

**SENATE BILL 6471**

**State of Washington**

**55th Legislature**

**1998 Regular Session**

**By** Senators Winsley, Prentice, Fraser, Jacobsen, Franklin, Patterson and Heavey; by request of Governor Locke

Read first time 01/19/98. Referred to Committee on Government Operations.

1 AN ACT Relating to personnel; amending RCW 41.06.030, 41.06.150,  
2 41.06.150, 41.06.022, 41.06.110, 41.06.160, 41.06.167, 41.06.170,  
3 41.06.186, 41.06.196, 41.06.270, 41.06.350, 41.06.400, 41.06.410,  
4 41.06.450, 41.06.475, 41.06.490, 28B.12.060, 34.05.030, 34.12.020,  
5 41.04.340, 41.50.804, 43.06.425, 43.33A.100, 43.131.090, 49.46.010,  
6 41.06.340, 13.40.320, 39.29.006, 41.04.385, 47.46.040, 72.09.100,  
7 41.06.079, 41.06.152, 41.06.152, 41.06.500, 41.06.500, 43.21I.010,  
8 43.23.010, 49.74.030, 49.74.030, 49.74.040, and 49.74.040; reenacting  
9 and amending RCW 41.06.070; adding new sections to chapter 41.06 RCW;  
10 adding a new chapter to Title 41 RCW; creating new sections; repealing  
11 RCW 41.06.163, 41.06.165, 28B.16.015, 41.06.140, 41.50.804, 41.06.520,  
12 41.06.380, 41.06.382, 41.64.010, 41.64.020, 41.64.030, 41.64.040,  
13 41.64.050, 41.64.060, 41.64.070, 41.64.080, 41.64.090, 41.64.100,  
14 41.64.110, 41.64.120, 41.64.130, 41.64.140, and 41.64.910; and  
15 providing effective dates.

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

17 **PART I**

18 **TITLE**

1 NEW SECTION. **Sec. 101.** SHORT TITLE. This act may be known and  
2 cited as the personnel system reform act of 1998.

3 **PART II**  
4 **CIVIL SERVICE REFORM**

5 **Sec. 201.** RCW 41.06.030 and 1993 c 281 s 20 are each amended to  
6 read as follows:

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

10 **Sec. 202.** RCW 41.06.150 and 1996 c 319 s 2 are each amended to  
11 read as follows:

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

16 (1) The reduction, dismissal, suspension, or demotion of an  
17 employee;

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

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

26 (4) Appointments;

27 (5) Training and career development;

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

32 (7) Transfers;

33 (8) Sick leaves and vacations;

34 (9) Hours of work;

35 (10) Layoffs when necessary and subsequent reemployment, both  
36 according to seniority;

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

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

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

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

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

10 ~~((15))~~ (d) A collective bargaining agreement entered into under  
11 this subsection before July 1, 2000, covering employees subject to  
12 sections 301 through 314 of this act, that expires after July 1, 2000,  
13 shall remain in full force during its duration, or until superseded by  
14 a collective bargaining agreement entered into by the parties under  
15 sections 301 through 314 of this act, however an agreement entered into  
16 before July 1, 2000, may not be renewed or extended beyond July 1,  
17 2001. This subsection (11) does not apply to collective bargaining  
18 negotiations or collective bargaining agreements entered into under  
19 sections 301 through 314 of this act;

20 (12) Adoption and revision of a comprehensive classification plan  
21 for all positions in the classified service, based on investigation and  
22 analysis of the duties and responsibilities of each such position.

23 (a) The board shall not adopt job classification revisions or class  
24 studies unless implementation of the proposed revision or study will  
25 result in net cost savings, increased efficiencies, or improved  
26 management of personnel or services, and the proposed revision or study  
27 has been approved by the director of financial management in accordance  
28 with chapter 43.88 RCW.

29 (b) Beginning July 1, 1995, through June 30, 1997, in addition to  
30 the requirements of (a) of this subsection:

31 (i) The board may approve the implementation of salary increases  
32 resulting from adjustments to the classification plan during the 1995-  
33 97 fiscal biennium only if:

34 (A) The implementation will not result in additional net costs and  
35 the proposed implementation has been approved by the director of  
36 financial management in accordance with chapter 43.88 RCW;

37 (B) The implementation will take effect on July 1, 1996, and the  
38 total net cost of all such actions approved by the board for

1 implementation during the 1995-97 fiscal biennium does not exceed the  
2 amounts specified by the legislature specifically for this purpose; or

3 (C) The implementation is a result of emergent conditions.  
4 Emergent conditions are defined as emergency situations requiring the  
5 establishment of positions necessary for the preservation of the public  
6 health, safety, or general welfare, which do not exceed \$250,000 of the  
7 moneys identified in section 718(2), chapter 18, Laws of 1995 2nd sp.  
8 sess.

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

15 (iii) Adjustments made to the higher education hospital special pay  
16 plan are exempt from (b)(i) (~~through~~) and (ii) of this subsection.

17 (c) Reclassifications, class studies, and salary adjustments to be  
18 implemented during the 1997-99 and subsequent fiscal biennia are  
19 governed by (a) of this subsection and RCW 41.06.152;

20 (~~(16)~~) (13) Allocation and reallocation of positions within the  
21 classification plan;

22 (~~(17)~~) (14) 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 that, for institutions of  
27 higher education and related boards, shall be competitive for positions  
28 of a similar nature in the state or the locality in which an  
29 institution of higher education or related board is located, such  
30 adoption and revision subject to approval by the director of financial  
31 management in accordance with the provisions of chapter 43.88 RCW;

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

36 (~~(19)~~) (16) Providing for veteran's preference as required by  
37 existing statutes, with recognition of preference in regard to layoffs  
38 and subsequent reemployment for veterans and their surviving spouses by  
39 giving such eligible veterans and their surviving spouses additional

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

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

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

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

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

1       **Sec. 203.** RCW 41.06.150 and 1998 c . . . s 202 (section 202 of  
2 this act) are each amended to read as follows:

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

7       (1) (~~The reduction, dismissal, suspension, or demotion of an~~  
8 ~~employee;~~

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

15       (~~(3))~~) (2) Examinations for all positions in the competitive and  
16 noncompetitive service;

17       (~~(4))~~) (3) Appointments;

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

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

23       ~~(7) Transfers;~~

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

25       ~~(9) Hours of work;~~

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

28       ~~(11)(a) Certification and decertification of exclusive bargaining~~  
29 ~~representatives: PROVIDED, That after certification of an exclusive~~  
30 ~~bargaining representative and upon the representative's request, the~~  
31 ~~director shall hold an election among employees in a bargaining unit to~~  
32 ~~determine by a majority whether to require as a condition of employment~~  
33 ~~membership in the certified exclusive bargaining representative on or~~  
34 ~~after the thirtieth day following the beginning of employment or the~~  
35 ~~date of such election, whichever is the later, and the failure of an~~  
36 ~~employee to comply with such a condition of employment constitutes~~  
37 ~~cause for dismissal: PROVIDED FURTHER, That no more often than once in~~  
38 ~~each twelve month period after expiration of twelve months following~~  
39 ~~the date of the original election in a bargaining unit and upon~~

1 petition of thirty percent of the members of a bargaining unit the  
2 director shall hold an election to determine whether a majority wish to  
3 rescind such condition of employment:— PROVIDED FURTHER, That for  
4 purposes of this clause, membership in the certified exclusive  
5 bargaining representative is satisfied by the payment of monthly or  
6 other periodic dues and does not require payment of initiation,  
7 reinstatement, or any other fees or fines and includes full and  
8 complete membership rights:— AND PROVIDED FURTHER, That in order to  
9 safeguard the right of nonassociation of public employees, based on  
10 bona fide religious tenets or teachings of a church or religious body  
11 of which such public employee is a member, such public employee shall  
12 pay to the union, for purposes within the program of the union as  
13 designated by such employee that would be in harmony with his or her  
14 individual conscience, an amount of money equivalent to regular union  
15 dues minus any included monthly premiums for union sponsored insurance  
16 programs, and such employee shall not be a member of the union but is  
17 entitled to all the representation rights of a union member;

18 (b) Agreements between agencies and certified exclusive bargaining  
19 representatives providing for grievance procedures and collective  
20 negotiations on all personnel matters over which the appointing  
21 authority of the appropriate bargaining unit of such agency may  
22 lawfully exercise discretion;

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

30 (d) A collective bargaining agreement entered into under this  
31 subsection before July 1, 2000, covering employees subject to sections  
32 301 through 314 of this act, that expires after July 1, 2000, shall  
33 remain in full force during its duration, or until superseded by a  
34 collective bargaining agreement entered into by the parties under  
35 sections 301 through 314 of this act, however an agreement entered into  
36 before July 1, 2000, may not be renewed or extended beyond July 1,  
37 2001. This subsection (11) does not apply to collective bargaining  
38 negotiations or collective bargaining agreements entered into under  
39 sections 301 through 314 of this act;



1       ~~(12))~~ (4) Adoption and revision of a comprehensive classification  
2 plan, in accordance with rules adopted by the board under section 205  
3 of this act, for all positions in the classified service, based on  
4 investigation and analysis of the duties and responsibilities of each  
5 such position and allocation and reallocation of positions within the  
6 classification plan.

7       (a) The (~~board~~) director shall not adopt job classification  
8 revisions or class studies unless implementation of the proposed  
9 revision or study will result in net cost savings, increased  
10 efficiencies, or improved management of personnel or services, and the  
11 proposed revision or study has been approved by the director of  
12 financial management in accordance with chapter 43.88 RCW.

13       (b) Beginning July 1, 1995, through June 30, 1997, in addition to  
14 the requirements of (a) of this subsection:

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

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

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

25       (C) The implementation is a result of emergent conditions.  
26 Emergent conditions are defined as emergency situations requiring the  
27 establishment of positions necessary for the preservation of the public  
28 health, safety, or general welfare, which do not exceed \$250,000 of the  
29 moneys identified in section 718(2), chapter 18, Laws of 1995 2nd sp.  
30 sess.

31       (ii) The board shall approve only those salary increases resulting  
32 from adjustments to the classification plan if they are due to  
33 documented recruitment and retention difficulties, salary compression  
34 or inversion, increased duties and responsibilities, or inequities.  
35 For these purposes, inequities are defined as similar work assigned to  
36 different job classes with a salary disparity greater than 7.5 percent.

37       (iii) Adjustments made to the higher education hospital special pay  
38 plan are exempt from (b)(i) and (ii) of this subsection.

1 (c) Reclassifications, class studies, and salary adjustments to be  
2 implemented during the 1997-99 and subsequent fiscal biennia are  
3 governed by (a) of this subsection and RCW 41.06.152;

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

6 ~~(14) 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 and that, for institutions of  
11 higher education and related boards, shall be competitive for positions  
12 of a similar nature in the state or the locality in which an  
13 institution of higher education or related board is located, such  
14 adoption and revision subject to approval by the director of financial  
15 management in accordance with the provisions of chapter 43.88 RCW;~~

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

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

1 ~~military service and whose military retirement pay is in excess of five~~  
2 ~~hundred dollars per month;~~

3 ~~((17))~~ (5) Permitting agency heads to delegate the authority to  
4 appoint, reduce, dismiss, suspend, or demote employees within their  
5 agencies if such agency heads do not have specific statutory authority  
6 to so delegate: PROVIDED, That the ~~((board))~~ director may not  
7 authorize such delegation to any position lower than the head of a  
8 major subdivision of the agency;

9 ~~((18))~~ (6) Assuring persons who are or have been employed in  
10 classified positions before July 1, 1993, will be eligible for  
11 employment, reemployment, transfer, and promotion in respect to  
12 classified positions covered by this chapter;

13 ~~((19))~~ (7) Affirmative action in appointment, promotion,  
14 transfer, recruitment, training, and career development; development  
15 and implementation of affirmative action goals and timetables; and  
16 monitoring of progress against those goals and timetables.

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

22 Rules adopted under this section by the director shall provide for  
23 local administration and management by the institutions of higher  
24 education and related boards, subject to periodic audit and review by  
25 the director.

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

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

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

33 (2) Training and career development;

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

38 (4) Transfers;

- 1 (5) Promotional preferences;
- 2 (6) Sick leaves and vacations;
- 3 (7) Hours of work;
- 4 (8) Layoffs when necessary and subsequent reemployment, except for  
5 the financial basis for layoffs;
- 6 (9) The number of names to be certified for vacancies;
- 7 (10) Adoption and revision of a state salary schedule to reflect  
8 the prevailing rates in Washington state private industries and other  
9 governmental units. The rates in the salary schedules or plans shall  
10 be increased if necessary to attain comparable worth under an  
11 implementation plan under RCW 41.06.155 and, for institutions of higher  
12 education and related boards, shall be competitive for positions of a  
13 similar nature in the state or the locality in which an institution of  
14 higher education or related board is located. Such adoption and  
15 revision is subject to approval by the director of financial management  
16 in accordance with chapter 43.88 RCW;
- 17 (11) Increment increases within the series of steps for each pay  
18 grade based on length of service for all employees whose standards of  
19 performance are such as to permit them to retain job status in the  
20 classified service;
- 21 (12) Providing for veteran's preference as required by existing  
22 statutes, with recognition of preference in regard to layoffs and  
23 subsequent reemployment for veterans and their surviving spouses by  
24 giving such eligible veterans and their surviving spouses additional  
25 credit in computing their seniority by adding to their unbroken state  
26 service, as defined by the director, the veteran's service in the  
27 military not to exceed five years. For the purposes of this section,  
28 "veteran" means any person who has one or more years of active military  
29 service in any branch of the armed forces of the United States or who  
30 has less than one year's service and is discharged with a disability  
31 incurred in the line of duty or is discharged at the convenience of the  
32 government and who, upon termination of such service, has received an  
33 honorable discharge, a discharge for physical reasons with an honorable  
34 record, or a release from active military service with evidence of  
35 service other than that for which an undesirable, bad conduct, or  
36 dishonorable discharge shall be given. However, the surviving spouse  
37 of a veteran is entitled to the benefits of this section regardless of  
38 the veteran's length of active military service. For the purposes of  
39 this section, "veteran" does not include any person who has voluntarily

1 retired with twenty or more years of active military service and whose  
2 military retirement pay is in excess of five hundred dollars per month.

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

7 Rules adopted by the director under this section may be superseded  
8 by the provisions of a collective bargaining agreement negotiated under  
9 sections 301 through 314 of this act. The supersession of such rules  
10 shall only affect employees in the respective collective bargaining  
11 units.

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

14 (1) The board shall conduct a comprehensive review of all rules in  
15 effect on the effective date of this section governing the  
16 classification, allocation, and reallocation of positions within the  
17 classified service. In conducting this review, the board shall consult  
18 with state agencies, institutions of higher education, employee  
19 organizations, and members of the general public. The department shall  
20 assist the board in the conduct of this review, which shall be  
21 completed by the board no later than July 1, 2000.

22 (2) By March 15, 2001, the board shall adopt new rules governing  
23 the classification, allocation, and reallocation of positions in the  
24 classified service. In adopting such rules, the board shall adhere to  
25 the following goals:

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

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

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

37 (d) To value workplace diversity;

1 (e) To facilitate the reorganization and decentralization of  
2 governmental services; and

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

4 (3) Rules adopted by the board under subsection (2) of this section  
5 shall permit an appointing authority and an employee organization  
6 representing classified employees of the appointing authority for  
7 collective bargaining purposes to make a joint request for the  
8 initiation of a classification study.

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

11 In accordance with rules adopted by the board under section 205 of  
12 this act, the director shall, by January 1, 2002, begin to implement a  
13 new classification system for positions in the classified service. Any  
14 employee who believes that the director has incorrectly applied the  
15 rules of the board in determining a job classification for a job held  
16 by that employee may appeal the director's decision to the board by  
17 filing a notice in writing within thirty days of the action from which  
18 the appeal is taken. Decisions of the board concerning such appeals  
19 are final.

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

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

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

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

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

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

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

1 No employee who is a member of the Washington management service  
2 may be included in a collective bargaining unit established under  
3 sections 301 through 314 of this act.

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

6 (1) A department, agency, or institution of higher education may  
7 purchase services provided by employees in classified service under  
8 this chapter by contracting with individuals, nonprofit organizations,  
9 businesses, or other entities.

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

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

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

25 **Sec. 209.** RCW 41.06.070 and 1996 c 319 s 3, 1996 c 288 s 33, and  
26 1996 c 186 s 109 are each reenacted and amended to read as follows:

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

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

33 (b) The justices of the supreme court, judges of the court of  
34 appeals, judges of the superior courts or of the inferior courts, or to  
35 any employee of, or position in the judicial branch of state  
36 government;

1 (c) Officers, academic personnel, and employees of technical  
2 colleges;

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

4 (e) Elective officers of the state;

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

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

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

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

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

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

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

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

31 (j) Assistant attorneys general;

32 (k) Commissioned and enlisted personnel in the military service of  
33 the state;

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

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



1 (n) Officers and employees of the Washington state fruit  
2 commission;

3 (o) Officers and employees of the Washington state apple  
4 advertising commission;

5 (p) Officers and employees of the Washington state dairy products  
6 commission;

7 (q) Officers and employees of the Washington tree fruit research  
8 commission;

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

10 (s) Officers and employees of any commission formed under chapter  
11 15.66 RCW;

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

14 (u) Officers and employees of agricultural commissions formed under  
15 chapter 15.65 RCW;

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

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

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

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

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

33 ~~(aa))~~ Staff employed by the department of community, trade, and  
34 economic development to administer energy policy functions and manage  
35 energy site evaluation council activities under RCW 43.21F.045(2)(m);

36 (~~(bb))~~) (aa) Staff employed by Washington State University to  
37 administer energy education, applied research, and technology transfer  
38 programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

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

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

22 ~~(b) ((Student, part-time, or temporary employees, and part-time  
23 professional consultants, as defined by the Washington personnel  
24 resources board, employed by institutions of higher education and  
25 related boards;~~

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

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

36 (3) In addition to the exemptions specifically provided by this  
37 chapter, the ~~((Washington personnel resources board))~~ director of  
38 personnel may provide for further exemptions pursuant to the following  
39 procedures. The governor or other appropriate elected official may

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

24 The salary and fringe benefits of all positions presently or  
25 hereafter exempted except for the chief executive officer of each  
26 agency, full-time members of boards and commissions, administrative  
27 assistants and confidential secretaries in the immediate office of an  
28 elected state official, and the personnel listed in subsections (1)(j)  
29 through (v)((~~z~~)) and (y)((~~z~~)) and (2) of this section, shall be  
30 determined by the ((~~Washington personnel resources board~~)) director of  
31 personnel. However, beginning with changes proposed for the 1997-99  
32 fiscal biennium, changes to the classification plan affecting exempt  
33 salaries must meet the same provisions for classified salary increases  
34 resulting from adjustments to the classification plan as outlined in  
35 RCW 41.06.152.

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

1 another classified position, such person shall have a right of  
2 reversion to the highest class of position previously held, or to a  
3 position of similar nature and salary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1        ~~A comprehensive compensation survey plan and the recommendations of~~  
2 ~~the chief of the Washington state patrol shall be submitted jointly by~~  
3 ~~the department of personnel and the Washington state patrol to the~~  
4 ~~director of financial management, the legislative transportation~~  
5 ~~committee, the committee on ways and means of the senate, and the~~  
6 ~~committee on appropriations of the house of representatives six months~~  
7 ~~before the beginning of each periodic survey.))~~ Salary and fringe  
8 benefit survey information collected from private employers which  
9 identifies a specific employer with the salary and fringe benefit rates  
10 which that employer pays to its employees shall not be subject to  
11 public disclosure under chapter 42.17 RCW.

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

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

22        (2) Any employee who is reduced, dismissed, suspended, or demoted,  
23 after completing his or her probationary period of service as provided  
24 by the rules of the (~~board~~) director, or any employee who is  
25 adversely affected by a violation of the state civil service law,  
26 chapter 41.06 RCW, or rules adopted under it, shall have the right to  
27 appeal (~~to the personnel appeals board created by RCW 41.64.010~~),  
28 either individually or through his or her authorized representative,  
29 not later than thirty days after the effective date of such action to  
30 the personnel appeals board through June 30, 2001, and to the  
31 Washington personnel resources board after June 30, 2001. The employee  
32 shall be furnished with specified charges in writing when a reduction,  
33 dismissal, suspension, or demotion action is taken. Such appeal shall  
34 be in writing. Decisions of the Washington personnel resources board  
35 on appeals filed after June 30, 2001, shall be final.

36        (3) Any employee whose position has been exempted after July 1,  
37 1993, shall have the right to appeal (~~to the personnel appeals board~~  
38 ~~created by RCW 41.64.010~~), either individually or through his or her



1 authorized representative, not later than thirty days after the  
2 effective date of such action to the personnel appeals board through  
3 June 30, 2002, and to the Washington personnel resources board after  
4 June 30, 2002.

5 (4) An employee incumbent in a position at the time of its  
6 allocation or reallocation, or the agency utilizing the position, may  
7 appeal the allocation or reallocation to the personnel appeals board  
8 ~~((created by RCW 41.64.010))~~ through December 31, 2001, and to the  
9 Washington personnel resources board after December 31, 2001. Notice  
10 of such appeal must be filed in writing within thirty days of the  
11 action from which appeal is taken.

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

15 NEW SECTION. Sec. 214. The transfer of the powers, duties, and  
16 functions of the personnel appeals board to the personnel resources  
17 board under section 234 of this act and the transfer of jurisdiction  
18 for appeals filed under section 213, chapter . . . , Laws of 1998  
19 (section 213 of this act) after June 30, 2001, shall not affect the  
20 right of an appellant to have an appeal filed on or before June 30,  
21 2001, resolved by the personnel appeals board in accordance with the  
22 authorities, rules, and procedures that were established under chapter  
23 41.64 RCW as it existed before the effective date of this section.

24 **Sec. 215.** RCW 41.06.186 and 1993 c 281 s 32 are each amended to  
25 read as follows:

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

29 **Sec. 216.** RCW 41.06.196 and 1993 c 281 s 33 are each amended to  
30 read as follows:

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

1       **Sec. 217.** RCW 41.06.270 and 1979 c 151 s 61 are each amended to  
2 read as follows:

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

8       **Sec. 218.** RCW 41.06.350 and 1993 c 281 s 36 are each amended to  
9 read as follows:

10       The (~~Washington personnel resources board~~) director is authorized  
11 to receive federal funds now available or hereafter made available for  
12 the assistance and improvement of public personnel administration,  
13 which may be expended in addition to the department of personnel  
14 service fund established by RCW 41.06.280.

15       **Sec. 219.** RCW 41.06.400 and 1980 c 118 s 4 are each amended to  
16 read as follows:

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

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

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

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

30       (c) Promote interagency sharing of resources for training and  
31 career development;

32       (d) Monitor and review the impact of training and career  
33 development programs to ensure that the responsibilities of the state  
34 to provide equal employment opportunities are diligently carried out.  
35 (~~The director shall report to the board the impact of training and~~  
36 ~~career development programs on the fulfillment of such~~  
37 ~~responsibilities.~~)

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

5 **Sec. 220.** RCW 41.06.410 and 1980 c 118 s 5 are each amended to  
6 read as follows:

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

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

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

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

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

19 **Sec. 221.** RCW 41.06.450 and 1993 c 281 s 37 are each amended to  
20 read as follows:

21 (1) ((By January 1, 1983, the Washington personnel resources  
22 board)) The director shall adopt rules applicable to each agency to  
23 ensure that information relating to employee misconduct or alleged  
24 misconduct is destroyed or maintained as follows:

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

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

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

34 (2) Notwithstanding subsection (1) of this section, an agency may  
35 retain information relating to employee misconduct or alleged  
36 misconduct if:

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

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

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

7 **Sec. 222.** RCW 41.06.475 and 1993 c 281 s 38 are each amended to  
8 read as follows:

9 The ((Washington ~~personnel resources board~~)) director shall adopt  
10 rules, in cooperation with the secretary of social and health services,  
11 for the background investigation of persons being considered for state  
12 employment in positions directly responsible for the supervision, care,  
13 or treatment of children or developmentally disabled persons.

14 **Sec. 223.** RCW 41.06.490 and 1990 c 204 s 3 are each amended to  
15 read as follows:

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

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

22 (b) Provide for eligibility in the return-to-work program, for a  
23 minimum of two years from the date the temporary disability commenced,  
24 for any permanent employee who is receiving compensation under RCW  
25 51.32.090 and who is, by reason of his or her temporary disability,  
26 unable to return to his or her previous work, but who is physically  
27 capable of carrying out work of a lighter or modified nature;

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

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

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

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

1 (g) Coordinate participation of applicable employee assistance  
2 programs, as appropriate.

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

7 **Sec. 224.** RCW 28B.12.060 and 1994 c 130 s 6 are each amended to  
8 read as follows:

9 The higher education coordinating board shall adopt rules as may be  
10 necessary or appropriate for effecting the provisions of this chapter,  
11 and not in conflict with this chapter, in accordance with the  
12 provisions of chapter 34.05 RCW, the state higher education  
13 administrative procedure act. Such rules shall include provisions  
14 designed to make employment under the work-study program reasonably  
15 available, to the extent of available funds, to all eligible students  
16 in eligible post-secondary institutions in need thereof. The rules  
17 shall include:

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

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

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

25 (b) Has been accepted for enrollment as at least a half-time  
26 student at the eligible institution or, in the case of a student  
27 already enrolled in and attending the eligible institution, is in good  
28 standing and in at least half-time attendance there either as an  
29 undergraduate, graduate or professional student; and

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

31 (3) Placing priority on providing:

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

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

38 (c) Off-campus community service placements;

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

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

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

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

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

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

18 **Sec. 225.** RCW 34.05.030 and 1994 c 39 s 1 are each amended to read  
19 as follows:

20 (1) This chapter shall not apply to:

21 (a) The state militia, or

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

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

26 (2) The provisions of RCW 34.05.410 through 34.05.598 shall not  
27 apply:

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

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

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

37 (d) To actions of the Washington personnel resources board(~~(7)~~) or  
38 the director of personnel(~~(7, or the personnel appeals board)~~); or

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

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

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

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

14 **Sec. 226.** RCW 34.12.020 and 1995 c 331 s 1 are each amended to  
15 read as follows:

16 Unless the context clearly requires otherwise, the definitions in  
17 this section apply throughout this chapter.

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

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

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

25 (4) "State agency" means any state board, commission, department,  
26 or officer authorized by law to make rules or to conduct adjudicative  
27 proceedings, except those in the legislative or judicial branches, the  
28 growth management hearings boards, the utilities and transportation  
29 commission, the pollution control hearings board, the shorelines  
30 hearings board, the forest practices appeals board, the environmental  
31 hearings office, the board of industrial insurance appeals, the  
32 Washington personnel resources board, the public employment relations  
33 commission, (~~the personnel appeals board,~~) and the board of tax  
34 appeals.

35 **Sec. 227.** RCW 41.04.340 and 1997 c 232 s 2 are each amended to  
36 read as follows:

1 (1) An attendance incentive program is established for all eligible  
2 employees. As used in this section the term "eligible employee" means  
3 any employee of the state, other than eligible employees of the  
4 community and technical colleges and the state board for community and  
5 technical colleges identified in RCW 28B.50.553, and teaching and  
6 research faculty at the state and regional universities and The  
7 Evergreen State College, entitled to accumulate sick leave and for whom  
8 accurate sick leave records have been maintained. No employee may  
9 receive compensation under this section for any portion of sick leave  
10 accumulated at a rate in excess of one day per month. The state and  
11 regional universities and The Evergreen State College shall maintain  
12 complete and accurate sick leave records for all teaching and research  
13 faculty.

14 (2) In January of the year following any year in which a minimum of  
15 sixty days of sick leave is accrued, and each January thereafter, any  
16 eligible employee may receive remuneration for unused sick leave  
17 accumulated in the previous year at a rate equal to one day's monetary  
18 compensation of the employee for each four full days of accrued sick  
19 leave in excess of sixty days. Sick leave for which compensation has  
20 been received shall be deducted from accrued sick leave at the rate of  
21 four days for every one day's monetary compensation.

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

27 (4) Pursuant to this subsection, in lieu of cash remuneration the  
28 state may, with equivalent funds, provide eligible employees with a  
29 benefit plan providing for reimbursement of medical expenses. The  
30 committee for deferred compensation shall develop any benefit plan  
31 established under this subsection, but may offer and administer the  
32 plan only if (a) each eligible employee has the option of whether to  
33 receive cash remuneration or to have his or her employer transfer  
34 equivalent funds to the plan; and (b) the committee has received an  
35 opinion from the United States internal revenue service stating that  
36 participating employees, prior to the time of receiving reimbursement  
37 for expenses, will incur no United States income tax liability on the  
38 amount of the equivalent funds transferred to the plan.



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

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

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

13 **Sec. 228.** RCW 41.50.804 and 1993 c 281 s 40 are each amended to  
14 read as follows:

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

20 **Sec. 229.** RCW 43.06.425 and 1993 c 281 s 48 are each amended to  
21 read as follows:

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

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

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

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

36 (4) Participants in the executive fellows program who were not  
37 public employees prior to accepting a position in the program receive

1 sick and vacation leave allowances commensurate with other state  
2 employees.

3 **Sec. 230.** RCW 43.33A.100 and 1993 c 281 s 50 are each amended to  
4 read as follows:

5 The state investment board shall maintain appropriate offices and  
6 employ such personnel as may be necessary to perform its duties.  
7 Employment by the investment board shall include but not be limited to  
8 an executive director, investment officers, and a confidential  
9 secretary, which positions are exempt from classified service under  
10 chapter 41.06 RCW. Employment of the executive director by the board  
11 shall be for a term of three years, and such employment shall be  
12 subject to confirmation of the state finance committee: PROVIDED, That  
13 nothing shall prevent the board from dismissing the director for cause  
14 before the expiration of the term nor shall anything prohibit the  
15 board, with the confirmation of the state finance committee, from  
16 employing the same individual as director in succeeding terms.  
17 Compensation levels for the investment officers employed by the  
18 investment board shall be established by the ((Washington personnel  
19 resources board)) director of personnel.

20 As of July 1, 1981, all employees classified under chapter 41.06  
21 RCW and engaged in duties assumed by the state investment board on July  
22 1, 1981, are assigned to the state investment board. The transfer  
23 shall not diminish any rights granted these employees under chapter  
24 41.06 RCW nor exempt the employees from any action which may occur  
25 thereafter in accordance with chapter 41.06 RCW.

26 All existing contracts and obligations pertaining to the functions  
27 transferred to the state investment board in ((this 1980 act)) chapter  
28 3, Laws of 1981 shall remain in full force and effect, and shall be  
29 performed by the board. None of the transfers directed by ((this 1980  
30 act)) chapter 3, Laws of 1981 shall affect the validity of any act  
31 performed by a state entity or by any official or employee thereof  
32 prior to July 1, 1981.

33 **Sec. 231.** RCW 43.131.090 and 1993 c 281 s 54 are each amended to  
34 read as follows:

35 Unless the legislature specifies a shorter period of time, a  
36 terminated state agency shall continue in existence until June 30th of  
37 the next succeeding year for the purpose of concluding its affairs:

1 PROVIDED, That the powers and authority of the state agency shall not  
2 be reduced or otherwise limited during this period. Unless otherwise  
3 provided:

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

9 (2) All documents and papers, equipment, or other tangible property  
10 in the possession of the terminated state agency shall be delivered to  
11 the custody of the agency assuming the responsibilities of the  
12 terminated agency or if such responsibilities have been eliminated,  
13 documents and papers shall be delivered to the state archivist and  
14 equipment or other tangible property to the department of general  
15 administration;

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

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

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

28 **Sec. 232.** RCW 49.46.010 and 1997 c 203 s 3 are each amended to  
29 read as follows:

30 As used in this chapter:

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

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

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

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

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

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

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

17 (c) Any individual employed in a bona fide executive,  
18 administrative, or professional capacity or in the capacity of outside  
19 salesman as those terms are defined and delimited by rules of the  
20 director. However, those terms shall be defined and delimited by the  
21 (~~Washington personnel resources board~~) director of personnel pursuant  
22 to chapter 41.06 RCW for employees employed under the director of  
23 personnel's jurisdiction;

24 (d) Any individual engaged in the activities of an educational,  
25 charitable, religious, state or local governmental body or agency, or  
26 nonprofit organization where the employer-employee relationship does  
27 not in fact exist or where the services are rendered to such  
28 organizations gratuitously. If the individual receives reimbursement  
29 in lieu of compensation for normally incurred out-of-pocket expenses or  
30 receives a nominal amount of compensation per unit of voluntary service  
31 rendered, an employer-employee relationship is deemed not to exist for  
32 the purpose of this section or for purposes of membership or  
33 qualification in any state, local government or publicly supported  
34 retirement system other than that provided under chapter 41.24 RCW;

35 (e) Any individual employed full time by any state or local  
36 governmental body or agency who provides voluntary services but only  
37 with regard to the provision of the voluntary services. The voluntary  
38 services and any compensation therefor shall not affect or add to  
39 qualification, entitlement or benefit rights under any state, local

1 government, or publicly supported retirement system other than that  
2 provided under chapter 41.24 RCW;

3 (f) Any newspaper vendor or carrier;

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

6 (h) Any individual engaged in forest protection and fire prevention  
7 activities;

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

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

17 (k) Any resident, inmate, or patient of a state, county, or  
18 municipal correctional, detention, treatment or rehabilitative  
19 institution;

20 (l) Any individual who holds a public elective or appointive office  
21 of the state, any county, city, town, municipal corporation or quasi  
22 municipal corporation, political subdivision, or any instrumentality  
23 thereof, or any employee of the state legislature;

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

26 (n) Any individual employed as a seaman on a vessel other than an  
27 American vessel;

28 (6) "Occupation" means any occupation, service, trade, business,  
29 industry, or branch or group of industries or employment or class of  
30 employment in which employees are gainfully employed;

31 (7) "Retail or service establishment" means an establishment  
32 seventy-five percent of whose annual dollar volume of sales of goods or  
33 services, or both, is not for resale and is recognized as retail sales  
34 or services in the particular industry.

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

37 (1) With respect to collective bargaining as authorized by sections  
38 301 through 314 of this act, the public employment relations commission

1 created by chapter 41.58 RCW shall have authority to adopt rules, on  
2 and after the effective date of this section, relating to determination  
3 of appropriate bargaining units within any agency. In making such  
4 determination the commission shall consider the duties, skills, and  
5 working conditions of the employees, the history of collective  
6 bargaining by the employees and their bargaining representatives, the  
7 extent of organization among the employees, and the desires of the  
8 employees.

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

16 (3) A collective bargaining agreement entered into under this  
17 section before July 1, 2000, covering employees subject to sections 301  
18 through 314 of this act that expires after July 1, 2000, shall remain  
19 in full force during its duration, or until superseded by a collective  
20 bargaining agreement entered into by the parties under sections 301  
21 through 314 of this act. However, an agreement entered into before  
22 July 1, 2000, may not be renewed or extended beyond July 1, 2001, or  
23 until superseded by a collective bargaining agreement entered into  
24 under sections 301 through 314 of this act, whichever is later.

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

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

33 (2)(a) All reports, documents, surveys, books, records, files,  
34 papers, or written material in the possession of the personnel appeals  
35 board shall be delivered to the custody of the department of personnel.  
36 All cabinets, furniture, office equipment, motor vehicles, and other  
37 tangible property employed by the personnel appeals board shall be made  
38 available to the department of personnel. All funds, credits, or other

1 assets held by the personnel appeals board shall be assigned to the  
2 department of personnel.

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

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

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

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

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

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

32 **Sec. 235.** RCW 13.40.320 and 1997 c 338 s 38 are each amended to  
33 read as follows:

34 (1) The department of social and health services shall establish  
35 and operate a medium security juvenile offender basic training camp  
36 program. The department shall site a juvenile offender basic training  
37 camp facility in the most cost-effective facility possible and shall

1 review the possibility of using an existing abandoned and/or available  
2 state, federally, or military-owned site or facility.

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

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

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

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

30 (5) Offenders eligible for the juvenile offender basic training  
31 camp option shall be those with a disposition of not more than sixty-  
32 five weeks. Violent and sex offenders shall not be eligible for the  
33 juvenile offender basic training camp program.

34 (6) If the court determines that the offender is eligible for the  
35 juvenile offender basic training camp option, the court may recommend  
36 that the department place the offender in the program. The department  
37 shall evaluate the offender and may place the offender in the program.  
38 The evaluation shall include, at a minimum, a risk assessment developed  
39 by the department and designed to determine the offender's suitability



1 for the program. No juvenile who is assessed as a high risk offender  
2 or suffers from any mental or physical problems that could endanger his  
3 or her health or drastically affect his or her performance in the  
4 program shall be admitted to or retained in the juvenile offender basic  
5 training camp program.

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

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

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

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

3       As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 employee child care needs will be the responsibility of the director of  
2 personnel in consultation with the child care coordinating committee,  
3 as provided in RCW 74.13.090, and state employee representatives ((as  
4 ~~provided under RCW 41.06.140~~)).

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

7 (1) All projects designed, constructed, and operated under this  
8 authority must comply with all applicable rules and statutes in  
9 existence at the time the agreement is executed, including but not  
10 limited to the following provisions: Chapter 39.12 RCW, this title,  
11 ((~~RCW 41.06.380~~)) section 208 of this act, chapter 47.64 RCW, RCW  
12 49.60.180, and 49 C.F.R. Part 21.

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

16 (3) Agreements shall provide for private ownership of the projects  
17 during the construction period. After completion and final acceptance  
18 of each project or discrete segment thereof, the agreement shall  
19 provide for state ownership of the transportation systems and  
20 facilities and lease to the private entity unless the state elects to  
21 provide for ownership of the facility by the private entity during the  
22 term of the agreement.

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

26 (4) The department may exercise any power possessed by it to  
27 facilitate the development, construction, financing operation, and  
28 maintenance of transportation projects under this chapter. Agreements  
29 for maintenance services entered into under this section shall provide  
30 for full reimbursement for services rendered by the department or other  
31 state agencies. Agreements for police services for projects, involving  
32 state highway routes, developed under agreements shall be entered into  
33 with the Washington state patrol. The agreement for police services  
34 shall provide that the state patrol will be reimbursed for costs on a  
35 comparable basis with the costs incurred for comparable service on  
36 other state highway routes. The department may provide services for  
37 which it is reimbursed, including but not limited to preliminary

1 planning, environmental certification, and preliminary design of the  
2 demonstration projects.

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

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

26 (7) The agreements entered into under this section may include  
27 provisions authorizing the state to grant necessary easements and lease  
28 to a private entity existing rights of way or rights of way  
29 subsequently acquired with public or private financing. The agreements  
30 may also include provisions to lease to the entity airspace above or  
31 below the right of way associated or to be associated with the private  
32 entity's transportation facility. In consideration for the reversion  
33 rights in these privately constructed facilities, the department may  
34 negotiate a charge for the lease of airspace rights during the term of  
35 the agreement for a period not to exceed fifty years. If, after the  
36 expiration of this period, the department continues to lease these  
37 airspace rights to the private entity, it shall do so only at fair  
38 market value. The agreement may also provide the private entity the

1 right of first refusal to undertake projects utilizing airspace owned  
2 by the state in the vicinity of the public-private project.

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

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

17 (10)(a) In carrying out the public involvement process required in  
18 subsection (9) of this section, the private entity shall proactively  
19 seek public participation through a process appropriate to the  
20 characteristics of the project that assesses and demonstrates public  
21 support among: Users of the project, residents of communities in the  
22 vicinity of the project, and residents of communities impacted by the  
23 project.

24 (b) The private entity shall conduct a comprehensive public  
25 involvement process that provides, periodically throughout the  
26 development and implementation of the project, users and residents of  
27 communities in the affected project area an opportunity to comment upon  
28 key issues regarding the project including, but not limited to: (i)  
29 Alternative sizes and scopes; (ii) design; (iii) environmental  
30 assessment; (iv) right of way and access plans; (v) traffic impacts;  
31 (vi) tolling or user fee strategies and tolling or user fee ranges;  
32 (vii) project cost; (viii) construction impacts; (ix) facility  
33 operation; and (x) any other salient characteristics.

34 (c) If the affected project area has not been defined, the private  
35 entity shall define the affected project area by conducting, at a  
36 minimum: (i) A comparison of the estimated percentage of residents of  
37 communities in the vicinity of the project and in other communities  
38 impacted by the project who could be subject to tolls or user fees and  
39 the estimated percentage of other users and transient traffic that

1 could be subject to tolls or user fees; (ii) an analysis of the  
2 anticipated traffic diversion patterns; (iii) an analysis of the  
3 potential economic impact resulting from proposed toll rates or user  
4 fee rates imposed on residents, commercial traffic, and commercial  
5 entities in communities in the vicinity of and impacted by the project;  
6 (iv) an analysis of the economic impact of tolls or user fees on the  
7 price of goods and services generally; and (v) an analysis of the  
8 relationship of the project to state transportation needs and benefits.

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

11 (d) In seeking public participation, the private entity shall  
12 establish a local involvement committee or committees comprised of  
13 residents of the affected project area, individuals who represent  
14 cities and counties in the affected project area, organizations formed  
15 to support or oppose the project, if such organizations exist, and  
16 users of the project. The private entity shall, at a minimum,  
17 establish a committee as required under the specifications of RCW  
18 47.46.030(~~(+5)~~) (6)(b) (ii) and (iii) and appointments to such  
19 committee shall be made no later than thirty days after the project  
20 area is defined.

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

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

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

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

35 It is the intent of the legislature to vest in the department the  
36 power to provide for a comprehensive inmate work program and to remove  
37 statutory and other restrictions which have limited work programs in  
38 the past. For purposes of establishing such a comprehensive program,

1 the legislature recommends that the department consider adopting any or  
2 all, or any variation of, the following classes of work programs:

3 (1) CLASS I: FREE VENTURE INDUSTRIES. The employer model  
4 industries in this class shall be operated and managed in total or in  
5 part by any profit or nonprofit organization pursuant to an agreement  
6 between the organization and the department. The organization shall  
7 produce goods or services for sale to both the public and private  
8 sector.

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

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

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

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

30 (2) CLASS II: TAX REDUCTION INDUSTRIES. Industries in this class  
31 shall be state-owned and operated enterprises designed to reduce the  
32 costs for goods and services for tax-supported agencies and for  
33 nonprofit organizations. The industries selected for development  
34 within this class shall, as much as possible, match the available pool  
35 of inmate work skills and aptitudes with the work opportunities in the  
36 free community. The industries shall be closely patterned after  
37 private sector industries but with the objective of reducing public  
38 support costs rather than making a profit. The products and services  
39 of this industry, including purchased products and services necessary



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

22 Security and custody services shall be provided without charge by  
23 the department of corrections.

24 Inmates working in this class of industries shall do so at their  
25 own choice and shall be paid for their work on a gratuity scale which  
26 shall not exceed the wage paid for work of a similar nature in the  
27 locality in which the industry is located and which is approved by the  
28 director of correctional industries.

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

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

37 (a) Whenever possible, to provide basic work training and  
38 experience so that the inmate will be able to qualify for better work  
39 both within correctional industries and the free community. It is not

1 intended that an inmate's work within this class of industries should  
2 be his or her final and total work experience as an inmate.

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

5 (c) Whenever possible, to offset tax and other public support  
6 costs.

7 Supervising, management, and custody staff shall be employees of  
8 the department.

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

11 Except for inmates who work in work training programs, inmates in  
12 this class shall be paid for their work in accordance with an inmate  
13 gratuity scale. The scale shall be adopted by the secretary of  
14 corrections.

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

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

25 The department of corrections shall reimburse participating units  
26 of local government for liability and workers compensation insurance  
27 costs.

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

32 (5) CLASS V: COMMUNITY SERVICE PROGRAMS. Programs in this class  
33 shall be subject to supervision by the department of corrections. The  
34 purpose of this class of industries is to enable an inmate, placed on  
35 community supervision, to work off all or part of a community service  
36 order as ordered by the sentencing court.

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

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

4 **Sec. 240.** RCW 41.06.079 and 1993 c 281 s 23 are each amended to  
5 read as follows:

6 In addition to the exemptions set forth in RCW 41.06.070, the  
7 provisions of this chapter shall not apply in the department of  
8 transportation to the secretary, a deputy secretary, an administrative  
9 assistant to the secretary, if any, one assistant secretary for each  
10 division designated pursuant to RCW 47.01.081, one confidential  
11 secretary for each of the above-named officers, up to six  
12 transportation district administrators and one confidential secretary  
13 for each district administrator, up to six additional new  
14 administrators or confidential secretaries designated by the secretary  
15 of the department of transportation and approved by the Washington  
16 personnel resources board pursuant to the provisions of RCW  
17 41.06.070(1)((+z+)) (y), the legislative liaison for the department,  
18 the state construction engineer, the state aid engineer, the personnel  
19 manager, the state project development engineer, the state maintenance  
20 and operations engineer, one confidential secretary for each of the  
21 last-named five positions, and a confidential secretary for the public  
22 affairs administrator. The individuals appointed under this section  
23 shall be exempt from the provisions of the state civil service law, and  
24 shall be paid salaries to be fixed by the governor in accordance with  
25 the procedure established by law for the fixing of salaries for  
26 individuals exempt from the operation of the state civil service law.

27 **Sec. 241.** RCW 41.06.152 and 1996 c 319 s 1 are each amended to  
28 read as follows:

29 (1) The board shall adopt only those job classification revisions,  
30 class studies, and salary adjustments under RCW 41.06.150((+15+)) (12)  
31 that:

32 (a) Are due to documented recruitment and retention difficulties,  
33 salary compression or inversion, increased duties and responsibilities,  
34 or inequities. For these purposes, inequities are defined as similar  
35 work assigned to different job classes with a salary disparity greater  
36 than 7.5 percent; and

1 (b) Are such that the office of financial management has reviewed  
2 the agency's fiscal impact statement and has concurred that the agency  
3 can absorb the biennialized cost of the reclassification, class study,  
4 or salary adjustment within the agency's current authorized level of  
5 funding for the current fiscal biennium and subsequent fiscal biennia.

6 (2) In addition to reclassifications, class studies, and salary  
7 adjustments under subsection (1)(b) of this section, the board may  
8 approve other reclassifications, class studies, and salary adjustments  
9 that meet the requirements of subsection (1)(a) of this section and  
10 have been approved under the procedures established under this  
11 subsection.

12 Before the department of personnel's biennial budget request is due  
13 to the office of financial management, the board shall prioritize  
14 requests for reclassifications, class studies, and salary adjustments  
15 for the next fiscal biennium. The board shall prioritize according to  
16 such criteria as are developed by the board consistent with RCW  
17 41.06.150(~~((+15+))~~) (12)(a).

18 The board shall submit the prioritized list to the governor's  
19 office and the fiscal committees of the house of representatives and  
20 senate at the same time the department of personnel's biennial budget  
21 request is submitted. The office of financial management shall review  
22 the biennial cost of each proposed salary adjustment on the board's  
23 prioritized list.

24 In the biennial appropriations acts, the legislature may establish  
25 a level of funding, from the state general fund and other accounts, to  
26 be applied by the board to the prioritized list. Upon enactment of the  
27 appropriations act, the board may approve reclassifications, class  
28 studies, and salary adjustments only to the extent that the total cost  
29 does not exceed the level of funding established in the appropriations  
30 acts and the board's actions are consistent with the priorities  
31 established in the list. The legislature may also specify or otherwise  
32 limit in the appropriations act the implementation dates for actions  
33 approved by the board under this section.

34 (3) This section does not apply to the higher education hospital  
35 special pay plan or to any adjustments to the classification plan under  
36 RCW 41.06.150(~~((+15+))~~) (12) that are due to emergent conditions.  
37 Emergent conditions are defined as emergency conditions requiring the  
38 establishment of positions necessary for the preservation of the public  
39 health, safety, or general welfare.

1       **Sec. 242.** RCW 41.06.152 and 1998 c . . . s 241 (section 241 of  
2 this act) are each amended to read as follows:

3       (1) The director shall adopt only those job classification  
4 revisions, class studies, and salary adjustments under RCW  
5 41.06.150(~~((12))~~) (4) that:

6       (a) Are due to documented recruitment and retention difficulties,  
7 salary compression or inversion, increased duties and responsibilities,  
8 or inequities. For these purposes, inequities are defined as similar  
9 work assigned to different job classes with a salary disparity greater  
10 than 7.5 percent; and

11       (b) Are such that the office of financial management has reviewed  
12 the agency's fiscal impact statement and has concurred that the agency  
13 can absorb the biennialized cost of the reclassification, class study,  
14 or salary adjustment within the agency's current authorized level of  
15 funding for the current fiscal biennium and subsequent fiscal biennia.

16       (2) In addition to reclassifications, class studies, and salary  
17 adjustments under subsection (1)(b) of this section, the board may  
18 approve other reclassifications, class studies, and salary adjustments  
19 that meet the requirements of subsection (1)(a) of this section and  
20 have been approved under the procedures established under this  
21 subsection.

22       Before the department of personnel's biennial budget request is due  
23 to the office of financial management, the board shall prioritize  
24 requests for reclassifications, class studies, and salary adjustments  
25 for the next fiscal biennium. The board shall prioritize according to  
26 such criteria as are developed by the board consistent with RCW  
27 41.06.150(~~((12))~~) (4)(a).

28       The board shall submit the prioritized list to the governor's  
29 office and the fiscal committees of the house of representatives and  
30 senate at the same time the department of personnel's biennial budget  
31 request is submitted. The office of financial management shall review  
32 the biennial cost of each proposed salary adjustment on the board's  
33 prioritized list.

34       In the biennial appropriations acts, the legislature may establish  
35 a level of funding, from the state general fund and other accounts, to  
36 be applied by the board to the prioritized list. Upon enactment of the  
37 appropriations act, the board may approve reclassifications, class  
38 studies, and salary adjustments only to the extent that the total cost  
39 does not exceed the level of funding established in the appropriations

1 acts and the board's actions are consistent with the priorities  
2 established in the list. The legislature may also specify or otherwise  
3 limit in the appropriations act the implementation dates for actions  
4 approved by the board under this section.

5 (3) This section does not apply to the higher education hospital  
6 special pay plan or to any adjustments to the classification plan under  
7 RCW 41.06.150(~~(+12+)~~) (4) that are due to emergent conditions.  
8 Emergent conditions are defined as emergency conditions requiring the  
9 establishment of positions necessary for the preservation of the public  
10 health, safety, or general welfare.

11 **Sec. 243.** RCW 41.06.500 and 1996 c 319 s 4 are each amended to  
12 read as follows:

13 (1) Except as provided in RCW 41.06.070, notwithstanding any other  
14 provisions of this chapter, the director is authorized to adopt, after  
15 consultation with state agencies and employee organizations, rules for  
16 managers as defined in RCW 41.06.022. These rules shall not apply to  
17 managers employed by institutions of higher education or related boards  
18 or whose positions are exempt. The rules shall govern recruitment,  
19 appointment, classification and allocation of positions, examination,  
20 training and career development, hours of work, probation,  
21 certification, compensation, transfer, affirmative action, promotion,  
22 layoff, reemployment, performance appraisals, discipline, and any and  
23 all other personnel practices for managers. These rules shall be  
24 separate from rules adopted by the board for other employees, and to  
25 the extent that the rules adopted apply only to managers shall take  
26 precedence over rules adopted by the board, and are not subject to  
27 review by the board.

28 (2) In establishing rules for managers, the director shall adhere  
29 to the following goals:

30 (a) Development of a simplified classification system that  
31 facilitates movement of managers between agencies and promotes upward  
32 mobility;

33 (b) Creation of a compensation system consistent with the policy  
34 set forth in RCW 41.06.150(~~(+17+)~~) (14). The system shall provide  
35 flexibility in setting and changing salaries, and shall require review  
36 and approval by the director in the case of any salary changes greater  
37 than five percent proposed for any group of employees;

1 (c) Establishment of a performance appraisal system that emphasizes  
2 individual accountability for program results and efficient management  
3 of resources; effective planning, organization, and communication  
4 skills; valuing and managing workplace diversity; development of  
5 leadership and interpersonal abilities; and employee development;

6 (d) Strengthening management training and career development  
7 programs that build critical management knowledge, skills, and  
8 abilities; focusing on managing and valuing workplace diversity;  
9 empowering employees by enabling them to share in workplace decision  
10 making and to be innovative, willing to take risks, and able to accept  
11 and deal with change; promoting a workplace where the overall focus is  
12 on the recipient of the government services and how these services can  
13 be improved; and enhancing mobility and career advancement  
14 opportunities;

15 (e) Permitting flexible recruitment and hiring procedures that  
16 enable agencies to compete effectively with other employers, both  
17 public and private, for managers with appropriate skills and training;  
18 allowing consideration of all qualified candidates for positions as  
19 managers; and achieving affirmative action goals and diversity in the  
20 workplace;

21 (f) Providing that managers may only be reduced, dismissed,  
22 suspended, or demoted for cause; and

23 (g) Facilitating decentralized and regional administration.

24 **Sec. 244.** RCW 41.06.500 and 1998 c . . . s 243 (section 243 of  
25 this act) are each amended to read as follows:

26 (1) Except as provided in RCW 41.06.070, notwithstanding any other  
27 provisions of this chapter, the director is authorized to adopt, after  
28 consultation with state agencies and employee organizations, rules for  
29 managers as defined in RCW 41.06.022. These rules shall not apply to  
30 managers employed by institutions of higher education or related boards  
31 or whose positions are exempt. The rules shall govern recruitment,  
32 appointment, classification and allocation of positions, examination,  
33 training and career development, hours of work, probation,  
34 certification, compensation, transfer, affirmative action, promotion,  
35 layoff, reemployment, performance appraisals, discipline, and any and  
36 all other personnel practices for managers. These rules shall be  
37 separate from rules adopted by the board for other employees, and to  
38 the extent that the rules adopted apply only to managers shall take

1 precedence over rules adopted by the board, and are not subject to  
2 review by the board.

3 (2) In establishing rules for managers, the director shall adhere  
4 to the following goals:

5 (a) Development of a simplified classification system that  
6 facilitates movement of managers between agencies and promotes upward  
7 mobility;

8 (b) Creation of a compensation system (~~consistent with the policy~~  
9 ~~set forth in RCW 41.06.150(14). The system shall provide~~) that  
10 provides flexibility in setting and changing salaries, and shall  
11 require review and approval by the director in the case of any salary  
12 changes greater than five percent proposed for any group of employees;

13 (c) Establishment of a performance appraisal system that emphasizes  
14 individual accountability for program results and efficient management  
15 of resources; effective planning, organization, and communication  
16 skills; valuing and managing workplace diversity; development of  
17 leadership and interpersonal abilities; and employee development;

18 (d) Strengthening management training and career development  
19 programs that build critical management knowledge, skills, and  
20 abilities; focusing on managing and valuing workplace diversity;  
21 empowering employees by enabling them to share in workplace decision  
22 making and to be innovative, willing to take risks, and able to accept  
23 and deal with change; promoting a workplace where the overall focus is  
24 on the recipient of the government services and how these services can  
25 be improved; and enhancing mobility and career advancement  
26 opportunities;

27 (e) Permitting 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 allowing consideration of all qualified candidates for positions as  
31 managers; and achieving affirmative action goals and diversity in the  
32 workplace;

33 (f) Providing that managers may only be reduced, dismissed,  
34 suspended, or demoted for cause; and

35 (g) Facilitating decentralized and regional administration.

36 **Sec. 245.** RCW 43.21I.010 and 1992 c 73 s 4 are each amended to  
37 read as follows:



1 (1) There is hereby created an agency of state government to be  
2 known as the office of marine safety. The office shall be vested with  
3 all powers and duties transferred to it and such other powers and  
4 duties as may be authorized by law. The main administrative office of  
5 the office shall be located in the city of Olympia. The administrator  
6 may establish administrative facilities in other locations, if deemed  
7 necessary for the efficient operation of the office, and if consistent  
8 with the principles set forth in subsection (2) of this section.

9 (2) The office of marine safety shall be organized consistent with  
10 the goals of providing state government with a focus in marine  
11 transportation and serving the people of this state. The legislature  
12 recognizes that the administrator needs sufficient organizational  
13 flexibility to carry out the office's various duties. To the extent  
14 practical, the administrator shall consider the following  
15 organizational principles:

16 (a) Clear lines of authority which avoid functional duplication  
17 within and between subelements of the office;

18 (b) A clear and simplified organizational design promoting  
19 accessibility, responsiveness, and accountability to the legislature,  
20 the consumer, and the general public; and

21 (c) Maximum span of control without jeopardizing adequate  
22 supervision.

23 (3) The office shall provide leadership and coordination in  
24 identifying and resolving threats to the safety of marine  
25 transportation and the impact of marine transportation on the  
26 environment:

27 (a) Working with other state agencies and local governments to  
28 strengthen the state and local governmental partnership in providing  
29 public protection;

30 (b) Providing expert advice to the executive and legislative  
31 branches of state government;

32 (c) Providing active and fair enforcement of rules;

33 (d) Working with other federal, state, and local agencies and  
34 facilitating their involvement in planning and implementing marine  
35 safety measures;

36 (e) Providing information to the public; and

37 (f) Carrying out such other related actions as may be appropriate  
38 to this purpose.

1 (4) In accordance with the administrative procedure act, chapter  
2 34.05 RCW, the office shall ensure an opportunity for consultation,  
3 review, and comment before the adoption of standards, guidelines, and  
4 rules.

5 (5) Consistent with the principles set forth in subsection (2) of  
6 this section, the administrator may create such administrative  
7 divisions, offices, bureaus, and programs within the office as the  
8 administrator deems necessary. The administrator shall have complete  
9 charge of and supervisory powers over the office, except where the  
10 administrator's authority is specifically limited by law.

11 (6) The administrator shall appoint such personnel as are necessary  
12 to carry out the duties of the office. In addition to exemptions set  
13 forth in RCW 41.06.070(~~(+28)~~) (3), the administrator, the  
14 administrator's confidential secretary, and up to four professional  
15 staff members shall be exempt from the provisions of chapter 41.06 RCW.  
16 All other employees of the office shall be subject to the provisions of  
17 chapter 41.06 RCW.

18 **Sec. 246.** RCW 43.23.010 and 1990 c 37 s 1 are each amended to read  
19 as follows:

20 In order to obtain maximum efficiency and effectiveness within the  
21 department of agriculture, the director may create such administrative  
22 divisions within the department as he or she deems necessary. The  
23 director shall appoint a deputy director as well as such assistant  
24 directors as shall be needed to administer the several divisions within  
25 the department. The director shall appoint no more than eight  
26 assistant directors. The officers appointed under this section are  
27 exempt from the provisions of the state civil service law as provided  
28 in RCW 41.06.070(~~(+7)~~) (1)(g), and shall be paid salaries to be fixed  
29 by the governor in accordance with the procedure established by law for  
30 the fixing of salaries for officers exempt from the operation of the  
31 state civil service law. The director shall also appoint and deputize  
32 a state veterinarian who shall be an experienced veterinarian properly  
33 licensed to practice veterinary medicine in this state.

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

1       **Sec. 247.** RCW 49.74.030 and 1993 c 281 s 58 are each amended to  
2 read as follows:

3       The commission in conjunction with the department of personnel or  
4 the state patrol, whichever is appropriate, shall attempt to resolve  
5 the noncompliance through conciliation. If an agreement is reached for  
6 the elimination of noncompliance, the agreement shall be reduced to  
7 writing and an order shall be issued by the commission setting forth  
8 the terms of the agreement. The noncomplying state agency, institution  
9 of higher education, or state patrol shall make a good faith effort to  
10 conciliate and make a full commitment to correct the noncompliance with  
11 any action that may be necessary to achieve compliance, provided such  
12 action is not inconsistent with the rules adopted under RCW  
13 41.06.150(~~((21))~~) (18) and 43.43.340(5), whichever is appropriate.

14       **Sec. 248.** RCW 49.74.030 and 1998 c . . . s 247 (section 247 of  
15 this act) are each amended to read as follows:

16       The commission in conjunction with the department of personnel or  
17 the state patrol, whichever is appropriate, shall attempt to resolve  
18 the noncompliance through conciliation. If an agreement is reached for  
19 the elimination of noncompliance, the agreement shall be reduced to  
20 writing and an order shall be issued by the commission setting forth  
21 the terms of the agreement. The noncomplying state agency, institution  
22 of higher education, or state patrol shall make a good faith effort to  
23 conciliate and make a full commitment to correct the noncompliance with  
24 any action that may be necessary to achieve compliance, provided such  
25 action is not inconsistent with the rules adopted under RCW  
26 41.06.150(~~((18))~~) (6) and 43.43.340(5), whichever is appropriate.

27       **Sec. 249.** RCW 49.74.040 and 1985 c 365 s 11 are each amended to  
28 read as follows:

29       If no agreement can be reached under RCW 49.74.030, the commission  
30 may refer the matter to the administrative law judge for hearing  
31 pursuant to RCW 49.60.250. If the administrative law judge finds that  
32 the state agency, institution of higher education, or state patrol has  
33 not made a good faith effort to correct the noncompliance, the  
34 administrative law judge shall order the state agency, institution of  
35 higher education, or state patrol to comply with this chapter. The  
36 administrative law judge may order any action that may be necessary to  
37 achieve compliance, provided such action is not inconsistent with the

1 rules adopted under RCW (~~(28B.16.100(20),)~~) 41.06.150(~~(+21),)~~) (18) and  
2 43.43.340(5), whichever is appropriate.

3 An order by the administrative law judge may be appealed to  
4 superior court.

5 **Sec. 250.** RCW 49.74.040 and 1998 c . . . s 249 (section 249 of  
6 this act) are each amended to read as follows:

7 If no agreement can be reached under RCW 49.74.030, the commission  
8 may refer the matter to the administrative law judge for hearing  
9 pursuant to RCW 49.60.250. If the administrative law judge finds that  
10 the state agency, institution of higher education, or state patrol has  
11 not made a good faith effort to correct the noncompliance, the  
12 administrative law judge shall order the state agency, institution of  
13 higher education, or state patrol to comply with this chapter. The  
14 administrative law judge may order any action that may be necessary to  
15 achieve compliance, provided such action is not inconsistent with the  
16 rules adopted under RCW 41.06.150(~~(+18),)~~) (6) and 43.43.340(5),  
17 whichever is appropriate.

18 An order by the administrative law judge may be appealed to  
19 superior court.

20 **PART III**

21 **COLLECTIVE BARGAINING REFORM**

22 NEW SECTION. **Sec. 301.** APPLICATION OF CHAPTER. (1) Collective  
23 bargaining negotiations under this chapter shall commence no later than  
24 October 1, 2000, for collective bargaining agreements that are to  
25 become effective no earlier than July 1, 2001. For subsequent  
26 agreements, negotiations may commence and contracts become effective as  
27 the parties agree subject to legislative ratification as outlined in  
28 this chapter.

29 (2) Any collective bargaining agreement entered into before July 1,  
30 1997, covering employees affected by sections 301 through 314 of this  
31 act, that expires after July 1, 2000, shall, unless a superseding  
32 agreement complying with sections 301 through 314 of this act is  
33 negotiated by the parties, remain in full force during its duration,  
34 but the agreement may not be renewed or extended beyond July 1, 2001,  
35 or until superseded by a collective bargaining agreement entered into  
36 under sections 301 through 314 of this act, whichever is later.

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

6        (2)(a) If an exclusive bargaining representative represents more  
7 than one bargaining unit, the exclusive bargaining representative shall  
8 negotiate one master collective bargaining agreement on behalf of all  
9 the employees in bargaining units that the exclusive bargaining  
10 representative represents.        For those exclusive bargaining  
11 representatives who represent fewer than a total of five hundred  
12 employees each, negotiation shall be by a coalition of exclusive  
13 bargaining representatives that together represent at least five  
14 hundred employees. The coalition shall bargain for a master collective  
15 bargaining agreement covering all of the employees represented by the  
16 coalition. The governor's designee and the exclusive bargaining  
17 representative or representatives are authorized to enter into  
18 supplemental bargaining of agency-specific issues for inclusion in or  
19 as an addendum to the master collective bargaining agreement, subject  
20 to the parties' agreement regarding the issues and procedures for  
21 supplemental bargaining. This section does not prohibit cooperation  
22 and coordination of bargaining between two or more exclusive bargaining  
23 representatives.

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

27        (c) If five hundred or more employees of an independent state  
28 elected official listed in RCW 43.01.010 are organized in a bargaining  
29 unit or bargaining units under section 308 of this act, the official  
30 shall be consulted by the governor or the governor's designee before  
31 any agreement is reached under (a) of this subsection concerning  
32 supplemental bargaining of agency specific issues affecting the  
33 employees in such bargaining unit.

34        (3) The governor shall submit a request for funds necessary to  
35 implement the compensation and fringe benefit provisions in the master  
36 collective bargaining agreement or for legislation necessary to  
37 implement the agreement within ten days of the date on which the  
38 exclusive bargaining representative or representatives ratify the  
39 agreement or, if the legislature is not in session, within ten days

1 after the legislature next convenes. Requests for funds necessary to  
2 implement the provisions of bargaining agreements negotiated by  
3 institutions of higher education according to subsection (4) of this  
4 section shall not be submitted to the legislature by the governor  
5 unless such requests:

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

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

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

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

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

38 (6) After the expiration date of a collective bargaining agreement  
39 negotiated under this chapter, all of the terms and conditions

1 specified in the collective bargaining agreement remain in effect until  
2 the effective date of a subsequently negotiated agreement, not to  
3 exceed one year from the expiration date stated in the agreement.  
4 Thereafter, the employer may unilaterally implement according to law.

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

10 (2) The employer is not required to bargain over matters pertaining  
11 to:

12 (a) Health care benefits or other employee insurance benefits,  
13 except as required in subsection (3) of this section;

14 (b) Any retirement system or retirement benefit; or

15 (c) Rules of the director of personnel or the Washington personnel  
16 resources board adopted under section 203, chapter . . . , Laws of 1998  
17 (section 203 of this act).

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

32 (4) The employer and the exclusive bargaining representative shall  
33 not agree to any proposal that would prevent the implementation of  
34 approved affirmative action plans or that would be inconsistent with  
35 the comparable worth agreement that provided the basis for the salary  
36 changes implemented beginning with the 1983-1985 biennium to achieve  
37 comparable worth.

1 (5) The employer and the exclusive bargaining representative shall  
2 not bargain over matters pertaining to management rights established in  
3 section 305 of this act.

4 (6) Except as otherwise provided in this chapter, if a conflict  
5 exists between an executive order, administrative rule, or agency  
6 policy relating to wages, hours, and terms and conditions of employment  
7 and a collective bargaining agreement negotiated under this chapter,  
8 the collective bargaining agreement shall prevail. A provision of a  
9 collective bargaining agreement that conflicts with the terms of a  
10 statute is invalid and unenforceable.

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

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

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

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

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

37 (b) If a collective bargaining agreement between an employer and an  
38 exclusive bargaining representative is concluded after the termination



1 date of the previous collective bargaining agreement between the  
2 employer and the exclusive bargaining representative representing  
3 different bargaining units, the effective date of the collective  
4 bargaining agreement may be the day after the termination date of  
5 whichever previous collective bargaining agreement covering one or more  
6 of the units terminated first, and all benefits included in the new  
7 collective bargaining agreement, including wage or salary increases,  
8 may accrue beginning with that effective date.

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

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

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

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

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

20 NEW SECTION. **Sec. 306.** RIGHTS OF EMPLOYEES. Except as may be  
21 specifically limited by this chapter, employees shall have the right to  
22 self-organization, to form, join, or assist employee organizations, and  
23 to bargain collectively through representatives of their own choosing  
24 for the purpose of collective bargaining free from interference,  
25 restraint, or coercion. Employees shall also have the right to refrain  
26 from any or all such activities except to the extent that they may be  
27 required to pay a fee to an exclusive bargaining representative under  
28 a union security provision authorized by this chapter.

29 NEW SECTION. **Sec. 307.** RIGHT TO STRIKE NOT GRANTED. Nothing  
30 contained in chapter . . . , Laws of 1998 (this act) permits or grants  
31 to any employee the right to strike or refuse to perform his or her  
32 official duties.

33 NEW SECTION. **Sec. 308.** BARGAINING UNITS. (1) A bargaining unit  
34 of employees covered by this chapter existing on the effective date of  
35 this section shall be considered an appropriate unit, unless the unit

1 does not meet the requirements of (a) and (b) of this subsection. The  
2 commission, after hearing upon reasonable notice to all interested  
3 parties, shall decide in each application for certification as an  
4 exclusive bargaining representative, the unit appropriate for  
5 certification. In determining the new units or modifications of  
6 existing units, the commission shall consider: The duties, skills, and  
7 working conditions of the employees; the history of collective  
8 bargaining; the extent of organization among the employees; the desires  
9 of the employees; and the avoidance of excessive fragmentation.  
10 However, a unit is not appropriate if it includes:

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

15 (b) More than one institution of higher education. For the  
16 purposes of this section, any branch or regional campus of an  
17 institution of higher education is part of that institution of higher  
18 education.

19 (2) The exclusive bargaining representatives certified to represent  
20 the bargaining units existing on the effective date of this section  
21 shall continue as the exclusive bargaining representative without the  
22 necessity of an election.

23 (3) If a single employee organization is the exclusive bargaining  
24 representative for two or more units, upon petition by the employee  
25 organization, the units may be consolidated into a single larger unit  
26 if the commission considers the larger unit to be appropriate. If  
27 consolidation is appropriate, the commission shall certify the employee  
28 organization as the exclusive bargaining representative of the new  
29 unit.

30 NEW SECTION. **Sec. 309.** REPRESENTATION. (1) The commission shall  
31 determine all questions pertaining to representation and shall  
32 administer all elections and be responsible for the processing and  
33 adjudication of all disputes that arise as a consequence of elections.  
34 The commission shall adopt rules that provide for at least the  
35 following:

36 (a) Secret balloting;

37 (b) Consulting with employee organizations;

1 (c) Access to lists of employees, job classification, work  
2 locations, and home mailing addresses;

3 (d) Absentee voting;

4 (e) Procedures for the greatest possible participation in voting;

5 (f) Campaigning on the employer's property during working hours;  
6 and

7 (g) Election observers.

8 (2)(a) If an employee organization has been certified as the  
9 exclusive bargaining representative of the employees of a bargaining  
10 unit, the employee organization may act for and negotiate master  
11 collective bargaining agreements that will include within the coverage  
12 of the agreement all employees in the bargaining unit as provided in  
13 section 302(2)(a) of this act. However, if a master collective  
14 bargaining agreement is in effect for the exclusive bargaining  
15 representative, it shall apply to the bargaining unit for which the  
16 certification has been issued. Nothing in this section requires the  
17 parties to engage in new negotiations during the term of that  
18 agreement.

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

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

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

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

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

34 NEW SECTION. **Sec. 310.** IMPASSE. Should the parties fail to reach  
35 agreement in negotiating a collective bargaining agreement, either  
36 party may request of the commission the assistance of an impartial  
37 third party to mediate the negotiations.

1 If a collective bargaining agreement previously negotiated under  
2 this chapter should expire while negotiations are underway, the terms  
3 and conditions specified in the collective bargaining agreement shall  
4 remain in effect for a period not to exceed one year from the  
5 expiration date stated in the agreement. Thereafter, the employer may  
6 unilaterally implement according to law.

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

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

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

23 Nothing in this section shall be construed to prohibit an employer  
24 and an exclusive bargaining representative from agreeing to substitute,  
25 at their own expense, their own procedure for resolving impasses in  
26 collective bargaining for that provided in this section or from  
27 agreeing to utilize for the purposes of this section any other  
28 governmental or other agency or person in lieu of the commission.

29 Costs for mediator services shall be borne by the commission, and  
30 costs for fact-finding shall be borne equally by the negotiating  
31 parties.

32 NEW SECTION. **Sec. 311.** UNION SECURITY. (1) A collective  
33 bargaining agreement may contain a union security provision requiring  
34 as a condition of employment the payment, no later than the thirtieth  
35 day following the beginning of employment or the effective date of this  
36 section, whichever is later, of an agency shop fee to the employee  
37 organization that is the exclusive bargaining representative for the  
38 bargaining unit in which the employee is employed. The amount of the

1 fee shall be equal to the amount required to become a member in good  
2 standing of the employee organization. Each employee organization  
3 shall establish a procedure by which any employee so requesting may pay  
4 a representation fee no greater than the part of the membership fee  
5 that represents a pro rata share of expenditures for purposes germane  
6 to the collective bargaining process, to contract administration, or to  
7 pursuing matters affecting wages, hours, and other conditions of  
8 employment.

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

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

32 (4) Employee organizations that before the effective date of this  
33 section were entitled to the benefits of this section shall continue to  
34 be entitled to these benefits.

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

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

1 (b) Control, dominate, or interfere with an exclusive bargaining  
2 representative;

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

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

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

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

8 (i) Employees in the exercise of the rights guaranteed in this  
9 chapter. However, this subsection (2)(a)(i) shall not impair the right  
10 of an employee organization to prescribe its own rules with respect to  
11 the acquisition or retention of membership in the employee  
12 organization; or

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

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

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

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

19 NEW SECTION. **Sec. 313.** UNFAIR LABOR PRACTICE PROCEDURES. (1)  
20 The commission shall prevent any unfair labor practice and issue  
21 appropriate remedial orders. A complaint shall not be processed for  
22 any unfair labor practice occurring more than six months before the  
23 filing of the complaint with the commission. The commission's  
24 authority shall not be affected or impaired by any means of adjustment,  
25 mediation, or conciliation in labor disputes that have been or may  
26 hereafter be established by law.

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

1 (3) For the purpose of all hearings and investigations, that, in  
2 the opinion of the commission, are necessary and proper for the  
3 exercise of the powers vested in it by this section, the commission  
4 shall at all reasonable times have access to, for the purposes of  
5 examination, and the right to examine, copy, or photograph any  
6 evidence, including payrolls or lists of employees, of any person being  
7 investigated or proceeded against that relates to any matter under  
8 investigation or in question. The commission may issue subpoenas  
9 requiring the attendance and testimony of witnesses and the production  
10 of any evidence that relates to any matter under investigation or in  
11 question before the commission. The commission, or any agent or agency  
12 designated by the commission for such purposes, may administer oaths  
13 and affirmations, examine witnesses, and receive evidence.

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

35 NEW SECTION. **Sec. 314.** ENFORCEMENT OF COLLECTIVE BARGAINING  
36 AGREEMENTS. (1) For the purposes of implementing arbitration under  
37 grievance procedures required by section 304 of this act, the parties  
38 to a collective bargaining agreement may agree on one or more permanent

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

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

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

30 (4) If a party to a collective bargaining agreement negotiated  
31 under this chapter refuses to submit a grievance for arbitration, the  
32 other party to the collective bargaining agreement may invoke the  
33 jurisdiction of the superior court of Thurston county or of any county  
34 in which the labor dispute exists and such court shall have  
35 jurisdiction to issue an order compelling arbitration. Disputes  
36 concerning compliance with grievance procedures shall be reserved for  
37 determination by the arbitrator. Arbitration shall be ordered if the  
38 grievance states a claim that on its face is covered by the collective



1 bargaining agreement. Doubts as to the coverage of the arbitration  
2 clause shall be resolved in favor of arbitration.

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

10 NEW SECTION. **Sec. 315.** OPTION BY INSTITUTIONS OF HIGHER  
11 EDUCATION. At any time after July 1, 1993, an institution of higher  
12 education and the exclusive bargaining representative of a bargaining  
13 unit of employees classified under chapter 41.06 RCW may exercise their  
14 option to have their relationship and corresponding obligations  
15 governed entirely by the provisions of chapter 41.56 RCW, by filing  
16 notice of the parties' intent to be so governed, subject to the mutual  
17 adoption of a collective bargaining agreement recognizing the notice of  
18 intent. The parties shall provide the notice to the director and the  
19 public employment relations commission. On the first day of the month  
20 following the month during which the institution of higher education  
21 and the exclusive bargaining representative provide notice to the  
22 director and the commission that they have executed an initial  
23 collective bargaining agreement recognizing the notice of intent, this  
24 chapter shall cease to apply to all employees in the bargaining unit  
25 covered by the agreement.

26 NEW SECTION. **Sec. 316.** All powers, duties, and functions of the  
27 department of personnel pertaining to collective bargaining are  
28 transferred to the public employment relations commission except  
29 mediation of grievances and contracts, arbitration of grievances and  
30 contracts, and unfair labor practices, filed under a collective  
31 bargaining agreement existing before the effective date of this  
32 section. Any mediation, arbitration, or unfair labor practice issue  
33 filed between July 1, 2000, and July 1, 2001, under a collective  
34 bargaining agreement existing before the effective date of this  
35 section, shall be resolved by the Washington personnel resources board  
36 in accordance with the authorities, rules, and procedures that were

1 established under RCW 41.06.150(11) as it existed before the effective  
2 date of this section.

3 NEW SECTION. **Sec. 317.** All reports, documents, surveys, books,  
4 records, files, papers, or written material in the possession of the  
5 department of personnel pertaining to the powers, functions, and duties  
6 transferred in section 316 of this act shall be delivered to the  
7 custody of the public employment relations commission. All cabinets,  
8 furniture, office equipment, motor vehicles, and other tangible  
9 property employed by the department of personnel in carrying out the  
10 powers, functions, and duties transferred in section 316 of this act  
11 shall be made available to the public employment relations commission.  
12 All other assets held in connection with the powers, functions, and  
13 duties transferred in section 316 of this act shall be assigned to the  
14 public employment relations commission.

15 Any appropriations made to the department of personnel for carrying  
16 out the powers, functions, and duties transferred in section 316 of  
17 this act shall be deleted at the time that such powers, functions, and  
18 duties are transferred to the public employment relations commission.  
19 All funding required to perform these transferred powers, functions,  
20 and duties is to be provided by the public employment relations  
21 commission once the transfers occur.

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. 318.** After the effective date of this section,  
29 the director of personnel and the executive director of the public  
30 employment relations commission shall meet and agree upon a schedule  
31 for the transfer of department of personnel labor relation employees  
32 and property to the commission. Whenever a question arises as to the  
33 transfer of any personnel, funds, books, documents, records, papers,  
34 files, equipment, or other tangible property used or held in the  
35 exercise of the powers and the performance of the duties and functions  
36 transferred, the director of financial management shall make a

1 determination as to the proper allocation and certify the same to the  
2 state agencies concerned.

3 NEW SECTION. **Sec. 319.** All business pending before the department  
4 of personnel pertaining to the powers, functions, and duties  
5 transferred in section 316 of this act shall be continued and acted  
6 upon by the public employment relations commission. All existing  
7 contracts and obligations of the department of personnel shall remain  
8 in full force and shall be performed by the public employment relations  
9 commission.

10 NEW SECTION. **Sec. 320.** The transfer of the powers, duties,  
11 functions, and personnel of the department of personnel shall not  
12 affect the validity of any act performed before the effective date of  
13 this section.

14 NEW SECTION. **Sec. 321.** If apportionments of budgeted funds are  
15 required because of the transfers directed by sections 317 through 320  
16 of this act, the director of financial management shall certify the  
17 apportionments to the agencies affected, the state auditor, and the  
18 state treasurer. Each of these shall make the appropriate transfer and  
19 adjustments in funds and appropriation accounts and equipment records  
20 in accordance with the certification.

21 NEW SECTION. **Sec. 322.** DEFINITIONS. Unless the context clearly  
22 requires otherwise, the definitions in this section apply throughout  
23 this chapter.

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

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

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

34 (4) "Confidential employee" means an employee who, in the regular  
35 course of his or her duties, assists in a confidential capacity persons

1 who formulate, determine, and effectuate management policies with  
2 regard to labor relations or who, in the regular course of his or her  
3 duties, has authorized access to information relating to the  
4 effectuation or review of the employer's collective bargaining  
5 policies, or who assists or aids a manager.

6 (5) "Director" means the director of the public employment  
7 relations commission.

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

11 (a) Employees covered for collective bargaining by chapter 41.56  
12 RCW;

13 (b) Confidential employees;

14 (c) Members of the Washington management service;

15 (d) Internal auditors in any agency; or

16 (e) Any employee of the commission, the office of financial  
17 management, the department of personnel, or the attorney general's  
18 office.

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

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

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

26 (10) "Institutions of higher education" means the University of  
27 Washington, Washington State University, Central Washington University,  
28 Eastern Washington University, Western Washington University, The  
29 Evergreen State College, and the various state community colleges.

30 (11) "Labor dispute" means any controversy concerning terms,  
31 tenure, or conditions of employment, or concerning the association or  
32 representation of persons in negotiating, fixing, maintaining,  
33 changing, or seeking to arrange terms or conditions of employment with  
34 respect to the subjects of bargaining provided in this chapter,  
35 regardless of whether the disputants stand in the proximate relation of  
36 employer and employee.

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

38 (13) "Supervisor" means an employee who has authority, in the  
39 interest of the employer, to hire, transfer, suspend, lay off, recall,

1 promote, discharge, direct, reward, or discipline employees, or to  
2 adjust employee grievances, or effectively to recommend such action, if  
3 the exercise of the authority is not of a merely routine nature but  
4 requires the consistent exercise of individual judgment. However, no  
5 employee who is a member of the Washington management service may be  
6 included in a collective bargaining unit established under this  
7 section.

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

10 **PART IV**  
11 **MISCELLANEOUS**

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

- 14 (1) RCW 41.06.163 and 1993 c 281 s 30, 1987 c 185 s 9, 1986 c 158  
15 s 6, 1979 c 151 s 59, & 1977 ex.s. c 152 s 3;  
16 (2) RCW 41.06.165 and 1977 ex.s. c 152 s 4; and  
17 (3) RCW 28B.16.015 and 1993 c 379 s 310.

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

- 20 (1) RCW 41.06.140 and 1961 c 1 s 14;  
21 (2) RCW 41.50.804 and 1998 c . . . s 228 (section 228 of this act),  
22 1993 c 281 s 40, & 1975-'76 2nd ex.s. c 105 s 17; and  
23 (3) RCW 41.06.520 and 1993 c 281 s 11.

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

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

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

- 30 (1) RCW 41.64.010 and 1981 c 311 s 1;  
31 (2) RCW 41.64.020 and 1981 c 311 s 3;  
32 (3) RCW 41.64.030 and 1984 c 287 c 73, 1984 c 34 s 4, & 1981 c 311  
33 s 4;  
34 (4) RCW 41.64.040 and 1981 c 311 s 5;

- 1 (5) RCW 41.64.050 and 1981 c 311 s 6;
- 2 (6) RCW 41.64.060 and 1981 c 311 s 7;
- 3 (7) RCW 41.64.070 and 1981 c 311 s 8;
- 4 (8) RCW 41.64.080 and 1981 c 311 s 9;
- 5 (9) RCW 41.64.090 and 1993 c 281 s 41 & 1981 c 311 s 10;
- 6 (10) RCW 41.64.100 and 1997 c 386 s 43 & 1981 c 311 s 11;
- 7 (11) RCW 41.64.110 and 1985 c 461 s 7 & 1981 c 311 s 12;
- 8 (12) RCW 41.64.120 and 1981 c 311 s 13;
- 9 (13) RCW 41.64.130 and 1981 c 311 s 14;
- 10 (14) RCW 41.64.140 and 1988 c 202 s 42 & 1981 c 311 s 15; and
- 11 (15) RCW 41.64.910 and 1981 c 311 s 24.

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

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

16 NEW SECTION. **Sec. 407.** The governor shall take such action as is  
17 necessary to ensure that sections 301 through 314 of this act are  
18 implemented on their effective dates.

19 NEW SECTION. **Sec. 408.** Until July 1, 2002, the public employment  
20 relations commission is authorized to contract with the department of  
21 personnel for labor relations staffing necessary to carry out its  
22 functions.

23 NEW SECTION. **Sec. 409.** If any provision of this act or its  
24 application to any person or circumstance is held invalid, the  
25 remainder of the act or the application of the provision to other  
26 persons or circumstances is not affected.

27 NEW SECTION. **Sec. 410.** (1) Sections 203, 204, 213 through 223,  
28 227, 229 through 232, 234, 242, 244, 248, 250, 301 through 307, 309  
29 through 314, 316, 317, 319, 320, and 402 of this act take effect July  
30 1, 2000.

31 (2) Section 224 of this act takes effect March 15, 2001.

32 (3) Sections 208, 235 through 239, and 403 of this act take effect  
33 July 1, 2001.

1           (4) Sections 225, 226, and 404 of this act take effect July 1,  
2 2002.

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