
HOUSE BILL 2619

State of Washington

56th Legislature

2000 Regular Session

By Representatives McMorris, Lisk, D. Sommers, B. Chandler, G. Chandler, Barlean, Schindler, Mielke, Dunn, Sump, Koster, Bush, Crouse, Mitchell, Boldt, Mulliken, Radcliff, Benson, Delvin, Wensman, Buck, Carlson, Pflug, Thomas, D. Schmidt, Parlette, Mastin, Ballasiotes, Esser and Huff

Read first time . Referred to Committee on .

1 AN ACT Relating to purchasing services in state government without
2 permitting collective bargaining over wages or wage-related matters;
3 amending RCW 41.06.150, 39.29.006, 47.46.040, 72.09.100, 72.10.030, and
4 82.01.070; adding a new section to chapter 41.06 RCW; creating a new
5 section; and repealing RCW 41.06.380 and 41.06.382.

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

7 **Sec. 1.** RCW 41.06.150 and 1999 c 297 s 3 are each amended to read
8 as follows:

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

13 (1) The reduction, dismissal, suspension, or demotion of an
14 employee;

15 (2) Certification of names for vacancies, including departmental
16 promotions, with the number of names equal to six more names than there
17 are vacancies to be filled, such names representing applicants rated
18 highest on eligibility lists: PROVIDED, That when other applicants

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

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

5 (4) Appointments;

6 (5) Training and career development;

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

11 (7) Transfers;

12 (8) Sick leaves and vacations;

13 (9) Hours of work;

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

16 (11) Collective bargaining, including:

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

23 (~~(12)~~) (b) Certification and decertification of exclusive
24 bargaining representatives(~~(:—PROVIDED, That)~~) subject to the
25 following:

26 (i) After certification of an exclusive bargaining representative
27 and upon the representative's request, the director shall hold an
28 election among employees in a bargaining unit to determine by a
29 majority whether to require as a condition of employment membership in
30 the certified exclusive bargaining representative on or after the
31 thirtieth day following the beginning of employment or the date of such
32 election, whichever is the later, and the failure of an employee to
33 comply with such a condition of employment constitutes cause for
34 dismissal(~~(:—PROVIDED FURTHER, That)~~);

35 (ii) No more often than once in each twelve-month period after
36 expiration of twelve months following the date of the original election
37 in a bargaining unit and upon petition of thirty percent of the members
38 of a bargaining unit the director shall hold an election to determine

1 whether a majority wish to rescind such condition of employment(~~(:~~
2 ~~PROVIDED FURTHER, That))~~);

3 (iii) For purposes of this (~~clause~~) subsection (11)(b),
4 membership in the certified exclusive bargaining representative is
5 satisfied by the payment of monthly or other periodic dues and does not
6 require payment of initiation, reinstatement, or any other fees or
7 fines and includes full and complete membership rights(~~(:~~
8 ~~FURTHER, That in order))~~); and

9 (iv) To safeguard the right of nonassociation of public employees,
10 based on bona fide religious tenets or teachings of a church or
11 religious body of which such public employee is a member, such public
12 employee shall pay to the union, for purposes within the program of the
13 union as designated by such employee that would be in harmony with his
14 or her individual conscience, an amount of money equivalent to regular
15 union dues minus any included monthly premiums for union-sponsored
16 insurance programs, and such employee shall not be a member of the
17 union but is entitled to all the representation rights of a union
18 member;

19 (~~(13)~~) (c)(i) Agreements between agencies and certified exclusive
20 bargaining representatives providing for grievance procedures and
21 collective negotiations on all personnel matters over which the
22 appointing authority of the appropriate bargaining unit of such agency
23 may lawfully exercise discretion, except that collective negotiation is
24 not permitted over an agency's decision to purchase services by
25 contract; and

26 (~~(14)~~) (ii) Written agreements may contain provisions for payroll
27 deductions of employee organization dues upon authorization by the
28 employee member and for the cancellation of such payroll deduction by
29 the filing of a proper prior notice by the employee with the appointing
30 authority and the employee organization(~~(:~~
31 ~~PROVIDED, That))~~);

32 (d) Nothing contained (~~herein~~) in this subsection permits or
33 grants to any employee the right to strike or refuse to perform his or
34 her official duties;

35 (~~(15)~~) (12) Adoption and revision of a comprehensive
36 classification plan for all positions in the classified service, based
37 on investigation and analysis of the duties and responsibilities of
38 each such position.

39 (a) The board shall not adopt job classification revisions or class
studies unless implementation of the proposed revision or study will

1 result in net cost savings, increased efficiencies, or improved
2 management of personnel or services, and the proposed revision or study
3 has been approved by the director of financial management in accordance
4 with chapter 43.88 RCW.

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

7 (i) The board may approve the implementation of salary increases
8 resulting from adjustments to the classification plan during the 1995-
9 97 fiscal biennium only if:

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

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

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

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

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

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

34 (~~(16)~~) (13) Allocation and reallocation of positions within the
35 classification plan;

36 (~~(17)~~) (14) Adoption and revision of a state salary schedule to
37 reflect the prevailing rates in Washington state private industries and
38 other governmental units but the rates in the salary schedules or plans
39 shall be increased if necessary to attain comparable worth under an

1 implementation plan under RCW 41.06.155 and that, for institutions of
2 higher education and related boards, shall be competitive for positions
3 of a similar nature in the state or the locality in which an
4 institution of higher education or related board is located, such
5 adoption and revision subject to approval by the director of financial
6 management in accordance with the provisions of chapter 43.88 RCW;

7 (~~(18)~~) (15) Increment increases within the series of steps for
8 each pay grade based on length of service for all employees whose
9 standards of performance are such as to permit them to retain job
10 status in the classified service;

11 (~~(19)~~) (16) Optional lump sum relocation compensation approved by
12 the agency director, whenever it is reasonably necessary that a person
13 make a domiciliary move in accepting a transfer or other employment
14 with the state. An agency must provide lump sum compensation within
15 existing resources. If the person receiving the relocation payment
16 terminates or causes termination with the state, for reasons other than
17 layoff, disability separation, or other good cause as determined by an
18 agency director, within one year of the date of the employment, the
19 state is entitled to reimbursement of the lump sum compensation from
20 the person;

21 (~~(20)~~) (17) Providing for veteran's preference as required by
22 existing statutes, with recognition of preference in regard to layoffs
23 and 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 board, the veteran's service in the military
27 not to exceed five years. For the purposes of this section, "veteran"
28 means any person who has one or more years of active military service
29 in any branch of the armed forces of the United States or who has less
30 than one year's service and is discharged with a disability incurred in
31 the line of duty or is discharged at the convenience of the government
32 and who, upon termination of such service has received an honorable
33 discharge, a discharge for physical reasons with an honorable record,
34 or a release from active military service with evidence of service
35 other than that for which an undesirable, bad conduct, or dishonorable
36 discharge shall be given: PROVIDED, HOWEVER, That 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: PROVIDED FURTHER,
39 That for the purposes of this section "veteran" does not include any

1 person who has voluntarily retired with twenty or more years of active
2 military service and whose military retirement pay is in excess of five
3 hundred dollars per month;

4 ~~((+21+))~~ (18) Permitting agency heads to delegate the authority to
5 appoint, reduce, dismiss, suspend, or demote employees within their
6 agencies if such agency heads do not have specific statutory authority
7 to so delegate: PROVIDED, That the board may not authorize such
8 delegation to any position lower than the head of a major subdivision
9 of the agency;

10 ~~((+22+))~~ (19) Assuring persons who are or have been employed in
11 classified positions before July 1, 1993, will be eligible for
12 employment, reemployment, transfer, and promotion in respect to
13 classified positions covered by this chapter;

14 ~~((+23+))~~ (20) Affirmative action in appointment, promotion,
15 transfer, recruitment, training, and career development; development
16 and implementation of affirmative action goals and timetables; and
17 monitoring of progress against those goals and timetables.

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

23 NEW SECTION. Sec. 2. A new section is added to chapter 41.06 RCW
24 to read as follows:

25 (1) This chapter does not prohibit any agency, as defined in RCW
26 41.06.020, or institution of higher education, as defined in RCW
27 28B.10.016, or related board, from purchasing services, including
28 services that have been customarily and historically provided by
29 employees in the classified service under this chapter, by contracting
30 with individuals, nonprofit organizations, businesses, or other
31 entities.

32 (2)(a) At least ninety days before the date an agency or
33 institution of higher education requests bids for a contract to
34 purchase services being provided by classified employees, the agency or
35 institution must notify an exclusive bargaining representative who
36 represents any employee whose employment status will be directly
37 affected by the contract. The exclusive bargaining representative
38 shall have sixty days from the date of notification to offer

1 alternatives to the proposed contract and such alternatives must be
2 considered by the agency or institution of higher education in making
3 the final decision to contract for services.

4 (b) This subsection does not apply to the purchase of services or
5 to any contracting for services that was authorized by law before the
6 effective date of this section.

7 **Sec. 3.** RCW 39.29.006 and 1998 c 101 s 2 are each amended to read
8 as follows:

9 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

25 **Sec. 4.** RCW 47.46.040 and 1995 2nd sp.s. c 19 s 3 are each amended
26 to read as follows:

27 (1) All projects designed, constructed, and operated under this
28 authority must comply with all applicable rules and statutes in
29 existence at the time the agreement is executed, including but not
30 limited to the following provisions: Chapter 39.12 RCW, this title,
31 ((RCW 41.06.380)) section 2 of this act, chapter 47.64 RCW, RCW
32 49.60.180, and 49 C.F.R. Part 21.

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

36 (3) Agreements shall provide for private ownership of the projects
37 during the construction period. After completion and final acceptance
38 of each project or discrete segment thereof, the agreement shall

1 provide for state ownership of the transportation systems and
2 facilities and lease to the private entity unless the state elects to
3 provide for ownership of the facility by the private entity during the
4 term of the agreement.

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

8 (4) The department may exercise any power possessed by it to
9 facilitate the development, construction, financing operation, and
10 maintenance of transportation projects under this chapter. Agreements
11 for maintenance services entered into under this section shall provide
12 for full reimbursement for services rendered by the department or other
13 state agencies. Agreements for police services for projects, involving
14 state highway routes, developed under agreements shall be entered into
15 with the Washington state patrol. The agreement for police services
16 shall provide that the state patrol will be reimbursed for costs on a
17 comparable basis with the costs incurred for comparable service on
18 other state highway routes. The department may provide services for
19 which it is reimbursed, including but not limited to preliminary
20 planning, environmental certification, and preliminary design of the
21 demonstration projects.

22 (5) The plans and specifications for each project constructed under
23 this section shall comply with the department's standards for state
24 projects. A facility constructed by and leased to a private entity is
25 deemed to be a part of the state highway system for purposes of
26 identification, maintenance, and enforcement of traffic laws and for
27 the purposes of applicable sections of this title. Upon reversion of
28 the facility to the state, the project must meet all applicable state
29 standards. Agreements shall address responsibility for reconstruction
30 or renovations that are required in order for a facility to meet all
31 applicable state standards upon reversion of the facility to the state.

32 (6) For the purpose of facilitating these projects and to assist
33 the private entity in the financing, development, construction, and
34 operation of the transportation systems and facilities, the agreements
35 may include provisions for the department to exercise its authority,
36 including the lease of facilities, rights of way, and airspace,
37 exercise of the power of eminent domain, granting of development rights
38 and opportunities, granting of necessary easements and rights of
39 access, issuance of permits and other authorizations, protection from

1 competition, remedies in the event of default of either of the parties,
2 granting of contractual and real property rights, liability during
3 construction and the term of the lease, authority to negotiate
4 acquisition of rights of way in excess of appraised value, and any
5 other provision deemed necessary by the secretary.

6 (7) The agreements entered into under this section may include
7 provisions authorizing the state to grant necessary easements and lease
8 to a private entity existing rights of way or rights of way
9 subsequently acquired with public or private financing. The agreements
10 may also include provisions to lease to the entity airspace above or
11 below the right of way associated or to be associated with the private
12 entity's transportation facility. In consideration for the reversion
13 rights in these privately constructed facilities, the department may
14 negotiate a charge for the lease of airspace rights during the term of
15 the agreement for a period not to exceed fifty years. If, after the
16 expiration of this period, the department continues to lease these
17 airspace rights to the private entity, it shall do so only at fair
18 market value. The agreement may also provide the private entity the
19 right of first refusal to undertake projects utilizing airspace owned
20 by the state in the vicinity of the public-private project.

21 (8) Agreements under this section may include any contractual
22 provision that is necessary to protect the project revenues required to
23 repay the costs incurred to study, plan, design, finance, acquire,
24 build, install, operate, enforce laws, and maintain toll highways,
25 bridges, and tunnels and which will not unreasonably inhibit or
26 prohibit the development of additional public transportation systems
27 and facilities. Agreements under this section must secure and maintain
28 liability insurance coverage in amounts appropriate to protect the
29 project's viability and may address state indemnification of the
30 private entity for design and construction liability where the state
31 has approved relevant design and construction plans.

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

35 (10)(a) In carrying out the public involvement process required in
36 subsection (9) of this section, the private entity shall proactively
37 seek public participation through a process appropriate to the
38 characteristics of the project that assesses and demonstrates public
39 support among: Users of the project, residents of communities in the

1 vicinity of the project, and residents of communities impacted by the
2 project.

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

13 (c) If the affected project area has not been defined, the private
14 entity shall define the affected project area by conducting, at a
15 minimum: (i) A comparison of the estimated percentage of residents of
16 communities in the vicinity of the project and in other communities
17 impacted by the project who could be subject to tolls or user fees and
18 the estimated percentage of other users and transient traffic that
19 could be subject to tolls or user fees; (ii) an analysis of the
20 anticipated traffic diversion patterns; (iii) an analysis of the
21 potential economic impact resulting from proposed toll rates or user
22 fee rates imposed on residents, commercial traffic, and commercial
23 entities in communities in the vicinity of and impacted by the project;
24 (iv) an analysis of the economic impact of tolls or user fees on the
25 price of goods and services generally; and (v) an analysis of the
26 relationship of the project to state transportation needs and benefits.

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

29 (d) In seeking public participation, the private entity shall
30 establish a local involvement committee or committees comprised of
31 residents of the affected project area, individuals who represent
32 cities and counties in the affected project area, organizations formed
33 to support or oppose the project, if such organizations exist, and
34 users of the project. The private entity shall, at a minimum,
35 establish a committee as required under the specifications of RCW
36 47.46.030(~~((5)(b) — (ii) — and — (iii))~~) (6)(b) (ii) and (iii) and
37 appointments to such committee shall be made no later than thirty days
38 after the project area is defined.

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

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

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

13 **Sec. 5.** RCW 72.09.100 and 1995 1st sp.s. c 19 s 33 are each
14 amended to read as follows:

15 It is the intent of the legislature to vest in the department the
16 power to provide for a comprehensive inmate work program and to remove
17 statutory and other restrictions which have limited work programs in
18 the past. For purposes of establishing such a comprehensive program,
19 the legislature recommends that the department consider adopting any or
20 all, or any variation of, the following classes of work programs:

21 (1) CLASS I: FREE VENTURE INDUSTRIES. The employer model
22 industries in this class shall be operated and managed in total or in
23 part by any profit or nonprofit organization pursuant to an agreement
24 between the organization and the department. The organization shall
25 produce goods or services for sale to both the public and private
26 sector.

27 The customer model industries in this class shall be operated and
28 managed by the department to provide Washington state manufacturers or
29 businesses with products or services currently produced or provided by
30 out-of-state or foreign suppliers. The correctional industries board
31 of directors shall review these proposed industries before the
32 department contracts to provide such products or services. The review
33 shall include an analysis of the potential impact of the proposed
34 products and services on the Washington state business community and
35 labor market.

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

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

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

11 (2) CLASS II: TAX REDUCTION INDUSTRIES. Industries in this class
12 shall be state-owned and operated enterprises designed to reduce the
13 costs for goods and services for tax-supported agencies and for
14 nonprofit organizations. The industries selected for development
15 within this class shall, as much as possible, match the available pool
16 of inmate work skills and aptitudes with the work opportunities in the
17 free community. The industries shall be closely patterned after
18 private sector industries but with the objective of reducing public
19 support costs rather than making a profit. The products and services
20 of this industry, including purchased products and services necessary
21 for a complete product line, may be sold to public agencies, to
22 nonprofit organizations, and to private contractors when the goods
23 purchased will be ultimately used by a public agency or a nonprofit
24 organization. Clothing manufactured by an industry in this class may
25 be donated to nonprofit organizations that provide clothing free of
26 charge to low-income persons. Correctional industries products and
27 services shall be reviewed by the correctional industries board of
28 directors before offering such products and services for sale to
29 private contractors. The board of directors shall conduct a yearly
30 marketing review of the products and services offered under this
31 subsection. Such review shall include an analysis of the potential
32 impact of the proposed products and services on the Washington state
33 business community. To avoid waste or spoilage and consequent loss to
34 the state, when there is no public sector market for such goods,
35 byproducts and surpluses of timber, agricultural, and animal husbandry
36 enterprises may be sold to private persons, at private sale. Surplus
37 byproducts and surpluses of timber, agricultural and animal husbandry
38 enterprises that cannot be sold to public agencies or to private
39 persons may be donated to nonprofit organizations. All sales of

1 surplus products shall be carried out in accordance with rules
2 prescribed by the secretary.

3 Security and custody services shall be provided without charge by
4 the department of corrections.

5 Inmates working in this class of industries shall do so at their
6 own choice and shall be paid for their work on a gratuity scale which
7 shall not exceed the wage paid for work of a similar nature in the
8 locality in which the industry is located and which is approved by the
9 director of correctional industries.

10 Subject to approval of the correctional industries board,
11 provisions of ((RCW 41.06.380 prohibiting contracting out work
12 performed by classified employees)) section 2(2)(a) of this act shall
13 not apply to contracts with Washington state businesses entered into by
14 the department of corrections through class II industries.

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

18 (a) Whenever possible, to provide basic work training and
19 experience so that the inmate will be able to qualify for better work
20 both within correctional industries and the free community. It is not
21 intended that an inmate's work within this class of industries should
22 be his or her final and total work experience as an inmate.

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

25 (c) Whenever possible, to offset tax and other public support
26 costs.

27 Supervising, management, and custody staff shall be employees of
28 the department.

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

31 Except for inmates who work in work training programs, inmates in
32 this class shall be paid for their work in accordance with an inmate
33 gratuity scale. The scale shall be adopted by the secretary of
34 corrections.

35 (4) CLASS IV: COMMUNITY WORK INDUSTRIES. Industries in this class
36 shall be operated by the department of corrections. They shall be
37 designed and managed to provide services in the inmate's resident
38 community at a reduced cost. The services shall be provided to public

1 agencies, to persons who are poor or infirm, or to nonprofit
2 organizations.

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

7 The department of corrections shall reimburse participating units
8 of local government for liability and workers compensation insurance
9 costs.

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

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

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

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

24 **Sec. 6.** RCW 72.10.030 and 1989 c 157 s 4 are each amended to read
25 as follows:

26 (1) Notwithstanding any other provisions of law, the secretary may
27 enter into contracts with health care practitioners, health care
28 facilities, and other entities or agents as may be necessary to provide
29 basic medical care to inmates. (~~The contracts shall not cause the~~
30 ~~termination of classified employees of the department rendering the~~
31 ~~services at the time the contract is executed.))~~

32 (2) In contracting for services, the secretary is authorized to
33 provide for indemnification of health care practitioners who cannot
34 obtain professional liability insurance through reasonable effort, from
35 liability on any action, claim, or proceeding instituted against them
36 arising out of the good faith performance or failure of performance of
37 services on behalf of the department. The contracts may provide that
38 for the purposes of chapter 4.92 RCW only, those health care

1 practitioners with whom the department has contracted shall be
2 considered state employees.

3 **Sec. 7.** RCW 82.01.070 and 1997 c 156 s 1 are each amended to read
4 as follows:

5 The director shall have charge and general supervision of the
6 department of revenue. The director shall appoint an assistant
7 director for administration, hereinafter in chapter 26, Laws of 1967
8 ex. sess. referred to as the assistant director, and subject to the
9 provisions of chapter 41.06 RCW may appoint and employ such clerical,
10 technical and other personnel as may be necessary to carry out the
11 powers and duties of the department. The director may also enter into
12 personal service contracts with ~~((out-of-state))~~ individuals or
13 business entities for the performance of auditing services ~~((outside
14 the state of Washington when normal efforts to recruit classified
15 employees are unsuccessful))~~. The director may agree to pay to the
16 department's employees or contractors who reside out of state such
17 amounts in addition to their ordinary rate of compensation as are
18 necessary to defray the extra costs of facilities, living, and other
19 costs reasonably related to the out-of-state services, subject to
20 legislative appropriation for those purposes. The special allowances
21 shall be in such amounts or at such rates as are approved by the office
22 of financial management. This section does not apply to audit
23 functions performed in states contiguous to the state of Washington.

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

26 (1) RCW 41.06.380 (Purchasing services by contract not prohibited--
27 Limitations) and 1979 ex.s. c 46 s 2; and

28 (2) RCW 41.06.382 (Purchasing services by contract not prohibited--
29 Limitations) and 1979 ex.s. c 46 s 1.

30 NEW SECTION. **Sec. 9.** Provisions of a collective bargaining
31 agreement adopted under chapter 41.06 RCW that are in effect on the
32 effective date of this act and that conflict with section 1 or 2 of
33 this act shall continue in effect until contract expiration, unless a
34 superseding agreement resolving the conflict is executed by the parties

1 before expiration; after expiration, any new agreement executed between
2 the parties must be consistent with sections 1 and 2 of this act.

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