



1 As used in this chapter:

2 (1) "Public employer" means any officer, board, commission,  
3 council, institution of higher education, or other person or body  
4 acting on behalf of any public body governed by this chapter as  
5 designated by RCW 41.56.020, 41.56.022, 41.56.024, and section 101 of  
6 this act, or any subdivision of such public body. For the purposes of  
7 this section, the public employer of district court or superior court  
8 employees for wage-related matters is the respective county legislative  
9 authority, or person or body acting on behalf of the legislative  
10 authority, and the public employer for nonwage-related matters is the  
11 judge or judge's designee of the respective district court or superior  
12 court.

13 (2) "Public employee" means any employee of a public employer  
14 except any person (a) elected by popular vote, or (b) appointed to  
15 office pursuant to statute, ordinance or resolution for a specified  
16 term of office by the executive head or body of the public employer, or  
17 (c) whose duties as deputy, administrative assistant or secretary  
18 necessarily imply a confidential relationship to the executive head or  
19 body of the applicable bargaining unit, or any person elected by  
20 popular vote or appointed to office pursuant to statute, ordinance or  
21 resolution for a specified term of office by the executive head or body  
22 of the public employer, or (d) who is a personal assistant to a  
23 district court judge, superior court judge, or court commissioner. For  
24 the purpose of (d) of this subsection, no more than one assistant for  
25 each judge or commissioner may be excluded from a bargaining unit.

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

29 (4) "Collective bargaining" means the performance of the mutual  
30 obligations of the public employer and the exclusive bargaining  
31 representative to meet at reasonable times, to confer and negotiate in  
32 good faith, and to execute a written agreement with respect to  
33 grievance procedures and collective negotiations on personnel matters,  
34 including wages, hours and working conditions, which may be peculiar to  
35 an appropriate bargaining unit of such public employer, except that by  
36 such obligation neither party shall be compelled to agree to a proposal  
37 or be required to make a concession unless otherwise provided in this  
38 chapter. In the case of the Washington state patrol, "collective  
39 bargaining" shall not include wages and wage-related matters.

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

2 (6) "Executive director" means the executive director of the  
3 commission.

4 (7) "Uniformed personnel" means (a) law enforcement officers as  
5 defined in RCW 41.26.030 as now or hereafter amended, of cities with a  
6 population of fifteen thousand or more or law enforcement officers  
7 employed by the governing body of any county with a population of  
8 seventy thousand or more, or (b) fire fighters as that term is defined  
9 in RCW 41.26.030, as now or hereafter amended.

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

12 **Sec. 103.** RCW 41.56.100 and 1989 c 45 s 1 are each amended to read  
13 as follows:

14 (1) A public employer shall have the authority to engage in  
15 collective bargaining with the exclusive bargaining representative and  
16 no public employer shall refuse to engage in collective bargaining with  
17 the exclusive bargaining representative(~~(:—PROVIDED, That))~~). Except  
18 as otherwise authorized in section 104 of this act, nothing contained  
19 herein shall require any public employer to bargain collectively with  
20 any bargaining representative concerning any matter which by ordinance,  
21 resolution or charter of (~~said~~) the public employer, or by statute,  
22 has been delegated to any civil service commission or personnel board  
23 similar in scope, structure and authority to the board created by  
24 chapter 41.06 RCW.

25 (2) Upon the failure of the public employer and the exclusive  
26 bargaining representative to conclude a collective bargaining  
27 agreement, any matter in dispute may be submitted by either party to  
28 the commission. If a public employer implements its last and best  
29 offer where there is no contract settlement, allegations that either  
30 party is violating the terms of the implemented offer shall be subject  
31 to grievance arbitration procedures if and as such procedures are set  
32 forth in the implemented offer, or, if not in the implemented offer, if  
33 and as such procedures are set forth in the parties' last contract.

34 NEW SECTION. **Sec. 104.** A new section is added to chapter 41.56  
35 RCW to read as follows:

1 (1) On the effective date of this section, the commission shall  
2 recognize, in their current form, all bargaining units certified by the  
3 higher education personnel board as of June 30, 1993.

4 (2) At any time after the effective date of this section, a  
5 bargaining unit at an institution of higher education certified under  
6 this chapter or recognized under subsection (1) of this section and the  
7 public employer may agree to have their relationship and corresponding  
8 obligations governed entirely by the provisions of chapter 41.56 RCW by  
9 mutual adoption of a collective bargaining agreement stating the  
10 parties' intent to be so governed. The parties shall provide notice  
11 and a copy of the agreement to the department of human resources and  
12 the commission. On the first day of the month following the month  
13 during which notice is received by the agencies, chapter 41.06 RCW  
14 shall cease to apply to all employees in the bargaining unit covered by  
15 the agreement, and the limitations on bargaining contained in RCW  
16 41.56.100(1) shall cease to apply to the institution.

17 (3) If a bargaining unit and an institution mutually agree to a  
18 collective bargaining agreement permitted in subsection (2) of this  
19 section, salary increases for the employees in the bargaining unit  
20 shall be subject to the following:

21 (a) Salary increases shall continue to be appropriated by the  
22 legislature and, except as otherwise provided under (c) of this  
23 subsection, contract provisions relating to salary increases shall not  
24 exceed the amount or percentage established by the legislature in the  
25 appropriations act for the institutions or as allocated to the board of  
26 trustees by the state board for community and technical colleges.

27 (b) Any provisions of the contracts pertaining to salary increases  
28 shall not be binding upon future actions of the legislature. If any  
29 provision of a salary increase provided under (a) of this subsection is  
30 changed by subsequent modification of the appropriations act by the  
31 legislature, both parties shall immediately enter into collective  
32 bargaining for the sole purpose of arriving at a mutually agreed upon  
33 replacement for the modified provision.

34 (c) The agreements may provide for salary increases that are in  
35 addition to increases provided by the legislature. However, the base  
36 for salary increases provided by the legislature under (a) of this  
37 subsection shall include only those amounts appropriated by the  
38 legislature and the base shall not include any additional salary  
39 increases provided under this subsection (3)(c).

1 (4) No collective bargaining agreement may contain any provision  
2 relating to any retirement benefits, retirement system, or retirement  
3 law, or relating to any health care benefits or employee insurance  
4 benefits.

5 (5) A bargaining unit recognized under this chapter that does not  
6 agree with the public employer to bargain under the provisions in  
7 subsection (2) of this section shall be covered by chapter 41.06 RCW.  
8 Collective bargaining for such employees and their exclusive bargaining  
9 representatives is limited to negotiations on a grievance procedure and  
10 personnel matters over which the institution or related board may  
11 lawfully exercise discretion as defined by RCW 28B.16.100(2) before the  
12 effective date of this section.

13 NEW SECTION. **Sec. 105.** A new section is added to chapter 28B.16  
14 RCW to read as follows:

15 At any time after the effective date of this section, a bargaining  
16 unit at an institution of higher education certified or recognized  
17 under chapter 41.56 RCW and the institution may agree to have their  
18 relationship and corresponding obligations governed entirely by the  
19 provisions of chapter 41.56 RCW by mutual adoption of a collective  
20 bargaining agreement stating the parties' intent to be so governed.  
21 The parties shall provide notice and a copy of the agreement to the  
22 director of human resources and the public employment relations  
23 commission. On the first day of the month following the month during  
24 which notice is received by the agencies, this chapter shall cease to  
25 apply to all employees in the bargaining unit covered by the agreement.

26 **Sec. 106.** RCW 41.06.150 and 1990 c 60 s 103 are each amended to  
27 read as follows:

28 The board shall adopt rules, consistent with the purposes and  
29 provisions of this chapter(~~(, as now or hereafter amended,)~~) and with  
30 the best standards of personnel administration, regarding the basis and  
31 procedures to be followed for:

32 (1) The reduction, dismissal, suspension, or demotion of an  
33 employee;

34 (2) Certification of names for vacancies, including departmental  
35 promotions, with the number of names equal to four more names than  
36 there are vacancies to be filled, such names representing applicants  
37 rated highest on eligibility lists: PROVIDED, That when other

1 applicants have scores equal to the lowest score among the names  
2 certified, their names shall also be certified;

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

5 (4) Appointments;

6 (5) Training and career development;

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

11 (7) Transfers;

12 (8) Sick leaves and vacations;

13 (9) Hours of work;

14 (10) Layoffs when necessary and subsequent reemployment, both  
15 according to seniority;

16 (11) ~~((Determination of appropriate bargaining units within any~~  
17 ~~agency:—PROVIDED, That in making such determination the board shall~~  
18 ~~consider the duties, skills, and working conditions of the employees,~~  
19 ~~the history of collective bargaining by the employees and their~~  
20 ~~bargaining representatives, the extent of organization among the~~  
21 ~~employees, and the desires of the employees;~~

22 ~~(12) Certification and decertification of exclusive bargaining~~  
23 ~~representatives:—PROVIDED, That after certification of an exclusive~~  
24 ~~bargaining representative and upon the representative's request, the~~  
25 ~~director shall hold an election among employees in a bargaining unit to~~  
26 ~~determine by a majority whether to require as a condition of employment~~  
27 ~~membership in the certified exclusive bargaining representative on or~~  
28 ~~after the thirtieth day following the beginning of employment or the~~  
29 ~~date of such election, whichever is the later, and the failure of an~~  
30 ~~employee to comply with such a condition of employment constitutes~~  
31 ~~cause for dismissal:—PROVIDED FURTHER, That no more often than once in~~  
32 ~~each twelve month period after expiration of twelve months following~~  
33 ~~the date of the original election in a bargaining unit and upon~~  
34 ~~petition of thirty percent of the members of a bargaining unit the~~  
35 ~~director shall hold an election to determine whether a majority wish to~~  
36 ~~rescind such condition of employment:—PROVIDED FURTHER, That for~~  
37 ~~purposes of this clause, membership in the certified exclusive~~  
38 ~~bargaining representative is satisfied by the payment of monthly or~~  
39 ~~other periodic dues and does not require payment of initiation,~~

1 reinstatement, or any other fees or fines and includes full and  
2 complete membership rights: AND PROVIDED FURTHER, That in order to  
3 safeguard the right of nonassociation of public employees, based on  
4 bona fide religious tenets or teachings of a church or religious body  
5 of which such public employee is a member, such public employee shall  
6 pay to the union, for purposes within the program of the union as  
7 designated by such employee that would be in harmony with his or her  
8 individual conscience, an amount of money equivalent to regular union  
9 dues minus any included monthly premiums for union sponsored insurance  
10 programs, and such employee shall not be a member of the union but is  
11 entitled to all the representation rights of a union member;

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

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

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

27 ~~((16)) (12) Allocation and reallocation of positions within the~~  
28 ~~classification plan;~~

29 ~~((17)) (13) Adoption and revision of a state salary schedule to~~  
30 ~~reflect the prevailing rates in Washington state private industries and~~  
31 ~~other governmental units but the rates in the salary schedules or plans~~  
32 ~~shall be increased if necessary to attain comparable worth under an~~  
33 ~~implementation plan under RCW 41.06.155, such adoption and revision~~  
34 ~~subject to approval by the director of financial management in~~  
35 ~~accordance with the provisions of chapter 43.88 RCW;~~

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

1       (~~(19)~~) (15) Providing for veteran's preference as required by  
2 existing statutes, with recognition of preference in regard to layoffs  
3 and subsequent reemployment for veterans and their widows by giving  
4 such eligible veterans and their widows additional credit in computing  
5 their seniority by adding to their unbroken state service, as defined  
6 by the board, the veteran's service in the military not to exceed five  
7 years. For the purposes of this section, "veteran" means any person  
8 who has one or more years of active military service in any branch of  
9 the armed forces of the United States or who has less than one year's  
10 service and is discharged with a disability incurred in the line of  
11 duty or is discharged at the convenience of the government and who,  
12 upon termination of such service has received an honorable discharge,  
13 a discharge for physical reasons with an honorable record, or a release  
14 from active military service with evidence of service other than that  
15 for which an undesirable, bad conduct, or dishonorable discharge shall  
16 be given: PROVIDED, HOWEVER, That the widow of a veteran 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 may not authorize such  
26 delegation to any position lower than the head of a major subdivision  
27 of the agency;

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

32       (~~(22)~~) (18) Affirmative action in appointment, promotion,  
33 transfer, recruitment, training, and career development; development  
34 and implementation of affirmative action goals and timetables; and  
35 monitoring of progress against those goals and timetables.

36       The board shall consult with the human rights commission in the  
37 development of rules pertaining to affirmative action. The department  
38 of personnel shall transmit a report annually to the human rights



1 commission which states the progress each state agency has made in  
2 meeting affirmative action goals and timetables.

3 Rules adopted pursuant to this section supersede collective  
4 bargaining agreements relative to matters covered by sections 206(2)  
5 and 207 of this act for classified employees bargaining under chapter  
6 41.-- RCW (sections 201 through 217 of this act).

7 The provisions of a collective bargaining agreement covering  
8 employees of institutions of higher education that are not negotiated  
9 under RCW 41.--.--- (2) and (3) (section 104 (2) and (3) of this act)  
10 shall not prevail if in conflict with rules adopted by the director of  
11 human resources pursuant to this section.

12 NEW SECTION. Sec. 107. A new section is added to chapter 41.06  
13 RCW to read as follows:

14 The procedures provided in this chapter or negotiated in collective  
15 bargaining agreements under chapter 41.-- RCW (sections 201 through 217  
16 of this act) provide the exclusive forums for addressing all appeals,  
17 actions, complaints, grievances, claims, and remedies related to or  
18 arising from any incident of such employee's employment, except actions  
19 under other statutes applicable to state employees, and all such  
20 actions are governed solely by this chapter, the provisions of  
21 collective bargaining agreements, or chapter 41.64 RCW.

22 **Sec. 108.** RCW 28B.16.100 and 1990 c 60 s 202 are each amended to  
23 read as follows:

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

28 (1) The dismissal, suspension, or demotion of an employee, and  
29 appeals therefrom;

30 (2) Certification of names for vacancies, including promotions,  
31 with the number of names equal to four more names than there are  
32 vacancies to be filled, such names representing applicants rated  
33 highest on eligibility lists: PROVIDED, That when other applicants  
34 have scores equal to the lowest score among the names certified, their  
35 names shall also be certified;

36 (3) Examination for all positions in the competitive and  
37 noncompetitive service;

1       (4) Appointments;

2       (5) Probationary periods of six to twelve months and rejections  
3 therein, depending on the job requirements of the class;

4       (6) Transfers;

5       (7) Sick leaves and vacations;

6       (8) Hours of work;

7       (9) Layoffs when necessary and subsequent reemployment, both  
8 according to seniority;

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

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

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

5 ~~(12)~~ Agreements between institutions or related boards and  
6 certified exclusive bargaining representatives providing for grievance  
7 procedures and collective negotiations on all personnel matters over  
8 which the institution or the related board may lawfully exercise  
9 discretion;

10 ~~(13)~~ 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  
14 institution 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 official duties;

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

20 ~~((15))~~ (11) Allocation and reallocation of positions within the  
21 classification plan;

22 ~~((16))~~ (12) Adoption and revision of salary schedules and  
23 compensation plans which reflect the prevailing rates in Washington  
24 state private industries and other governmental units for positions of  
25 a similar nature but the rates in the salary schedules or plans shall  
26 be increased if necessary to attain comparable worth under an  
27 implementation plan under RCW 28B.16.116 and which shall be competitive  
28 in the state or the locality in which the institution or related boards  
29 are located, such adoption, revision, and implementation subject to  
30 approval as to availability of funds by the director of financial  
31 management in accordance with the provisions of chapter 43.88 RCW, and  
32 after consultation with the chief financial officer of each institution  
33 or related board for that institution or board, or in the case of  
34 community colleges, by the chief financial officer of the state board  
35 for community and technical colleges ~~((education))~~ for the various  
36 community colleges;

37 ~~((17))~~ (13) Training programs including in-service, promotional,  
38 and supervisory;

1       (~~(18)~~) (14) Increment increases within the series of steps for  
2 each pay grade based on length of service for all employees whose  
3 standards of performance are such as to permit them to retain job  
4 status in the classified service;

5       (~~(19)~~) (15) Providing for veteran's preference as provided by  
6 existing statutes, with recognition of preference in regard to layoffs  
7 and subsequent reemployment for veterans and their widows by giving  
8 such eligible veterans and their widows additional credit in computing  
9 their seniority by adding to their unbroken higher education service,  
10 as defined by the board, the veteran's service in the military not to  
11 exceed five years of such service. For the purposes of this section,  
12 "veteran" means any person who has one or more years of active military  
13 service in any branch of the armed forces of the United States or who  
14 has less than one year's service and is discharged with a disability  
15 incurred in the line of duty or is discharged at the convenience of the  
16 government and who, upon termination of such service, has received an  
17 honorable discharge, a discharge for physical reasons with an honorable  
18 record, or a release from active military service with evidence of  
19 service other than that for which an undesirable, bad conduct, or  
20 dishonorable discharge shall be given: PROVIDED, HOWEVER, That the  
21 widow of a veteran is entitled to the benefits of this section  
22 regardless of the veteran's length of active military service:  
23 PROVIDED FURTHER, That for the purposes of this section "veteran" does  
24 not include any person who has voluntarily retired with twenty or more  
25 years of active military service and whose military retirement pay is  
26 in excess of five hundred dollars per month;

27       (~~(20)~~) (16) Assuring that persons who are or have been employed  
28 in classified positions under chapter 41.06 RCW will be eligible for  
29 employment, reemployment, transfer, and promotion in respect to  
30 classified positions covered by this chapter; (~~and~~

31       ~~(21)~~) (17) Assuring that any person who is or has been employed in  
32 a classified position under this chapter will be eligible for  
33 employment, reemployment, transfer, and promotion in respect to  
34 classified positions at any other institution of higher education or  
35 related board(~~(-)~~); and

36       (~~(22)~~) (18) Affirmative action in appointment, promotion,  
37 transfer, recruitment, training, and career development; development  
38 and implementation of affirmative action goals and timetables; and  
39 monitoring of progress against those goals and timetables.

1 The board shall consult with the human rights commission in the  
2 development of rules consistent with federal guidelines pertaining to  
3 affirmative action. The board shall transmit a report annually to the  
4 human rights commission which states the progress each institution of  
5 higher education has made in meeting affirmative action goals and  
6 timetables.

7 **Sec. 109.** RCW 28B.16.200 and 1979 c 151 s 18 are each amended to  
8 read as follows:

9 (1) There is hereby created a fund within the state treasury,  
10 designated as the "higher education personnel board service fund," to  
11 be used by the board as a revolving fund for the payment of salaries,  
12 wages, and operations required for the administration of the provisions  
13 of this chapter, the budget for which shall be subject to review and  
14 approval and appropriation by the legislature. Subject to the  
15 requirements of subsection (2) of this section, an amount not to exceed  
16 one-half of one percent of the salaries and wages for all positions in  
17 the classified service shall be contributed from the operations  
18 appropriations of each institution and the state board for community  
19 and technical colleges ((education)) and credited to the higher  
20 education personnel board service fund as such allotments are approved  
21 pursuant to chapter 43.88 RCW. Subject to the above limitations, such  
22 amount shall be charged against the allotments pro rata, at a rate to  
23 be fixed by the director of financial management from time to time,  
24 which will provide the board with funds to meet its anticipated  
25 expenditures during the allotment period.

26 (2) If employees cease to be classified under this chapter pursuant  
27 to an agreement, each institution of higher education and the state  
28 board for community and technical colleges shall continue, for six  
29 months after the effective date of the agreement, to make contributions  
30 to the higher education personnel board service fund based on employee  
31 salaries and wages that includes the employees under the agreement. At  
32 the expiration of the six-month period, the director of financial  
33 management shall make across-the-board reductions in allotments of the  
34 higher education personnel board service fund for the remainder of the  
35 biennium so that the charge to the institutions of higher education and  
36 state board based on the salaries and wages of the remaining employees  
37 classified under this chapter does not increase during the biennium,  
38 unless an increase is authorized by the legislature. The director of

1 financial management shall report the amount and impact of any across-  
2 the-board reductions made under this section to the appropriations  
3 committee of the house of representatives and the ways and means  
4 committee of the senate, or appropriate successor committees, within  
5 thirty days of making the reductions.

6 (3) Moneys from the higher education personnel board service fund  
7 shall be disbursed by the state treasurer by warrants on vouchers duly  
8 authorized by the board.

9 **PART II**

10 **COLLECTIVE BARGAINING FOR STATE EMPLOYEES**

11 NEW SECTION. Sec. 201. DEFINITIONS. Unless the context clearly  
12 requires otherwise, the definitions in this section apply throughout  
13 this chapter.

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

16 (2) "Collective bargaining" means the performance of the mutual  
17 obligation of the representatives of the employer and the exclusive  
18 bargaining representative to meet at reasonable times and to bargain in  
19 good faith in an effort to reach agreement with respect to the subjects  
20 of bargaining specified under section 206 of this act except by such  
21 obligation neither party shall be compelled to agree to a proposal or  
22 be required to make a concession.

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

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

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

35 (a) Employees covered by RCW 41.56.030, 41.56.100 or sections 101,  
36 104, or 105 of this act;

37 (b) Confidential employees;

1 (c) Managerial employees;  
2 (d) Internal auditors in any agency;  
3 (e) Any employee of the commission; and  
4 (f) Any employee of the office of financial management, the  
5 department of personnel, or the attorney general's office or their  
6 successor organizations.

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

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

12 (8) "Exclusive bargaining representative" means any employee  
13 organization that has been certified or recognized under this chapter  
14 as the representative of the employees in an appropriate bargaining  
15 unit.

16 (9) "Executive director" means the executive director of the public  
17 employment relations commission.

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

25 (11) "Managerial employees" means employees who:

26 (a) Formulate policy or direct the work of an agency or subdivision  
27 thereof; or

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

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

33 (d) Have a substantial responsibility in personnel administration,  
34 legislative relations, public information, or the preparation and  
35 administration of budgets at the central level of state government or  
36 for any agency, department, board, or commission or subdivision  
37 thereof; or

38 (e) Functionally or organizationally are above the first level of  
39 supervision.

1 (12) "Supervisor" means any employee who has authority, in the  
2 interest of the employer, to hire, transfer, suspend, lay off, recall,  
3 promote, discharge, assign, reward, or discipline other employees, or  
4 to adjust employee grievances, or to effectively recommend such an  
5 action, if, in connection with the foregoing, the exercise of authority  
6 is not of a merely routine or clerical nature but requires the  
7 consistent use of independent judgment. "First level of supervision"  
8 and "first level supervisor" means the lowest level at which an  
9 employee functions as a supervisor.

10 (13) "Unfair labor practice" means any unfair labor practice listed  
11 in section 215 of this act.

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

19 NEW SECTION. **Sec. 202.** DUTIES OF THE COMMISSION. Within the  
20 provisions set forth in this chapter, the duties of the commission  
21 shall be as follows:

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

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

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



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

5 (2) To resolve disputes concerning the assignment of  
6 classifications covered by this chapter to the appropriate bargaining  
7 unit established under section 210 of this act;

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

10 (4) To resolve any issue arising under this chapter with respect to  
11 representation matters covered by section 209 of this act.

12 Work stoppages arising from disputes involving subsections (2),  
13 (3), and (4) of this section are expressly prohibited.

14 NEW SECTION. Sec. 203. RULES. (1) The commission may adopt,  
15 amend, and rescind rules in the manner prescribed by chapter 34.05 RCW  
16 as necessary to carry out the provisions of this chapter, consistent  
17 with the best standards of labor management relations.

18 (2) In adopting rules under this chapter the commission shall give  
19 notice to, and consider proposals from, employee representatives and  
20 affected agencies. Complete and current compilations of all rules of  
21 the commission in printed form shall be available to the public free of  
22 charge.

23 NEW SECTION. Sec. 204. EMPLOYEE RIGHTS. Employees shall have the  
24 right to self-organize, form, join, or assist employee organizations,  
25 to bargain collectively through representatives of their own choosing,  
26 and to engage in other lawful concerted activities for the purposes of  
27 collective bargaining or other mutual aid or protection, free from  
28 interference, restraint, or coercion, and may also refrain from any or  
29 all such activities except to the extent that employees may be required  
30 to pay a fee to an exclusive bargaining representative under a union  
31 security provision authorized by this chapter.

32 NEW SECTION. Sec. 205. MANAGEMENT RIGHTS. This chapter shall not  
33 interfere with the right of the employer to carry out its statutory  
34 mandate. An employer shall not be required to bargain over matters of  
35 inherent managerial policy, which shall include such areas of  
36 discretion or policy as the functions and programs of the employer, its

1 hours of operation, standards of service, use of technology, and  
2 organizational structure. Management rights, which in addition to all  
3 powers, duties, and rights established by constitutional provision,  
4 statute or special act, also include, but are not limited to, the  
5 exclusive power and right to:

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

7 (2) Maintain and improve the efficiency and effectiveness of  
8 governmental operations;

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

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

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

16 NEW SECTION. **Sec. 206.** SCOPE OF BARGAINING. (1) Except as  
17 otherwise provided in this section, the matters subject to collective  
18 bargaining are wages, hours, and other terms and conditions of  
19 employment, and the negotiation of any question arising under a  
20 collective bargaining agreement.

21 (2) The scope of bargaining shall not include matters pertaining  
22 to:

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

25 (i) Original appointments and promotions including recruitment,  
26 examinations, grading, certification, probationary and trial service  
27 periods and appointments;

28 (ii) The job evaluation system including position classification  
29 and reclassification, position qualification standards, establishment  
30 and abolition of classifications, allocation and reallocation of  
31 positions to classifications, and the determination of an incumbent's  
32 status resulting from position reallocations;

33 (iii) Training and career development, the career executive  
34 program, veteran's preferences, and equal opportunity and affirmative  
35 action;

36 (b) Any retirement system, retirement benefit, or retirement  
37 statute of the state of Washington;

1 (c) Health care benefits or other employee insurance benefits but  
2 the cost or dollar contributions related thereto may be bargained; and  
3 (d) Management rights as covered by section 205 of this act.

4 (3) In the event of a dispute between the employer and the  
5 exclusive bargaining representative over which matters are mandatory  
6 subjects for bargaining, the dispute shall be submitted to the  
7 commission for determination. Prior law, practice, or interpretation  
8 shall be neither restrictive, expansive, nor determinative with respect  
9 to the scope of bargaining. Work stoppages arising from disputes  
10 involving this subsection and subsection (2) of this section are  
11 expressly prohibited.

12 NEW SECTION. Sec. 207. COLLECTIVE BARGAINING AGREEMENTS. (1) The  
13 parties to a collective bargaining agreement shall reduce the agreement  
14 to writing and both shall execute it.

15 (2) A collective bargaining agreement shall contain provisions  
16 that:

17 (a) Require layoffs and subsequent reemployment to be implemented  
18 based on seniority and the maintenance and implementation of approved  
19 affirmative action plans; and

20 (b) Require processing of disciplinary actions or termination of  
21 employment entirely under the procedures of the collective bargaining  
22 agreement if an employee covered under this chapter has a right to  
23 contest the disciplinary action or termination of employment.

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

33 NEW SECTION. Sec. 208. ENFORCEMENT OF COLLECTIVE BARGAINING  
34 AGREEMENTS. (1) Collective bargaining agreements negotiated under this  
35 chapter shall contain provisions for the final and binding arbitration  
36 of all disputes arising over the interpretation or application of the  
37 agreement.

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

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

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

34 (5) If a party to a collective bargaining agreement negotiated  
35 under this chapter refuses to submit a grievance for arbitration, the  
36 other party to the collective bargaining agreement may petition the  
37 jurisdiction of the superior court of Thurston county for issuance of  
38 an order compelling arbitration. Disputes concerning compliance with  
39 grievance procedures shall be reserved for determination by the

1 arbitrator. Arbitration shall be ordered if the grievance states a  
2 claim which on its face is covered by the collective bargaining  
3 agreement, and doubts as to the arbitrability of an issue shall be  
4 referred to the arbitrator to be decided before hearing the merits of  
5 the case. Disputes concerning compliance with grievance procedures  
6 shall be reserved for determination by the arbitrator.

7 (6) If a party to a collective bargaining agreement negotiated  
8 under this chapter refuses to comply with the award of an arbitrator  
9 determining a grievance arising under the collective bargaining  
10 agreement, the other party to the collective bargaining agreement may  
11 petition the superior court of Thurston county for issuance of an order  
12 enforcing the arbitration award. The court shall not substitute its  
13 judgment for that of the arbitrator, and shall enforce any arbitration  
14 award that is based on the collective bargaining agreement, except that  
15 an arbitration award shall not be enforced if the court is satisfied  
16 that substantial rights of the parties have been prejudiced by:

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

19 (b) Evident partiality or corruption in the arbitrator or  
20 arbitrators; or

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

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

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

36 (8) Nothing in this chapter or rules adopted under it may be  
37 construed to authorize the commission or an arbitrator to direct in any  
38 manner the method, means, and number, and kinds of personnel by which  
39 agency operations are to be conducted or the number of clients to be

1 served by agency programs and operations, or to spend money not already  
2 appropriated by the legislature, or that would have the effect of  
3 increasing the future appropriations or diminishing established  
4 programs.

5 (9) If there is any conflict between any collective bargaining  
6 agreement and any resolution, rule, policy, or regulation of the  
7 employer or its agents, the terms of the collective bargaining  
8 agreement shall prevail.

9 (10) Work stoppages arising from grievance disputes subject to  
10 arbitration under this section are expressly prohibited.

11 NEW SECTION. **Sec. 209.** REPRESENTATION. Transition from  
12 bargaining units certified under RCW 41.06.150 to bargaining units  
13 established by this chapter shall be in accordance with section 212 of  
14 this act. All subsequent questions pertaining to the issue of  
15 representation shall be resolved by the commission in accordance with  
16 the procedures in this section.

17 (1) Questions concerning representation may not be raised within  
18 one year following certification of an exclusive bargaining  
19 representative under this section.

20 (2) Questions concerning representation may not be raised within  
21 one year following an election or cross-check in which the employees  
22 failed to designate an exclusive bargaining representative.

23 (3) If there is a valid collective bargaining agreement in effect,  
24 questions concerning representation may not be raised except during the  
25 period not more than ninety nor less than sixty days before the  
26 expiration date of the agreement. In the event a valid collective  
27 bargaining agreement, together with any renewals or extensions thereof,  
28 has been or will be in existence for more than three years, questions  
29 concerning representation may be raised not more than ninety nor less  
30 than sixty days before the third anniversary date or any subsequent  
31 anniversary date of the agreement. If the exclusive bargaining  
32 representative is removed as the result of this procedure, the  
33 collective bargaining agreement shall be deemed to be terminated as of  
34 the date of the certification.

35 (4) An employee organization seeking certification as exclusive  
36 bargaining representative of a bargaining unit of employees, or  
37 bargaining unit employees seeking decertification of their exclusive  
38 bargaining representative, shall make a confidential showing to the

1 commission of credible evidence demonstrating that at least thirty  
2 percent of the employees in the bargaining unit are in support of the  
3 petition.

4 (5) A petition filed by an employer shall be supported by credible  
5 evidence demonstrating the good faith basis on which the employer  
6 claims the existence of a question concerning the representation among  
7 its employees.

8 (6) Any employee organization that makes a confidential showing to  
9 the commission of credible evidence demonstrating that it has the  
10 support of at least ten percent of the employees in the bargaining unit  
11 involved may intervene in the proceedings under this section, and may  
12 have its name listed as a choice on the ballot in an election conducted  
13 by the commission.

14 (7) The commission shall determine any question concerning  
15 representation by conducting a secret ballot election among the  
16 employees in the bargaining unit, except:

17 (a) If only one employee organization is seeking certification as  
18 exclusive bargaining representative of a bargaining unit for which  
19 there is no incumbent exclusive bargaining representative, the  
20 commission may, upon the concurrence of the employer and the employee  
21 organization, determine the question concerning representation by  
22 conducting a cross-check comparing the employee organization's  
23 membership records or bargaining authorization cards against the  
24 employment records of the employer; or

25 (b) Where the commission determines that a serious unfair labor  
26 practice has been committed that interfered with the election process  
27 and precludes the holding of a fair election, the commission may  
28 determine the question concerning representation by conducting a cross-  
29 check comparing the employee organization's membership records or  
30 bargaining authorization cards against the employment records of the  
31 employer.

32 (8) The representation election ballot shall contain a choice for  
33 each employee organization qualifying under subsection (4) or (6) of  
34 this section, together with a choice for no representation. The  
35 representation election shall be determined by the majority of the  
36 valid ballots cast. Where there are three or more choices on the  
37 ballot and none of the choices receives a majority of the valid ballots  
38 cast, a runoff election shall be conducted between the two choices  
39 receiving the highest and second highest numbers of votes.

1        NEW SECTION.    **Sec. 210.**    BARGAINING UNITS.    The legislature finds  
2 that to foster meaningful collective bargaining, units must be  
3 structured to avoid excessive fragmentation whenever possible. In  
4 accordance with this policy, collective bargaining units under this  
5 chapter shall be structured on a state-wide basis and limited to one  
6 collective bargaining unit for each of the following:

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

11        (2) Maintenance, trades, and technical classes including but not  
12 limited to generally recognized blue collar and technical classes,  
13 including highway maintenance workers, carpenters, plumbers,  
14 electricians, auto mechanics, engineering aides and associates, liquor  
15 store clerks, and similar classes;

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

20        (4) Health and human care nonprofessional including but not limited  
21 to institutional care classes, including nursing aides, psychiatric  
22 aides, therapy aides, and similar classes;

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

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

29        (7) Professional employees not already included in a specific unit,  
30 including but not limited to employees with general business  
31 responsibilities such as accountants, buyers, computer programmers and  
32 technicians, teachers and trainers, other than teachers in the K-12 or  
33 higher education systems, research analysts, and similar classes;

34        (8) Regulatory, inspection, examining and licensing, including but  
35 not limited to employees empowered to review certain public and  
36 business activities such as driver licensing personnel, revenue agents,  
37 bank and insurance examiners, various public health and protection  
38 inspectors, and similar classes;



1 (9) Law enforcement, including all classes with power to arrest,  
2 whose work involves primarily the enforcement of statutes, ordinances,  
3 and rules and the preservation of public order; and

4 (10) Supervisory employees, however an employee organization that  
5 is certified to represent nonsupervisory employees covered under this  
6 chapter that becomes the certified bargaining agent for this unit shall  
7 create a separate local for supervisory employees within its  
8 organization.

9 NEW SECTION. **Sec. 211.** UNION SECURITY. (1) The parties to a  
10 collective bargaining agreement may negotiate, as a condition of  
11 employment, a union security provision. However, agreements involving  
12 union security provisions shall safeguard the right of nonassociation  
13 based on employee preference or on bona fide religious tenets or  
14 teachings of a church or religious body of which the public employee is  
15 a member. Payment of dues or a representation fee shall begin on the  
16 thirtieth day following the beginning of employment or thirty days  
17 after the date of ratification of an agreement containing a union  
18 security provision, whichever is later. The failure of an employee to  
19 comply with such a condition of employment constitutes cause for  
20 dismissal. An exclusive bargaining representative may not require a  
21 bargaining unit employee to pay initiation, reinstatement, or any other  
22 fees or fines.

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

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

1 and/or fees shall be an exclusive right of the employee organization  
2 that represents the unit in which the employee is employed.

3 (4) To safeguard the right of nonassociation of employees, based on  
4 bona fide religious tenets or teachings of a church or religious body  
5 of which the employee is a member, the employee shall pay to a  
6 charitable organization mutually agreed to between the employee and the  
7 employee organization, an amount of money not greater than the dues  
8 and/or fees assessed all other members or nonmembers of the  
9 organization. The employee shall be required to provide the employee  
10 organization with a monthly receipt from the charitable organization  
11 showing the amount of the cash contribution. Such an employee shall  
12 not be a member of the employee organization but is entitled to all the  
13 representation rights of a member of the employee organization.  
14 Disputes regarding the bona fide religious objections or charitable  
15 contributions shall be decided by the commission.

16 (5) Until an exclusive representative is selected for a bargaining  
17 unit under this chapter or July 1, 1995, whichever is earlier, employee  
18 organizations that, before the effective date of this section, were  
19 entitled to the union shop dues or representation fees pursuant to  
20 preexisting law or rules shall continue to be entitled to such dues and  
21 fees until an exclusive representative is certified under this chapter.  
22 Upon the selection of an exclusive representative, only the exclusive  
23 representative for the bargaining unit is entitled to the rights  
24 established under this section.

25 NEW SECTION. **Sec. 212.** TRANSITION OF BARGAINING REPRESENTATIVES  
26 AND UNITS. The transition of exclusive bargaining representatives and  
27 bargaining units existing before the effective date of this section to  
28 the units prescribed in section 210 of this act and to exclusive  
29 bargaining representatives under this chapter shall be implemented as  
30 follows:

31 (1) Any bargaining representative that has been certified under  
32 prior law and rules to represent employees now included in a unit  
33 established in section 210 of this act may use the number of its  
34 regular dues paying members included in the new unit to establish its  
35 status as a petitioner or intervenor under section 210 of this act if:

36 (a) One and only one employee organization has a majority of the  
37 employees in the unit who are regular dues paying members, then the  
38 employee organization shall be entitled to a certification as the

1 exclusive bargaining representative by the commission for the new  
2 bargaining unit without the necessity of a representation election;

3 (b) Two or more employee organizations have more than a majority of  
4 the employees in the unit established in section 210 of this act as  
5 regular dues paying members, then an election shall be held under the  
6 provisions of section 209 of this act to determine which such employee  
7 organization shall be entitled to a certification as the exclusive  
8 bargaining representative by the commission for the new bargaining  
9 unit;

10 (c) On the effective date of this section, less than a majority of  
11 the employees to be included in a bargaining unit prescribed in section  
12 210 of this act are represented by a single existing certified  
13 bargaining representative as evidenced by the number of employees  
14 paying regular dues to the organization, representation of employees in  
15 the new bargaining unit shall be determined pursuant to section 209 of  
16 this act.

17 (2) An employee organization that has been the certified exclusive  
18 bargaining representative of employees under any other law or rule  
19 before the effective date of this section may continue to represent  
20 such employees until they are included in a unit established under  
21 section 210 of this act. However, agencies may not renegotiate any  
22 existing agreement, enter into a new collective bargaining agreement,  
23 or extend an existing agreement beyond the expiration date in effect on  
24 the effective date of this section. No provision in any such agreement  
25 may be unilaterally changed by the employer before its next expiration  
26 date, or the date of certification of the new exclusive bargaining  
27 representative under this chapter, whichever occurs first, without the  
28 employer giving ninety days' advance notice to the certified exclusive  
29 bargaining representative and, if requested, bargaining with the  
30 representative over the proposed changes under the provisions of this  
31 chapter.

32 (3) An employee organization may not be initially certified as an  
33 exclusive bargaining agent in any bargaining unit established by this  
34 chapter if a dispute exists over the classification to be included in  
35 the unit that could affect the determination of its status as the  
36 representative of a majority of the employees included in the unit  
37 including the employees in disputed classifications.

1        NEW SECTION. Sec. 213. NEGOTIATION AND RATIFICATION OF COLLECTIVE  
2 BARGAINING AGREEMENTS.        (1) Collective bargaining agreement  
3 negotiations under this chapter shall commence no later than October 1,  
4 1994, for collective bargaining agreements that are to become effective  
5 no earlier than July 1, 1995, for those units in which an exclusive  
6 representative has been selected, or as soon thereafter as an exclusive  
7 representative has been selected for a bargaining unit. For subsequent  
8 agreements, negotiations shall commence and contracts become effective  
9 as the parties agree.

10        (2) After ratification of a tentative agreement by the employees in  
11 the bargaining unit, the governor or the governor's designee shall  
12 prepare legislation necessary to implement the agreement. If the  
13 legislature rejects any part of the legislation submitted, the  
14 tentative agreement shall be returned to the parties for renegotiation.

15        (3) Any provisions of these agreements pertaining to salary  
16 increases shall not be binding upon future actions of the legislature.  
17 If any provision of a salary increase is changed by subsequent  
18 modification of the appropriations act by the legislature, both parties  
19 shall immediately enter into collective bargaining for the sole purpose  
20 of arriving at a mutually agreed upon replacement for the modified  
21 provision.

22        NEW SECTION. Sec. 214. STRIKES. (1) Employees covered by this  
23 chapter who are eligible for collective bargaining may strike under the  
24 following circumstances:

25        (a) The collective bargaining agreement between their exclusive  
26 representative and their employer has expired or, if there is no  
27 agreement between their exclusive representative and their employer, an  
28 impasse has occurred; and

29        (b) The exclusive representative and the employer have participated  
30 in mediation for a reasonable time and the executive director certifies  
31 that the parties remain at impasse over certain issues identified by  
32 each of the parties; or

33        (c) The legislature rejects or fails to ratify a negotiated  
34 agreement.

35        (2) In addition to the other requirements of this section, an  
36 employee may not strike unless written certified notification of intent  
37 to strike and a statement delineating the affected employee  
38 organization's last position on each issue in dispute and the reasons

1 for its intent to strike is served on the employer and the executive  
2 director by the exclusive representative at least ten days before the  
3 commencement of the strike. Notification of intent to strike under  
4 this subsection may not be served until the collective bargaining  
5 agreement has expired, or if there is no agreement, on or after the  
6 date the commission certifies that the parties remain at impasse after  
7 mediation and, if requested by the employer, after a majority of the  
8 employees in a collective bargaining unit vote by secret ballot to (a)  
9 reject the employer's last offer at the close of mediation and (b)  
10 affirmatively authorize a strike.

11 (3) The employer may apply to the superior court in Thurston county  
12 for an order enjoining any strike. A strike may be enjoined if it can  
13 be shown that it has begun to or will likely threaten the health,  
14 safety, or welfare of the public or is a violation of this chapter.

15 NEW SECTION. **Sec. 215.** UNFAIR LABOR PRACTICES. (1) It shall be  
16 an unfair labor practice for an employer to:

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

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

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

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

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

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

35 (a) Restrain or coerce:

36 (i) Employees in the exercise of the rights guaranteed in this  
37 chapter. However, this subsection does not impair the right of an

1 employee organization to prescribe its own rules with respect to the  
2 acquisition or retention of membership therein; or

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

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

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

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

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

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

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

33 NEW SECTION. **Sec. 216.** UNFAIR LABOR PRACTICE PROCEDURES. The  
34 commission shall resolve any unfair labor practice dispute in  
35 accordance with the procedures specified in this section.

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

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

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

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

13 NEW SECTION. **Sec. 217.** EMPLOYER RESPONSIBILITIES. (1) The  
14 governor may designate someone as his or her designee to fulfill the  
15 collective bargaining responsibilities as the state employer under this  
16 chapter.

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

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

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

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

27 (d) Administer and interpret collective bargaining agreements, and  
28 coordinate and direct agency activities as necessary to promote  
29 consistent policies and practices;

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

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

35 (3) All state departments and agencies shall provide such  
36 assistance, services, and information as required by the governor or  
37 his or her designee, and shall take such administrative or other action  
38 as directed to implement and administer the provisions of any binding

1 agreement between the state and certified bargaining representatives  
2 entered into under this chapter.

3 **Sec. 218.** RCW 41.04.230 and 1993 c 2 s 26 (Initiative Measure No.  
4 134, approved November 3, 1992) and 1992 c 192 s 1 are each reenacted  
5 and amended to read as follows:

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

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

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

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

26 (4) Board, lodging or uniform deductions when such board, lodging  
27 and uniforms are furnished by the state, or deductions for academic  
28 tuitions or fees or scholarship contributions payable to the employing  
29 institution.

30 ~~(5) ((Dues and other fees deductions: PROVIDED, That the deduction~~  
31 ~~is for payment of membership dues to any professional organization~~  
32 ~~formed primarily for public employees or college and university~~  
33 ~~professors: AND PROVIDED, FURTHER, That twenty five or more employees~~  
34 ~~of a single state agency, or a total of one hundred or more state~~  
35 ~~employees of several agencies have authorized such a deduction for~~  
36 ~~payment to the same professional organization.~~

37 ~~(6) Labor or employee organization dues may be deducted in the~~  
38 ~~event that a payroll deduction is not provided under a collective~~



1 ~~bargaining agreement under the provisions of RCW 41.06.150: PROVIDED,~~  
2 ~~That twenty five or more officers or employees of a single agency, or~~  
3 ~~a total of one hundred or more officers or employees of several~~  
4 ~~agencies have authorized such a deduction for payment to the same labor~~  
5 ~~or employee organization: PROVIDED, FURTHER, That labor or employee~~  
6 ~~organizations with five hundred or more members in state government may~~  
7 ~~have payroll deduction for employee benefit programs.~~

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

10 ((8)) (6) Deductions to a bank, savings bank, or savings and loan  
11 association if (a) the bank, savings bank, or savings and loan  
12 association is authorized to do business in this state; and (b) twenty-  
13 five or more employees of a single agency, or fewer, if a lesser number  
14 is established by such agency, or a total of one hundred or more state  
15 employees of several agencies have authorized a deduction for payment  
16 to the same bank, savings bank, or savings and loan association.

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

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

28 NEW SECTION. Sec. 219. Sections 201 through 217 of this act shall  
29 constitute a new chapter in Title 41 RCW.

### 30 PART III

### 31 TRANSFER OF COLLECTIVE BARGAINING AUTHORITY

32 NEW SECTION. Sec. 301. All powers, duties, and functions of the  
33 department of personnel, the personnel board, and the higher education  
34 personnel board pertaining to collective bargaining are transferred to  
35 the public employment relations commission except that arbitration of  
36 grievances filed under a collective bargaining agreement existing

1 before July 1, 1993, shall be transferred to the personnel appeals  
2 board unless the parties thereto agree to submit the matter to an  
3 independent arbitrator for resolution of the grievance.

4 NEW SECTION. **Sec. 302.** All reports, documents, surveys, books,  
5 records, files, papers, or written material in the possession of the  
6 department of personnel, the personnel board, and the higher education  
7 personnel board pertaining to the powers, functions, and duties  
8 transferred in section 301 of this act shall be delivered to the  
9 custody of the public employment relations commission. All cabinets,  
10 furniture, office equipment, motor vehicles, and other tangible  
11 property employed by the department of personnel in carrying out the  
12 powers, functions, and duties transferred in section 301 of this act  
13 shall be made available to the public employment relations commission.  
14 All funds, credits, or other assets held in connection with the powers,  
15 functions, and duties transferred in section 301 of this act shall be  
16 assigned to the public employment relations commission.

17 Any appropriations made to the department of personnel, the  
18 personnel board, or the higher education personnel board for carrying  
19 out the powers, functions, and duties transferred in section 301 of  
20 this act shall, on the effective date of this section, be transferred  
21 and credited to the public employment relations commission.

22 Whenever any question arises as to the transfer of any personnel,  
23 funds, books, documents, records, papers, files, equipment, or other  
24 tangible property used or held in the exercise of the powers and the  
25 performance of the duties and functions transferred, the director of  
26 financial management shall make a determination as to the proper  
27 allocation and certify the same to the state agencies concerned.

28 NEW SECTION. **Sec. 303.** All employees of the department of  
29 personnel engaged in performing the powers, functions, and duties  
30 transferred in section 301 of this act are transferred to the  
31 jurisdiction of the public employment relations commission. All  
32 employees classified under chapter 41.06 RCW, the state civil service  
33 law, are assigned to the public employment relations commission without  
34 any loss of rights, subject to any action that may be appropriate  
35 thereafter in accordance with the laws and rules governing state civil  
36 service.

1        NEW SECTION.    **Sec. 304.** All business pending before the department  
2 of personnel, the personnel board, and the higher education personnel  
3 board pertaining to the powers, functions, and duties transferred in  
4 section 301 of this act shall be continued and acted upon by the public  
5 employment relations commission under the rules in effect at the time  
6 of the transfer. All existing contracts and obligations of the  
7 department of personnel, the personnel board, and the higher education  
8 personnel board shall remain in full force and shall be performed by  
9 the public employment relations commission.

10       NEW SECTION.    **Sec. 305.** The transfer of the powers, duties,  
11 functions, and personnel of the department of personnel, the personnel  
12 board, and the higher education personnel board shall not affect the  
13 validity of any act performed before the effective date of this  
14 section.

15       NEW SECTION.    **Sec. 306.** If apportionments of budgeted funds are  
16 required because of the transfers directed by sections 302 through 305  
17 or 308 of this act, the director of financial management shall certify  
18 the apportionments to the agencies affected, the state auditor, and the  
19 state treasurer. Each of these shall make the appropriate transfer and  
20 adjustments in funds and appropriation accounts and equipment records  
21 in accordance with the certification.

22       NEW SECTION.    **Sec. 307.** All rules adopted by the state personnel  
23 board pursuant to chapter 41.06 RCW and all rules adopted by the higher  
24 education personnel board that relate to functions transferred to the  
25 public employment relations commission or the personnel appeals board  
26 pursuant to section 301 of this act shall continue in effect until  
27 acted upon by the agency assuming those functions.

28       NEW SECTION.    **Sec. 308.** All business pending before the department  
29 of personnel pertaining to arbitration of grievances filed under a  
30 collective bargaining agreement existing before July 1, 1993, shall be  
31 continued and acted upon by the personnel appeals board. All existing  
32 contracts and obligations under the rules in effect at the time of the  
33 transfer shall remain in full force and shall be performed by the  
34 personnel appeals board.

