree to  
32 select arbitrators from any source available to them including federal  
33 and private agencies or a list of arbitrators maintained by the  
34 commission.

35 (3) An arbitrator may require any person to attend as a witness and  
36 to bring with him or her any book, record, document, or other evidence.  
37 Subpoenas shall be issued and signed by the arbitrator and shall be

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

10 (4) The arbitrator shall establish a time and place for a hearing  
11 and shall provide reasonable notice thereof to the parties to the  
12 dispute. The arbitrator may adjourn the hearing from time to time as  
13 may be necessary and, on application of either party and for good  
14 cause, postpone the hearing to a time not extending beyond a date fixed  
15 by the collective bargaining agreement for making the award. The  
16 arbitrator shall have the power to administer oaths. Each party shall  
17 have the opportunity to present evidence and make argument at the  
18 hearing. The rules of evidence prevailing in judicial proceedings may  
19 be considered, but are not binding, and any oral testimony or  
20 documentary evidence or other data deemed relevant by the arbitrator  
21 may be received in evidence. The arbitrator shall issue a written  
22 decision, which shall be signed by the arbitrator. The arbitrator  
23 shall promptly serve a copy of the decision on each of the parties or  
24 their attorneys.

25 (5) If a party to a collective bargaining agreement negotiated  
26 under this chapter refuses to submit a grievance for arbitration, the  
27 other party to the collective bargaining agreement may petition the  
28 jurisdiction of the superior court of Thurston county for issuance of  
29 an order compelling arbitration. Disputes concerning compliance with  
30 grievance procedures shall be reserved for determination by the  
31 arbitrator. Arbitration shall be ordered if the grievance states a  
32 claim which on its face is covered by the collective bargaining  
33 agreement, and doubts as to the arbitrability of an issue shall be  
34 referred to the arbitrator to be decided before hearing the merits of  
35 the case. Disputes concerning compliance with grievance procedures  
36 shall be reserved for determination by the arbitrator.

37 (6) If a party to a collective bargaining agreement negotiated  
38 under this chapter refuses to comply with the award of an arbitrator  
39 determining a grievance arising under the collective bargaining

1 agreement, the other party to the collective bargaining agreement may  
2 petition the superior court of Thurston county for issuance of an order  
3 enforcing the arbitration award. The court shall not substitute its  
4 judgment for that of the arbitrator, and shall enforce any arbitration  
5 award that is based on the collective bargaining agreement, except that  
6 an arbitration award shall not be enforced if the court is satisfied  
7 that substantial rights of the parties have been prejudiced by:

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

10 (b) Evident partiality or corruption in the arbitrator or  
11 arbitrators; or

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

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

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

27 (8) Nothing in this chapter or rules adopted under it may be  
28 construed to authorize the commission or an arbitrator to direct in any  
29 manner the method, means, and number, and kinds of personnel by which  
30 agency operations are to be conducted or the number of clients to be  
31 served by agency programs and operations, or to spend money not already  
32 appropriated by the legislature, or that would have the effect of  
33 increasing the future appropriations or diminishing established  
34 programs.

35 (9) If there is any conflict between any collective bargaining  
36 agreement and any resolution, rule, or policy of the employer or its  
37 agents, the terms of the collective bargaining agreement shall prevail  
38 except with respect to those terms that conflict with sections 305 and  
39 306(2) of this act.

1        NEW SECTION.    **Sec. 309.**    REPRESENTATION.    (1) Transition from  
2 bargaining units certified under RCW 41.06.150 to bargaining units  
3 established by this chapter shall be in accordance with section 312 of  
4 this act.    All subsequent questions pertaining to the issue of  
5 representation shall be resolved by the commission in accordance with  
6 the procedures in this section.

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

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

13       (c) If there is a valid collective bargaining agreement in effect,  
14 questions concerning representation may not be raised except during the  
15 period not more than ninety nor less than sixty days before the  
16 expiration date of the agreement.    In the event a valid collective  
17 bargaining agreement, together with any renewals or extensions thereof,  
18 has been or will be in existence for more than three years, questions  
19 concerning representation may be raised not more than ninety nor less  
20 than sixty days before the third anniversary date or any subsequent  
21 anniversary date of the agreement.    If the exclusive bargaining  
22 representative is removed as the result of this procedure, the  
23 collective bargaining agreement shall be deemed to be terminated as of  
24 the date of the certification.

25       (d) An employee organization seeking certification as exclusive  
26 bargaining representative of a bargaining unit of employees, or  
27 bargaining unit employees seeking decertification of their exclusive  
28 bargaining representative, shall make a confidential showing to the  
29 commission of credible evidence demonstrating that at least thirty  
30 percent of the employees in the bargaining unit are in support of the  
31 petition.

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

36       (f) Any employee organization that makes a confidential showing to  
37 the commission of credible evidence demonstrating that it has the  
38 support of at least ten percent of the employees in the bargaining unit  
39 involved may intervene in the proceedings under this section, and may

1 have its name listed as a choice on the ballot in an election conducted  
2 by the commission.

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

6 (i) If only one employee organization is seeking certification as  
7 exclusive bargaining representative of a bargaining unit for which  
8 there is no incumbent exclusive bargaining representative, the  
9 commission may, upon the concurrence of the employer and the employee  
10 organization, determine the question concerning representation by  
11 conducting a cross-check comparing the employee organization's  
12 membership records or bargaining authorization cards against the  
13 employment records of the employer; or

14 (ii) Where the commission determines that a serious unfair labor  
15 practice has been committed that interfered with the election process  
16 and precludes the holding of a fair election, the commission may  
17 determine the question concerning representation by conducting a cross-  
18 check comparing the employee organization's membership records or  
19 bargaining authorization cards against the employment records of the  
20 employer.

21 (h) The representation election ballot shall contain a choice for  
22 each employee organization qualifying under subsection (d) or (f) of  
23 this section, together with a choice for no representation. The  
24 representation election shall be determined by the majority of the  
25 valid ballots cast. Where there are three or more choices on the  
26 ballot and none of the choices receives a majority of the valid ballots  
27 cast, a runoff election shall be conducted between the two choices  
28 receiving the highest and second highest numbers of votes.

29 (2) The employee organization that has been designated or selected  
30 by the majority of the employees in an appropriate bargaining unit as  
31 their representative for the purposes of collective bargaining shall be  
32 the exclusive bargaining representative of, and shall be required to  
33 represent, all the employees within the bargaining unit without regard  
34 to membership in that employee organization. However, any employee or  
35 group of employees may at any time present complaints or concerns to  
36 the employer and have such complaints or concerns adjusted without  
37 intervention of the exclusive bargaining representative, as long as the  
38 exclusive bargaining representative has been given an opportunity to be  
39 present at the adjustment and to make its views known, and as long as

1 the adjustment is not inconsistent with the terms of a collective  
2 bargaining agreement then in effect.

3 NEW SECTION. **Sec. 310.** BARGAINING UNITS. The legislature finds  
4 that to foster meaningful collective bargaining, units must be  
5 structured to avoid excessive fragmentation whenever possible. In  
6 accordance with this policy, collective bargaining units under this  
7 chapter shall be structured on a state-wide basis and limited to one  
8 collective bargaining unit for each of the following:

9 (1) Clerical, office, and administrative support including but not  
10 limited to nonprofessional clerical and administrative classes:  
11 Typists, secretaries, accounting clerks, computer operators, office  
12 service personnel, and similar classes;

13 (2) Maintenance, services, operations support, trades, and  
14 technical classes including but not limited to generally recognized  
15 blue collar and technical classes, including highway maintenance  
16 workers, carpenters, plumbers, electricians, auto mechanics,  
17 engineering aides and associates, and similar classes;

18 (3) Health and human care professionals, including but not limited  
19 to community health, nutrition and health service professional  
20 employees, pharmacists, dietitians, licensed therapists, and similar  
21 classes;

22 (4) Direct care institutions and related nonprofessional classes  
23 involved in health and human care including but not limited to  
24 institutional care classes, including nursing aides, psychiatric aides,  
25 therapy aides, and similar classes;

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

28 (6) Engineering, science and resources, including but not limited  
29 to specialized professional scientific occupations, civil and other  
30 engineers, architects, chemists, biologists, geologists, surveyors, and  
31 similar classes;

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

34 (8) Professional and technical employees involved in nonfinancial  
35 regulatory and inspection activities;

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

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

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

4 (12) Highway and transportation engineers, engineering technicians,  
5 and related classes;

6 (13) Liquor store clerks and related classes;

7 (14) Driver's licensing examiners;

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

10 (16) Licensed physicians, psychiatrists, psychologists, and  
11 dentists;

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

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

20 NEW SECTION. **Sec. 311.** UNION SECURITY. (1) The parties to a  
21 collective bargaining agreement may negotiate, as a condition of  
22 employment, a union security provision. However, agreements involving  
23 union security provisions shall safeguard the right of nonassociation  
24 based on employee preference or on bona fide religious tenets or  
25 teachings of a church or religious body of which the public employee is  
26 a member. Payment of dues or a representation fee shall begin on the  
27 thirtieth day following the beginning of employment or thirty days  
28 after the date of ratification of an agreement containing a union  
29 security provision, whichever is later. The failure of an employee to  
30 comply with such a condition of employment constitutes cause for  
31 dismissal. An exclusive bargaining representative may not require a  
32 bargaining unit employee to pay initiation, reinstatement, or any other  
33 fees or fines.

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



1 (3) Upon filing with the employer the voluntary written  
2 authorization of a bargaining unit employee under this chapter, the  
3 employee organization that is the exclusive bargaining representative  
4 of the bargaining unit has the right to have deducted from the salary  
5 of the employee an amount equal to the dues and/or fees uniformly  
6 required as a condition of acquiring or retaining membership in the  
7 employee organization. The dues and/or fees shall be deducted each pay  
8 period from the pay of all employees who have given authorization for  
9 the deduction and shall be transmitted by the employer as provided for  
10 by agreement between the employer and the employee organization. The  
11 right to deduct dues and/or fees shall be an exclusive right of the  
12 employee organization that represents the unit in which the employee is  
13 employed.

14 (4) To safeguard the right of nonassociation of employees, based on  
15 bona fide religious tenets or teachings of a church or religious body  
16 of which the employee is a member, the employee shall pay to a  
17 charitable organization mutually agreed to between the employee and the  
18 employee organization, an amount of money not greater than the dues  
19 and/or fees assessed all other members or nonmembers of the  
20 organization. The employee shall be required to provide the employee  
21 organization with a monthly receipt from the charitable organization  
22 showing the amount of the cash contribution. Such an employee shall  
23 not be a member of the employee organization but is entitled to all the  
24 representation rights of a member of the employee organization.  
25 Disputes regarding the bona fide religious objections or charitable  
26 contributions shall be decided by the commission.

27 (5) Until an exclusive bargaining representative is selected for a  
28 bargaining unit under this chapter or July 1, 1995, whichever is  
29 earlier, employee organizations that, before the effective date of this  
30 section, were entitled to the union shop dues or representation fees  
31 pursuant to preexisting law or rules shall continue to be entitled to  
32 such dues and fees until an exclusive bargaining representative is  
33 certified under this chapter. Upon the selection of an exclusive  
34 bargaining representative, only the exclusive bargaining representative  
35 for the bargaining unit is entitled to the rights established under  
36 this section.

37 NEW SECTION. **Sec. 312.** TRANSITION OF BARGAINING REPRESENTATIVES  
38 AND UNITS. The transition of exclusive bargaining representatives and

1 bargaining units existing before the effective date of this section to  
2 the units prescribed in section 310 of this act and to exclusive  
3 bargaining representatives under this chapter shall be implemented as  
4 follows:

5 (1) Any bargaining representative that has been certified under  
6 prior law and rules to represent employees now included in a unit  
7 established in section 310 of this act may use the number of its  
8 regular dues paying members included in the new unit to establish its  
9 status as a petitioner or intervenor under section 309 of this act if:

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

15 (b) Two or more employee organizations have more than a majority of  
16 the employees in the unit established in section 310 of this act as  
17 regular dues paying members, then an election shall be held under the  
18 provisions of section 309 of this act to determine which such employee  
19 organization shall be entitled to a certification as the exclusive  
20 bargaining representative by the commission for the new bargaining  
21 unit;

22 (c) On the effective date of this section, less than a majority of  
23 the employees to be included in a bargaining unit prescribed in section  
24 310 of this act are represented by a single existing certified  
25 bargaining representative as evidenced by the number of employees  
26 paying regular dues to the organization, representation of employees in  
27 the new bargaining unit shall be determined pursuant to section 309 of  
28 this act.

29 (2) An employee organization that has been the certified exclusive  
30 bargaining representative of employees under any other law or rule  
31 before the effective date of this section may continue to represent  
32 such employees until they are included in a unit established under  
33 section 310 of this act. However, agencies may not renegotiate any  
34 existing agreement, enter into a new collective bargaining agreement,  
35 or extend an existing agreement beyond the agreement's expiration date  
36 in effect on the effective date of this section. No provision in any  
37 such agreement may be unilaterally changed by the employer before its  
38 next expiration date, or the date of certification of the new exclusive  
39 bargaining representative under this chapter, whichever occurs first,

1 without the employer giving ninety days' advance notice to the  
2 certified exclusive bargaining representative and, if requested,  
3 bargaining with the representative over the proposed changes under the  
4 provisions of this chapter.

5 (3) An employee organization may not be initially certified as an  
6 exclusive bargaining representative in any bargaining unit established  
7 by this chapter if a dispute exists over the classification to be  
8 included in the unit that could affect the determination of its status  
9 as the representative of a majority of the employees included in the  
10 unit including the employees in disputed classifications.

11 NEW SECTION. **Sec. 313.** NEGOTIATION AND RATIFICATION OF COLLECTIVE  
12 BARGAINING AGREEMENTS. (1) Collective bargaining agreement

13 negotiations under this chapter shall commence no later than October 1,  
14 1994, for collective bargaining agreements that are to become effective  
15 no earlier than July 1, 1995, for those units in which an exclusive  
16 bargaining representative has been selected, or as soon thereafter as  
17 an exclusive bargaining representative has been selected for a  
18 bargaining unit. For subsequent agreements, negotiations shall  
19 commence and contracts become effective as the parties agree.

20 (2) After ratification of a tentative agreement by the employees in  
21 the bargaining unit, the items requiring funding shall be submitted to  
22 the joint committee on collective bargaining created in subsection (4)  
23 of this section. If the committee approves the submitted items, the  
24 governor shall request legislation necessary to implement the items  
25 requiring funding. If the legislature fails to act on the legislation  
26 submitted or rejects all or part of the legislation submitted, the  
27 tentative agreement shall be returned to the parties for renegotiation.

28 (3) Any provisions of these agreements pertaining to salary  
29 increases shall be subject to modification by the legislature. If any  
30 provision of a salary increase is changed by subsequent modification of  
31 the appropriations act by the legislature, both parties shall  
32 immediately enter into collective bargaining for the sole purpose of  
33 arriving at a mutually agreed upon replacement for the modified  
34 provision.

35 (4) The joint committee on collective bargaining is created, to  
36 consist of the speaker of the house of representatives, the majority  
37 leader of the house of representatives, the minority leader of the  
38 house of representatives, the chair of the house of representatives

1 committee on appropriations, or successor committee, the majority  
2 leader of the senate, the minority leader of the senate, the president  
3 pro tempore of the senate, and the chair of the senate committee on  
4 ways and means, or successor committee.

5 NEW SECTION. **Sec. 314.** ESSENTIAL SERVICES PERSONNEL. (1) If,  
6 sixty days after commencement of negotiations, no agreement has been  
7 reached between essential services personnel and their employer, then  
8 at any time thereafter either party may declare that an impasse exists  
9 and may submit a request for mediation to the commission, with or  
10 without the concurrence of the other party. Until a new collective  
11 bargaining agreement involving essential services personnel is  
12 negotiated, the terms and conditions of the previous collective  
13 bargaining agreement shall remain in effect.

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

17 (3) Work stoppages involving essential services personnel are  
18 hereby expressly prohibited.

19 NEW SECTION. **Sec. 315.** UNFAIR LABOR PRACTICES. (1) It shall be  
20 an unfair labor practice for an employer to:

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

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

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

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

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

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

3 (a) Restrain or coerce:

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

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

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

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

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

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

24 (f) Breach its duty of fair representation with respect to any  
25 employee or employees in a bargaining unit for which the employee  
26 organization is exclusive bargaining representative, by action or  
27 inaction that is arbitrary, discriminatory, perfunctory, or lacking in  
28 good faith. It is not a violation of this section for an employee  
29 organization to refuse to pursue a grievance on behalf of one or more  
30 employees where, following investigation of the facts and  
31 circumstances, the employee organization makes a determination in good  
32 faith that the grievance is without merit.

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

1        NEW SECTION.    **Sec. 316.**    UNFAIR LABOR PRACTICE PROCEDURES. The  
2 commission shall resolve any unfair labor practice dispute in  
3 accordance with the procedures specified in this section.

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

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

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

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

18       NEW SECTION.    **Sec. 317.**    EMPLOYER RESPONSIBILITIES.    (1) The  
19 governor may appoint a designee to fulfill the collective bargaining  
20 responsibilities as the state employer under this chapter.

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

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

23       (b) Represent the governor in: Negotiations with certified  
24 bargaining representatives; the determination of classifications to be  
25 included in bargaining units; elections to determine certified  
26 bargaining agents; and other proceedings arising under this chapter;  
27 and any other activities necessary to implement the collective  
28 bargaining policies established by this chapter;

29       (c) Consult with agencies as appropriate concerning agency-unique  
30 issues involved in the collective bargaining under this chapter;

31       (d) Administer and interpret collective bargaining agreements, and  
32 coordinate and direct agency activities as necessary to promote  
33 consistent policies and practices;

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

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

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

7 **Sec. 318.** RCW 41.04.230 and 1993 c 2 s 26 (Initiative Measure No.  
8 134, approved November 3, 1992) and 1992 c 192 s 1 are each reenacted  
9 and amended to read as follows:

10 Any official of the state authorized to disburse funds in payment  
11 of salaries and wages of public officers or employees is authorized,  
12 upon written request of the officer or employee, to deduct from the  
13 salaries or wages of the officers or employees, the amount or amounts  
14 of subscription payments, premiums, contributions, or continuation  
15 thereof, for payment of the following:

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

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

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

30 (4) Board, lodging or uniform deductions when such board, lodging  
31 and uniforms are furnished by the state, or deductions for academic  
32 tuitions or fees or scholarship contributions payable to the employing  
33 institution.

34 ~~(5) ((Dues and other fees deductions: PROVIDED, That the deduction  
35 is for payment of membership dues to any professional organization  
36 formed primarily for public employees or college and university  
37 professors: AND PROVIDED, FURTHER, That twenty five or more employees  
38 of a single state agency, or a total of one hundred or more state~~

1 employees of several agencies have authorized such a deduction for  
2 payment to the same professional organization.

3 ~~(6) Labor or employee organization dues may be deducted in the~~  
4 ~~event that a payroll deduction is not provided under a collective~~  
5 ~~bargaining agreement under the provisions of RCW 41.06.150: PROVIDED,~~  
6 ~~That twenty five or more officers or employees of a single agency, or~~  
7 ~~a total of one hundred or more officers or employees of several~~  
8 ~~agencies have authorized such a deduction for payment to the same labor~~  
9 ~~or employee organization: PROVIDED, FURTHER, That labor or employee~~  
10 ~~organizations with five hundred or more members in state government may~~  
11 ~~have payroll deduction for employee benefit programs.~~

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

14 ~~((+8)) (6) Deductions to a bank, savings bank, or savings and loan~~  
15 ~~association if (a) the bank, savings bank, or savings and loan~~  
16 ~~association is authorized to do business in this state; and (b) twenty-~~  
17 ~~five or more employees of a single agency, or fewer, if a lesser number~~  
18 ~~is established by such agency, or a total of one hundred or more state~~  
19 ~~employees of several agencies have authorized a deduction for payment~~  
20 ~~to the same bank, savings bank, or savings and loan association.~~

21 Deductions from salaries and wages of public officers and employees  
22 other than those enumerated in this section or by other law, may be  
23 authorized by the director of financial management for purposes clearly  
24 related to state employment or goals and objectives of the agency and  
25 for plans authorized by the state health care authority.

26 The authority to make deductions from the salaries and wages of  
27 public officers and employees as provided for in this section shall be  
28 in addition to such other authority as may be provided by law:  
29 PROVIDED, That the state or any department, division, or separate  
30 agency of the state shall not be liable to any insurance carrier or  
31 contractor for the failure to make or transmit any such deduction.

32 NEW SECTION. Sec. 319. The public employment relations commission  
33 may take such steps as are necessary to ensure that chapter 41.--- RCW  
34 (sections 301 through 317 of this act) is implemented on its effective  
35 date.

36 NEW SECTION. Sec. 320. Sections 301 through 317 of this act shall  
37 constitute a new chapter in Title 41 RCW.



PART IV  
MISCELLANEOUS

1  
2  
3       NEW SECTION.   **Sec. 401.** Captions and part headings as used in this  
4 act do not constitute any part of the law.

5       NEW SECTION.   **Sec. 402.** Sections 1 through 109, 111 through 115,  
6 117 through 128, 130 through 132, 136 through 205, 301 through 317, and  
7 401 of this act shall take effect July 1, 1994.

8       NEW SECTION.   **Sec. 403.** Sections 110, 116, 129, 134, 135, 206,  
9 319, and 406 of this act are necessary for the immediate preservation  
10 of the public peace, health, or safety, or support of the state  
11 government and its existing public institutions, and shall take effect  
12 July 1, 1993.

13       NEW SECTION.   **Sec. 404.** Section 318 of this act shall take effect  
14 July 1, 1995.

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

17       NEW SECTION.   **Sec. 406.** If any provision of this act or its  
18 application to any person or circumstance is held invalid, the  
19 remainder of the act or the application of the provision to other  
20 persons or circumstances is not affected.

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