
HOUSE BILL 3165

State of Washington 56th Legislature 2000 1 Special Session

By Representative Sullivan

Read first time 03/21/2000. Referred to Committee on State Government.

1 AN ACT Relating to personnel; amending RCW 41.06.030, 41.06.150,
2 41.06.150, 41.06.022, 41.06.070, 41.06.110, 41.06.160, 41.06.167,
3 41.06.170, 41.06.186, 41.06.196, 41.06.270, 41.06.350, 41.06.400,
4 41.06.410, 41.06.450, 41.06.475, 41.06.490, 28B.12.060, 34.05.030,
5 34.12.020, 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, 49.74.040, and 41.56.201;
9 reenacting and amending RCW 41.04.340; adding new sections to chapter
10 41.06 RCW; adding a new chapter to Title 41 RCW; creating new sections;
11 repealing RCW 41.06.163, 41.06.165, 41.06.140, 41.50.804, 41.06.520,
12 41.06.380, 41.06.382, 41.56.023, 41.56.201, 28B.16.015, 41.64.010,
13 41.64.020, 41.64.030, 41.64.040, 41.64.050, 41.64.060, 41.64.070,
14 41.64.080, 41.64.090, 41.64.100, 41.64.110, 41.64.120, 41.64.130,
15 41.64.140, and 41.64.910; providing effective dates; and providing an
16 expiration date.

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

18 PART I

19 TITLE

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) Certification and decertification of exclusive bargaining~~
8 ~~representatives: PROVIDED, That)) Collective bargaining procedures:~~

9 (a) After certification of an exclusive bargaining representative
10 and upon the representative's request, the director shall hold an
11 election among employees in a bargaining unit to determine by a
12 majority whether to require as a condition of employment membership in
13 the certified exclusive bargaining representative on or after the
14 thirtieth day following the beginning of employment or the date of such
15 election, whichever is the later, and the failure of an employee to
16 comply with such a condition of employment constitutes cause for
17 dismissal: PROVIDED FURTHER, That no more often than once in each
18 twelve-month period after expiration of twelve months following the
19 date of the original election in a bargaining unit and upon petition of
20 thirty percent of the members of a bargaining unit the director shall
21 hold an election to determine whether a majority wish to rescind such
22 condition of employment: PROVIDED FURTHER, That for purposes of this
23 clause, membership in the certified exclusive bargaining representative
24 is satisfied by the payment of monthly or other periodic dues and does
25 not require payment of initiation, reinstatement, or any other fees or
26 fines and includes full and complete membership rights: AND PROVIDED
27 FURTHER, That in order to safeguard the right of nonassociation of
28 public employees, based on bona fide religious tenets or teachings of
29 a church or religious body of which such public employee is a member,
30 such public employee shall pay to the union, for purposes within the
31 program of the union as designated by such employee that would be in
32 harmony with his or her individual conscience, an amount of money
33 equivalent to regular union dues minus any included monthly premiums
34 for union-sponsored insurance programs, and such employee shall not be
35 a member of the union but is entitled to all the representation rights
36 of a union 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, 2002, covering employees subject to
12 sections 301 through 314 of this act, that expires after July 1, 2002,
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
16 into before July 1, 2002, may not be renewed or extended beyond July 1,
17 2003. 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 (ii) of this subsection.

17 (e)) Reclassifications, class studies, and salary adjustments ((to
18 be 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) Optional lump sum relocation compensation approved by
37 the agency director, whenever it is reasonably necessary that a person
38 make a domiciliary move in accepting a transfer or other employment
39 with the state. An agency must provide lump sum compensation within

1 existing resources. If the person receiving the relocation payment
2 terminates or causes termination with the state, for reasons other than
3 layoff, disability separation, or other good cause as determined by an
4 agency director, within one year of the date of the employment, the
5 state is entitled to reimbursement of the lump sum compensation from
6 the person;

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

29 ~~((+21+))~~ (18) Permitting agency heads to delegate the authority to
30 appoint, reduce, dismiss, suspend, or demote employees within their
31 agencies if such agency heads do not have specific statutory authority
32 to so delegate: PROVIDED, That the board may not authorize such
33 delegation to any position lower than the head of a major subdivision
34 of the agency;

35 ~~((+22+))~~ (19) Assuring persons who are or have been employed in
36 classified positions before July 1, 1993, will be eligible for
37 employment, reemployment, transfer, and promotion in respect to
38 classified positions covered by this chapter;

1 (~~(23)~~) (20) Affirmative action in appointment, promotion,
2 transfer, recruitment, training, and career development; development
3 and implementation of affirmative action goals and timetables; and
4 monitoring of progress against those goals and timetables.

5 The board shall consult with the human rights commission in the
6 development of rules pertaining to affirmative action. The department
7 of personnel shall transmit a report annually to the human rights
8 commission which states the progress each state agency has made in
9 meeting affirmative action goals and timetables.

10 **Sec. 203.** RCW 41.06.150 and 2000 c . . . s 202 (section 202 of
11 this act) are each amended to read as follows:

12 The (~~board~~) director shall adopt rules, consistent with the
13 purposes and provisions of this chapter(~~(, as now or hereafter~~
14 ~~amended,)~~) and with the best standards of personnel administration,
15 regarding the basis and 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~~
19 ~~departmental promotions, with the number of names equal to six more~~
20 ~~names than there are vacancies to be filled, such names representing~~
21 ~~applicants rated highest on eligibility lists: PROVIDED, That when~~
22 ~~other applicants have scores equal to the lowest score among the names~~
23 ~~certified, their names shall also be certified));~~

24 (~~(3))~~ (2) Examinations for all positions in the competitive and
25 noncompetitive service;

26 (~~(4))~~ (3) 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;~~

37 ~~(11) Collective bargaining procedures;~~

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

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

34 ~~(c) Written agreements may contain provisions for payroll~~
35 ~~deductions of employee organization dues upon authorization by the~~
36 ~~employee member and for the cancellation of such payroll deduction by~~
37 ~~the filing of a proper prior notice by the employee with the appointing~~
38 ~~authority and the employee organization: PROVIDED, That nothing~~

1 contained herein permits or grants to any employee the right to strike
2 or refuse to perform his or her official duties;

3 ~~(d) A collective bargaining agreement entered into under this~~
4 ~~subsection before July 1, 2002, covering employees subject to sections~~
5 ~~301 through 314 of this act, that expires after July 1, 2002, shall~~
6 ~~remain in full force during its duration, or until superseded by a~~
7 ~~collective bargaining agreement entered into by the parties under~~
8 ~~sections 301 through 314 of this act. However, an agreement entered~~
9 ~~into before July 1, 2002, may not be renewed or extended beyond July 1,~~
10 ~~2003. This subsection (11) does not apply to collective bargaining~~
11 ~~negotiations or collective bargaining agreements entered into under~~
12 ~~sections 301 through 314 of this act;~~

13 ~~(12))~~ (4) Adoption and revision of a comprehensive classification
14 plan, in accordance with rules adopted by the board under section 205
15 of this act, for all positions in the classified service, based on
16 investigation and analysis of the duties and responsibilities of each
17 such position and allocation and reallocation of positions within the
18 classification plan.

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

25 (b) Reclassifications, class studies, and salary adjustments are
26 governed by (a) of this subsection and RCW 41.06.152;

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

29 ~~(14) Adoption and revision of a state salary schedule to reflect~~
30 ~~the prevailing rates in Washington state private industries and other~~
31 ~~governmental units but the rates in the salary schedules or plans shall~~
32 ~~be increased if necessary to attain comparable worth under an~~
33 ~~implementation plan under RCW 41.06.155 and that, for institutions of~~
34 ~~higher education and related boards, shall be competitive for positions~~
35 ~~of a similar nature in the state or the locality in which an~~
36 ~~institution of higher education or related board is located, such~~
37 ~~adoption and revision subject to approval by the director of financial~~
38 ~~management in accordance with the provisions of chapter 43.88 RCW;~~

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

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

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

36 ~~((18))~~ (6) Permitting agency heads to delegate the authority to
37 appoint, reduce, dismiss, suspend, or demote employees within their
38 agencies if such agency heads do not have specific statutory authority
39 to so delegate: PROVIDED, That the ~~((board))~~ director may not

1 authorize such delegation to any position lower than the head of a
2 major subdivision of the agency;

3 ~~((19))~~ (7) Assuring persons who are or have been employed in
4 classified positions before July 1, 1993, will be eligible for
5 employment, reemployment, transfer, and promotion in respect to
6 classified positions covered by this chapter;

7 ~~((20))~~ (8) Affirmative action in appointment, promotion,
8 transfer, recruitment, training, and career development; development
9 and implementation of affirmative action goals and timetables; and
10 monitoring of progress against those goals and timetables.

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

16 Rules adopted under this section by the director shall provide for
17 local administration and management by the institutions of higher
18 education and related boards, subject to periodic audit and review by
19 the director.

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

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

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

27 (2) Training and career development;

28 (3) 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 (4) Transfers;

33 (5) Promotional preferences;

34 (6) Sick leaves and vacations;

35 (7) Hours of work;

36 (8) Layoffs when necessary and subsequent reemployment, except for
37 the financial basis for layoffs;

38 (9) The number of names to be certified for vacancies;

1 (10) Adoption and revision of a state salary schedule to reflect
2 the prevailing rates in Washington state private industries and other
3 governmental units. The rates in the salary schedules or plans shall
4 be increased if necessary to attain comparable worth under an
5 implementation plan under RCW 41.06.155 and, for institutions of higher
6 education and related boards, shall be competitive for positions of a
7 similar nature in the state or the locality in which an institution of
8 higher education or related board is located. Such adoption and
9 revision is subject to approval by the director of financial management
10 in accordance with chapter 43.88 RCW;

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

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

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

28 Rules adopted by the director under this section may be superseded
29 by the provisions of a collective bargaining agreement negotiated under
30 sections 301 through 314 of this act. The supersession of such rules
31 shall only affect employees in the respective collective bargaining
32 units.

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

35 (1) The board shall conduct a comprehensive review of all rules in
36 effect on the effective date of this section governing the
37 classification, allocation, and reallocation of positions within the
38 classified service. In conducting this review, the board shall consult

1 with state agencies, institutions of higher education, employee
2 organizations, and members of the general public. The department shall
3 assist the board in the conduct of this review, which shall be
4 completed by the board no later than July 1, 2002.

5 (2) By March 15, 2003, the board shall adopt new rules governing
6 the classification, allocation, and reallocation of positions in the
7 classified service. In adopting such rules, the board shall adhere to
8 the following goals:

9 (a) To improve the effectiveness and efficiency of the delivery of
10 services to the citizens of the state through the use of current
11 personnel management processes and to promote a workplace where the
12 overall focus is on the recipient of governmental services;

13 (b) To develop a simplified classification system that will
14 substantially reduce the number of job classifications in the
15 classified service and facilitate the most effective use of the state
16 personnel resources;

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

20 (d) To value workplace diversity;

21 (e) To facilitate the reorganization and decentralization of
22 governmental services; and

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

24 (3) Rules adopted by the board under subsection (2) of this section
25 shall permit an appointing authority and an employee organization
26 representing classified employees of the appointing authority for
27 collective bargaining purposes to make a joint request for the
28 initiation of a classification study.

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

31 In accordance with rules adopted by the board under section 205 of
32 this act, the director shall, by January 1, 2004, begin to implement a
33 new classification system for positions in the classified service. Any
34 employee who believes that the director has incorrectly applied the
35 rules of the board in determining a job classification for a job held
36 by that employee may appeal the director's decision to the board by
37 filing a notice in writing within thirty days of the action from which

1 the appeal is taken. Decisions of the board concerning such appeals
2 are final and not subject to further appeal.

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

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

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

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

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

13 (4) Has substantial responsibility in personnel administration,
14 legislative relations, public information, or the preparation and
15 administration of budgets; or

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

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

22 NEW SECTION. **Sec. 208.** A new section is added to chapter 41.06
23 RCW to read as follows:

24 (1) Any department, agency, or institution of higher education may
25 purchase services, including services that have been customarily and
26 historically provided by employees in the classified service under this
27 chapter, by contracting with individuals, nonprofit organizations,
28 businesses, employee business units, or other entities if the following
29 criteria are met:

30 (a) The invitation for bid or request for proposal contains
31 measurable standards for the performance of the contract;

32 (b) Employees in the classified service whose positions or work
33 would be displaced by the contract are provided an opportunity to offer
34 alternatives to purchasing services by contract and, if these
35 alternatives are not accepted, compete for the contract under
36 competitive contracting procedures in subsection (4) of this section;

1 (c) The contract with an entity other than an employee business
2 unit includes a provision requiring the entity to consider employment
3 of state employees who may be displaced by the contract;

4 (d) The department, agency, or institution of higher education has
5 established a contract monitoring process to measure contract
6 performance, costs, service delivery quality, and other contract
7 standards, and to cancel contracts that do not meet those standards;
8 and

9 (e) The department, agency, or institution of higher education has
10 demonstrated that the contract results in savings or efficiency
11 improvements. The contracting agency must consider the consequences
12 and potential mitigation of improper or failed performance by the
13 contractor.

14 (2) Any provision contrary to or in conflict with this section in
15 any collective bargaining agreement in effect on the effective date of
16 this section is not effective beyond the expiration date of the
17 agreement.

18 (3) Contracting for services that was authorized by law prior to
19 the effective date of this section shall not be subject to the
20 processes set forth in subsections (1) and (4) through (6) of this
21 section.

22 (4) Competitive contracting shall be implemented as follows:

23 (a) At least ninety days prior to the date the contracting agency
24 requests bids from private entities for a contract for services
25 provided by classified employees, the contracting agency shall notify
26 the classified employees whose positions or work would be displaced by
27 the contract. The employees shall have sixty days from the date of
28 notification to offer alternatives to purchasing services by contract,
29 and the agency shall consider the alternatives before requesting bids.

30 (b) If the employees decide to compete for the contract, they shall
31 notify the contracting agency of their decision. Employees must form
32 one or more employee business units for the purpose of submitting a bid
33 or bids to perform the services.

34 (c) The director of personnel, with the advice and assistance of
35 the department of general administration, shall develop and make
36 available to employee business units training in the bidding process
37 and general bid preparation.

38 (d) The director of general administration, with the advice and
39 assistance of the department of personnel, shall, by rule, establish

1 procedures to ensure that bids are submitted and evaluated in a fair
2 and objective manner and that there exists a competitive market for the
3 service. Such rules shall include, but not be limited to: (i)
4 Prohibitions against participation in the bid evaluation process by
5 employees who prepared the business unit's bid or who perform any of
6 the services to be contracted; (ii) provisions to ensure no bidder
7 receives an advantage over other bidders and that bid requirements are
8 applied equitably to all parties; and (iii) procedures that require the
9 contracting agency to receive complaints regarding the bidding process
10 and to consider them before awarding the contract. Appeal of an
11 agency's actions under this subsection is an adjudicative proceeding
12 and subject to the applicable provisions of chapter 34.05 RCW, the
13 administrative procedure act, with the final decision to be rendered by
14 an administrative law judge assigned under chapter 34.12 RCW.

15 (e) An employee business unit's bid must include the fully
16 allocated costs of the service, including the cost of the employees'
17 salaries and benefits, space, equipment, materials, and other costs
18 necessary to perform the function. An employee business unit's cost
19 shall not include the state's indirect overhead costs unless those
20 costs can be attributed directly to the function in question and would
21 not exist if that function were not performed in state service.

22 (f) A department, agency, or institution of higher education may
23 contract with the department of general administration to conduct the
24 bidding process.

25 (5) As used in this section:

26 (a) "Employee business unit" means a group of employees who perform
27 services to be contracted under this section and who submit a bid for
28 the performance of those services under subsection (4) of this section.

29 (b) "Indirect overhead costs" means the pro rata share of existing
30 agency administrative salaries and benefits, and rent, equipment costs,
31 utilities, and materials associated with those administrative
32 functions.

33 (c) "Competitive contracting" means the process by which classified
34 employees of a department, agency, or institution of higher education
35 compete with businesses, individuals, nonprofit organizations, or other
36 entities for contracts authorized by subsection (1) of this section.

37 (6) The joint legislative audit and review committee shall conduct
38 a performance audit of the implementation of this section, including
39 the adequacy of the appeals process in subsection (4)(d) of this

1 section, and report to the legislature by January 1, 2005, on the
2 results of the audit.

3 **Sec. 209.** RCW 41.06.070 and 1998 c 245 s 40 are each amended to
4 read as follows:

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

6 (a) The members of the legislature or to any employee of, or
7 position in, the legislative branch of the state government including
8 members, officers, and employees of the legislative council, joint
9 legislative audit and review committee, statute law committee, and any
10 interim committee of the legislature;

11 (b) The justices of the supreme court, judges of the court of
12 appeals, judges of the superior courts or of the inferior courts, or to
13 any employee of, or position in the judicial branch of state
14 government;

15 (c) Officers, academic personnel, and employees of technical
16 colleges;

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

18 (e) Elective officers of the state;

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

20 (g) In the departments of employment security and social and health
21 services, the director and the director's confidential secretary; in
22 all other departments, the executive head of which is an individual
23 appointed by the governor, the director, his or her confidential
24 secretary, and his or her statutory assistant directors;

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

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

29 (ii) If the members of the board, commission, or committee serve on
30 a part-time basis and there is a statutory executive officer: The
31 secretary of the board, commission, or committee; the chief executive
32 officer of the board, commission, or committee; and the confidential
33 secretary of the chief executive officer of the board, commission, or
34 committee;

35 (iii) If the members of the board, commission, or committee serve
36 on a full-time basis: The chief executive officer or administrative
37 officer as designated by the board, commission, or committee; and a

1 confidential secretary to the chair of the board, commission, or
2 committee;

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

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

8 (j) Assistant attorneys general;

9 (k) Commissioned and enlisted personnel in the military service of
10 the state;

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

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

16 (n) Officers and employees of the Washington state fruit
17 commission;

18 (o) Officers and employees of the Washington state apple
19 advertising commission;

20 (p) Officers and employees of the Washington state dairy products
21 commission;

22 (q) Officers and employees of the Washington tree fruit research
23 commission;

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

25 (s) Officers and employees of any commission formed under chapter
26 15.66 RCW;

27 ~~(t) ((Officers and employees of the state wheat commission formed
28 under chapter 15.63 RCW;~~

29 ~~(u))~~ Officers and employees of agricultural commissions formed
30 under chapter 15.65 RCW;

31 ~~((v))~~ (u) Officers and employees of the nonprofit corporation
32 formed under chapter 67.40 RCW;

33 ~~((w))~~ (v) Executive assistants for personnel administration and
34 labor relations in all state agencies employing such executive
35 assistants including but not limited to all departments, offices,
36 commissions, committees, boards, or other bodies subject to the
37 provisions of this chapter and this subsection shall prevail over any
38 provision of law inconsistent herewith unless specific exception is
39 made in such law;

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

5 (~~(y)~~) (x) All employees of the marine employees' commission;

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

10 (~~(aa)~~) (y) Staff employed by the department of community, trade,
11 and economic development to administer energy policy functions and
12 manage energy site evaluation council activities under RCW
13 43.21F.045(2)(m);

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

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

20 (a) Members of the governing board of each institution of higher
21 education and related boards, all presidents, vice-presidents, and
22 their confidential secretaries, administrative, and personal
23 assistants; deans, directors, and chairs; academic personnel; and
24 executive heads of major administrative or academic divisions employed
25 by institutions of higher education; principal assistants to executive
26 heads of major administrative or academic divisions; other managerial
27 or professional employees in an institution or related board having
28 substantial responsibility for directing or controlling program
29 operations and accountable for allocation of resources and program
30 results, or for the formulation of institutional policy, or for
31 carrying out personnel administration or labor relations functions,
32 legislative relations, public information, development, senior computer
33 systems and network programming, or internal audits and investigations;
34 and any employee of a community college district whose place of work is
35 one which is physically located outside the state of Washington and who
36 is employed pursuant to RCW 28B.50.092 and assigned to an educational
37 program operating outside of the state of Washington;

38 (b) ~~(Student, part-time, or temporary employees, and part-time~~
39 ~~professional consultants, as defined by the Washington personnel~~

1 ~~resources board, employed by institutions of higher education and~~
2 ~~related boards;~~

3 (e)) The governing board of each institution, and related boards,
4 may also exempt from this chapter classifications involving research
5 activities, counseling of students, extension or continuing education
6 activities, graphic arts or publications activities requiring
7 prescribed academic preparation or special training as determined by
8 the board: PROVIDED, That no nonacademic employee engaged in office,
9 clerical, maintenance, or food and trade services may be exempted by
10 the board under this provision;

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

13 (3) In addition to the exemptions specifically provided by this
14 chapter, the ((~~Washington personnel resources board~~)) director of
15 personnel may provide for further exemptions pursuant to the following
16 procedures. The governor or other appropriate elected official may
17 submit requests for exemption to the ((~~Washington personnel resources~~
18 ~~board~~)) director of personnel stating the reasons for requesting such
19 exemptions. The ((~~Washington personnel resources board~~)) director of
20 personnel shall hold a public hearing, after proper notice, on requests
21 submitted pursuant to this subsection. If the ((~~board~~)) director
22 determines that the position for which exemption is requested is one
23 involving substantial responsibility for the formulation of basic
24 agency or executive policy or one involving directing and controlling
25 program operations of an agency or a major administrative division
26 thereof, the ((~~Washington personnel resources board~~)) director of
27 personnel shall grant the request and such determination shall be final
28 as to any decision made before July 1, 1993. The total number of
29 additional exemptions permitted under this subsection shall not exceed
30 one percent of the number of employees in the classified service not
31 including employees of institutions of higher education and related
32 boards for those agencies not directly under the authority of any
33 elected public official other than the governor, and shall not exceed
34 a total of twenty-five for all agencies under the authority of elected
35 public officials other than the governor.

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

1 elected state official, and the personnel listed in subsections (1)(j)
2 through ~~((v), (y), (z),)~~ (u) and (x) and (2) of this section, shall
3 be determined by the ~~((Washington personnel resources board))~~ director
4 of personnel. ~~((However, beginning with changes proposed for the 1997-~~
5 ~~99 fiscal biennium,))~~ Changes to the classification plan affecting
6 exempt salaries must meet the same provisions for classified salary
7 increases resulting from adjustments to the classification plan as
8 outlined in RCW 41.06.152.

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

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

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

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

25 (1) There is hereby created a Washington personnel resources board
26 composed of three members appointed by the governor, subject to
27 confirmation by the senate. The members of the personnel board serving
28 June 30, 1993, shall be the members of the Washington personnel
29 resources board, and they shall complete their terms as under the
30 personnel board. Each odd-numbered year thereafter the governor shall
31 appoint a member for a six-year term. Each member shall continue to
32 hold office after the expiration of the member's term until a successor
33 has been appointed. Persons so appointed shall have clearly
34 demonstrated an interest and belief in the merit principle, shall not
35 hold any other employment with the state, shall not have been an
36 officer of a political party for a period of one year immediately prior
37 to such appointment, and shall not be or become a candidate for

1 partisan elective public office during the term to which they are
2 appointed;

3 (2) Each member of the board shall be compensated in accordance
4 with RCW 43.03.250. The members of the board may receive any number of
5 daily payments for official meetings of the board actually attended.
6 Members of the board shall also be reimbursed for travel expenses
7 incurred in the discharge of their official duties in accordance with
8 RCW 43.03.050 and 43.03.060.

9 (3) At its first meeting following the appointment of all of its
10 members, and annually thereafter, the board shall elect a chair and
11 vice-chair from among its members to serve one year. The presence of
12 at least two members of the board shall constitute a quorum to transact
13 business. A written public record shall be kept by the board of all
14 actions of the board. The director of personnel shall serve as
15 secretary.

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

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

23 In preparing classification and salary schedules as set forth in
24 RCW 41.06.150 (~~((as now or hereafter amended))~~) the department of
25 personnel shall give full consideration to prevailing rates in other
26 public employment and in private employment in this state. For this
27 purpose the department shall undertake comprehensive salary and fringe
28 benefit surveys(~~(, with such surveys to be conducted in the year prior~~
29 ~~to the convening of every other one hundred five day regular session of~~
30 ~~the state legislature. In the year prior to the convening of each one~~
31 ~~hundred five day regular session during which a comprehensive salary~~
32 ~~and fringe benefit survey is not conducted, the department shall plan~~
33 ~~and conduct a trend salary and fringe benefit survey. This survey~~
34 ~~shall measure average salary and fringe benefit movement for broad~~
35 ~~occupational groups which has occurred since the last comprehensive~~
36 ~~salary and fringe benefit survey was conducted. The results of each~~
37 ~~comprehensive and trend salary and fringe benefit survey shall be~~
38 ~~completed and forwarded by September 30 with a recommended state salary~~

1 schedule to the governor and director of financial management for their
2 use in preparing budgets to be submitted to the succeeding legislature.
3 A copy of the data and supporting documentation shall be furnished by
4 the department of personnel to the standing committees for
5 appropriations of the senate and house of representatives.

6 In the case of comprehensive salary and fringe benefit surveys, the
7 department shall furnish the following supplementary data in support of
8 its recommended salary schedule:

9 (1) A total dollar figure which reflects the recommended increase
10 or decrease in state salaries as a direct result of the specific salary
11 and fringe benefit survey that has been conducted and which is
12 categorized to indicate what portion of the increase or decrease is
13 represented by salary survey data and what portion is represented by
14 fringe benefit survey data;

15 (2) An additional total dollar figure which reflects the impact of
16 recommended increases or decreases to state salaries based on other
17 factors rather than directly on prevailing rate data obtained through
18 the survey process and which is categorized to indicate the sources of
19 the requests for deviation from prevailing rates and the reasons for
20 the changes;

21 (3) A list of class codes and titles indicating recommended monthly
22 salary ranges for all state classes under the control of the department
23 of personnel with those salary ranges which do not substantially
24 conform to the prevailing rates developed from the salary and fringe
25 benefit survey distinctly marked and an explanation of the reason for
26 the deviation included;

27 (4) A supplemental salary schedule which indicates the additional
28 salary to be paid state employees for hazardous duties or other
29 considerations requiring extra compensation under specific
30 circumstances. Additional compensation for these circumstances shall
31 not be included in the basic salary schedule but shall be maintained as
32 a separate pay schedule for purposes of full disclosure and visibility;
33 and

34 (5) A supplemental salary schedule which indicates those cases
35 where the board determines that prevailing rates do not provide similar
36 salaries for positions that require or impose similar responsibilities,
37 judgment, knowledge, skills, and working conditions. This
38 supplementary salary schedule shall contain proposed salary adjustments
39 necessary to eliminate any such dissimilarities in compensation.

1 Additional compensation needed to eliminate such salary dissimilarities
2 shall not be included in the basic salary schedule but shall be
3 maintained as a separate salary schedule for purposes of full
4 disclosure and visibility.

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

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

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

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

21 The department of personnel shall undertake comprehensive
22 compensation surveys for officers and entry-level officer candidates of
23 the Washington state patrol, with such surveys to be conducted in the
24 year prior to the convening of every other one hundred five day regular
25 session of the state legislature. ((In the year prior to the convening
26 of each one hundred five day regular session during which a
27 comprehensive compensation survey is not conducted, the department
28 shall conduct a trend compensation survey. This survey shall measure
29 average compensation movement which has occurred since the last
30 comprehensive compensation survey was conducted. The results of each
31 comprehensive and trend survey shall be completed and forwarded by
32 September 30th, after review and preparation of recommendations by the
33 chief of the Washington state patrol, to the governor and director of
34 financial management for their use in preparing budgets to be submitted
35 to the succeeding legislature. A copy of the data and supporting
36 documentation shall be furnished by the department of personnel to the
37 legislative transportation committee and the standing committees for
38 appropriations of the senate and house of representatives. The office

1 of financial management shall analyze the survey results and conduct
2 investigations which may be necessary to arbitrate differences between
3 interested parties regarding the accuracy of collected survey data and
4 the use of such data for salary adjustment.

5 Surveys conducted by the department of personnel for the Washington
6 state patrol shall be undertaken in a manner consistent with
7 statistically accurate sampling techniques, including comparisons of
8 medians, base ranges, and weighted averages of salaries. The surveys
9 shall compare competitive labor markets of law enforcement officers.
10 This service performed by the department of personnel shall be on a
11 reimbursable basis in accordance with the provisions of RCW 41.06.080.

12 A comprehensive compensation survey plan and the recommendations of
13 the chief of the Washington state patrol shall be submitted jointly by
14 the department of personnel and the Washington state patrol to the
15 director of financial management, the legislative transportation
16 committee, the committee on ways and means of the senate, and the
17 committee on appropriations of the house of representatives six months
18 before the beginning of each periodic survey.)) Salary and fringe
19 benefit survey information collected from private employers which
20 identifies a specific employer with the salary and fringe benefit rates
21 which that employer pays to its employees shall not be subject to
22 public disclosure under chapter 42.17 RCW.

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

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

33 (2) Any employee who is reduced, dismissed, suspended, or demoted,
34 after completing his or her probationary period of service as provided
35 by the rules of the ((board)) director, or any employee who is
36 adversely affected by a violation of the state civil service law,
37 chapter 41.06 RCW, or rules adopted under it, shall have the right to
38 appeal ((to the personnel appeals board created by RCW 41.64.010)),

1 either individually or through his or her authorized representative,
2 not later than thirty days after the effective date of such action to
3 the personnel appeals board through June 30, 2003, and to the
4 Washington personnel resources board after June 30, 2003. The employee
5 shall be furnished with specified charges in writing when a reduction,
6 dismissal, suspension, or demotion action is taken. Such appeal shall
7 be in writing. Decisions of the Washington personnel resources board
8 on appeals filed after June 30, 2003, shall be final and not subject to
9 further appeal.

10 (3) Any employee whose position has been exempted after July 1,
11 1993, shall have the right to appeal (~~to the personnel appeals board~~
12 ~~created by RCW 41.64.010~~), either individually or through his or her
13 authorized representative, not later than thirty days after the
14 effective date of such action to the personnel appeals board through
15 June 30, 2003, and to the Washington personnel resources board after
16 June 30, 2003.

17 (4) An employee incumbent in a position at the time of its
18 allocation or reallocation, or the agency utilizing the position, may
19 appeal the allocation or reallocation to the personnel appeals board
20 (~~created by RCW 41.64.010~~) through December 31, 2003, and to the
21 Washington personnel resources board after December 31, 2003. Notice
22 of such appeal must be filed in writing within thirty days of the
23 action from which appeal is taken.

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

27 NEW SECTION. Sec. 214. The transfer of the powers, duties, and
28 functions of the personnel appeals board to the personnel resources
29 board under section 234 of this act and the transfer of jurisdiction
30 for appeals filed under section 213, chapter . . . , Laws of 2000
31 (section 213 of this act) after June 30, 2003, shall not affect the
32 right of an appellant to have an appeal filed on or before June 30,
33 2003, resolved by the personnel appeals board in accordance with the
34 authorities, rules, and procedures that were established under chapter
35 41.64 RCW as it existed before the effective date of this section.

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

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

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

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

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

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

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

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

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

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

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

34 (a) Provide for the evaluation of training and career development
35 programs and plans of agencies (~~based on minimum standards established~~

1 ~~by the board~~)). The director shall report the results of such
2 evaluations to the agency which is the subject of the evaluation;

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

5 (c) Promote interagency sharing of resources for training and
6 career development;

7 (d) Monitor and review the impact of training and career
8 development programs to ensure that the responsibilities of the state
9 to provide equal employment opportunities are diligently carried out.

10 ~~((The director shall report to the board the impact of training and
11 career development programs on the fulfillment of such
12 responsibilities.))~~

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

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

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

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

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

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

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

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

33 (1) ~~((By January 1, 1983, the Washington personnel resources
34 board))~~ The director shall adopt rules applicable to each agency to
35 ensure that information relating to employee misconduct or alleged
36 misconduct is destroyed or maintained as follows:

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

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

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

10 (2) Notwithstanding subsection (1) of this section, an agency may
11 retain information relating to employee misconduct or alleged
12 misconduct if:

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

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

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

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

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

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

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

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

35 (b) Provide for eligibility in the return-to-work program, for a
36 minimum of two years from the date the temporary disability commenced,
37 for any permanent employee who is receiving compensation under RCW

1 51.32.090 and who is, by reason of his or her temporary disability,
2 unable to return to his or her previous work, but who is physically
3 capable of carrying out work of a lighter or modified nature;

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

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

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

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

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

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

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

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

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

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

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

1 (b) Has been accepted for enrollment as at least a half-time
2 student at the eligible institution or, in the case of a student
3 already enrolled in and attending the eligible institution, is in good
4 standing and in at least half-time attendance there either as an
5 undergraduate, graduate or professional student; and

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

7 (3) Placing priority on providing:

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

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

14 (c) Off-campus community service placements;

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

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

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

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

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

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

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

34 (1) This chapter shall not apply to:

35 (a) The state militia, or

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

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

4 (2) The provisions of RCW 34.05.410 through 34.05.598 shall not
5 apply:

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

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

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

15 (d) To actions of the Washington personnel resources board((~~7~~)) or
16 the director of personnel((~~7~~ or the personnel appeals board)); or

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

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

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

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

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

32 Unless the context clearly requires otherwise, the definitions in
33 this section apply throughout this chapter.

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

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

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

4 (4) "State agency" means any state board, commission, department,
5 or officer authorized by law to make rules or to conduct adjudicative
6 proceedings, except those in the legislative or judicial branches, the
7 growth management hearings boards, the utilities and transportation
8 commission, the pollution control hearings board, the shorelines
9 hearings board, the forest practices appeals board, the environmental
10 hearings office, the board of industrial insurance appeals, the
11 Washington personnel resources board, the public employment relations
12 commission, (~~the personnel appeals board,~~) and the board of tax
13 appeals.

14 **Sec. 227.** RCW 41.04.340 and 1998 c 254 s 1 and 1998 c 116 s 2 are
15 each reenacted and amended to read as follows:

16 (1) An attendance incentive program is established for all eligible
17 employees. As used in this section the term "eligible employee" means
18 any employee of the state, other than eligible employees of the
19 community and technical colleges and the state board for community and
20 technical colleges identified in RCW 28B.50.553, and teaching and
21 research faculty at the state and regional universities and The
22 Evergreen State College, entitled to accumulate sick leave and for whom
23 accurate sick leave records have been maintained. No employee may
24 receive compensation under this section for any portion of sick leave
25 accumulated at a rate in excess of one day per month. The state and
26 regional universities and The Evergreen State College shall maintain
27 complete and accurate sick leave records for all teaching and research
28 faculty.

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

37 (3) At the time of separation from state service due to retirement
38 or death, an eligible employee or the employee's estate may elect to

1 receive remuneration at a rate equal to one day's current monetary
2 compensation of the employee for each four full days of accrued sick
3 leave.

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

7 (5) Except as provided in subsections (7) through (9) of this
8 section for employees not covered by chapter 41.06 RCW, this section
9 shall be administered, and rules shall be adopted to carry out its
10 purposes, by the (~~Washington personnel resources board~~) director of
11 personnel for persons subject to chapter 41.06 RCW: PROVIDED, That
12 determination of classes of eligible employees shall be subject to
13 approval by the office of financial management.

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

17 (7) In lieu of remuneration for unused sick leave at retirement as
18 provided in subsection (3) of this section, an agency head or designee
19 may with equivalent funds, provide eligible employees with a benefit
20 plan that provides for reimbursement for medical expenses. This plan
21 shall be implemented only after consultation with affected groups of
22 employees. For eligible employees covered by chapter 41.06 RCW,
23 procedures for the implementation of these plans shall be adopted by
24 the (~~Washington personnel resources board~~) director of personnel.
25 For eligible employees exempt from chapter 41.06 RCW, and classified
26 employees who have opted out of coverage of chapter 41.06 RCW as
27 provided in RCW 41.56.201, implementation procedures shall be adopted
28 by an agency head having jurisdiction over the employees.

29 (8) Implementing procedures adopted by the (~~Washington personnel~~
30 ~~resources board~~) director of personnel or agency heads shall require
31 that each medical expense plan authorized by subsection (7) of this
32 section apply to all eligible employees in any one of the following
33 groups: (a) Employees in an agency; (b) employees in a major
34 organizational subdivision of an agency; (c) employees at a major
35 operating location of an agency; (d) exempt employees under the
36 jurisdiction of an elected or appointed Washington state executive; (e)
37 employees of the Washington state senate; (f) employees of the
38 Washington state house of representatives; (g) classified employees in
39 a bargaining unit established by the (~~Washington personnel resources~~

1 ~~board~~) director of personnel; or (h) other group of employees defined
2 by an agency head that is not designed to provide an individual-
3 employee choice regarding participation in a medical expense plan.
4 However, medical expense plans for eligible employees in any of the
5 groups under (a) through (h) of this subsection who are covered by a
6 collective bargaining agreement shall be implemented only by written
7 agreement with the bargaining unit's exclusive representative and a
8 separate medical expense plan may be provided for unrepresented
9 employees.

10 (9) Medical expense plans authorized by subsection (7) of this
11 section must require as a condition of participation in the plan that
12 employees in the group affected by the plan sign an agreement with the
13 employer. The agreement must include a provision to hold the employer
14 harmless should the United States government find that the employer or
15 the employee is in debt to the United States as a result of the
16 employee not paying income taxes due on the equivalent funds placed
17 into the plan, or as a result of the employer not withholding or
18 deducting a tax, assessment, or other payment on the funds as required
19 by federal law. The agreement must also include a provision that
20 requires an eligible employee to forfeit remuneration under subsection
21 (3) of this section if the employee belongs to a group that has been
22 designated to participate in the medical expense plan permitted under
23 this section and the employee refuses to execute the required
24 agreement.

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

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

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

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

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

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

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

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

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

19 The state investment board shall maintain appropriate offices and
20 employ such personnel as may be necessary to perform its duties.
21 Employment by the investment board shall include but not be limited to
22 an executive director, investment officers, and a confidential
23 secretary, which positions are exempt from classified service under
24 chapter 41.06 RCW. Employment of the executive director by the board
25 shall be for a term of three years, and such employment shall be
26 subject to confirmation of the state finance committee: PROVIDED, That
27 nothing shall prevent the board from dismissing the director for cause
28 before the expiration of the term nor shall anything prohibit the
29 board, with the confirmation of the state finance committee, from
30 employing the same individual as director in succeeding terms.
31 Compensation levels for the investment officers employed by the
32 investment board shall be established by the (~~Washington personnel~~
33 ~~resources board~~) director of personnel.

34 As of July 1, 1981, all employees classified under chapter 41.06
35 RCW and engaged in duties assumed by the state investment board on July
36 1, 1981, are assigned to the state investment board. The transfer
37 shall not diminish any rights granted these employees under chapter

1 41.06 RCW nor exempt the employees from any action which may occur
2 thereafter in accordance with chapter 41.06 RCW.

3 All existing contracts and obligations pertaining to the functions
4 transferred to the state investment board in (~~this 1980 act~~) chapter
5 3, Laws of 1981 shall remain in full force and effect, and shall be
6 performed by the board. None of the transfers directed by (~~this 1980~~
7 ~~act~~) chapter 3, Laws of 1981 shall affect the validity of any act
8 performed by a state entity or by any official or employee thereof
9 prior to July 1, 1981.

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

12 Unless the legislature specifies a shorter period of time, a
13 terminated state agency shall continue in existence until June 30th of
14 the next succeeding year for the purpose of concluding its affairs:
15 PROVIDED, That the powers and authority of the state agency shall not
16 be reduced or otherwise limited during this period. Unless otherwise
17 provided:

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

23 (2) All documents and papers, equipment, or other tangible property
24 in the possession of the terminated state agency shall be delivered to
25 the custody of the agency assuming the responsibilities of the
26 terminated agency or if such responsibilities have been eliminated,
27 documents and papers shall be delivered to the state archivist and
28 equipment or other tangible property to the department of general
29 administration;

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

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

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

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

7 As used in this chapter:

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

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

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

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

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

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

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

31 (c) Any individual employed in a bona fide executive,
32 administrative, or professional capacity or in the capacity of outside
33 salesman as those terms are defined and delimited by rules of the
34 director. However, those terms shall be defined and delimited by the
35 (~~Washington personnel resources board~~) director of personnel pursuant
36 to chapter 41.06 RCW for employees employed under the director of
37 personnel's jurisdiction;

1 (d) Any individual engaged in the activities of an educational,
2 charitable, religious, state or local governmental body or agency, or
3 nonprofit organization where the employer-employee relationship does
4 not in fact exist or where the services are rendered to such
5 organizations gratuitously. If the individual receives reimbursement
6 in lieu of compensation for normally incurred out-of-pocket expenses or
7 receives a nominal amount of compensation per unit of voluntary service
8 rendered, an employer-employee relationship is deemed not to exist for
9 the purpose of this section or for purposes of membership or
10 qualification in any state, local government or publicly supported
11 retirement system other than that provided under chapter 41.24 RCW;

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

19 (f) Any newspaper vendor or carrier;

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

22 (h) Any individual engaged in forest protection and fire prevention
23 activities;

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

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

33 (k) Any resident, inmate, or patient of a state, county, or
34 municipal correctional, detention, treatment or rehabilitative
35 institution;

36 (l) Any individual who holds a public elective or appointive office
37 of the state, any county, city, town, municipal corporation or quasi
38 municipal corporation, political subdivision, or any instrumentality
39 thereof, or any employee of the state legislature;

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

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

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

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

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

14 (1) With respect to collective bargaining as authorized by sections
15 301 through 314 of this act, the public employment relations commission
16 created by chapter 41.58 RCW shall have authority to adopt rules, on
17 and after the effective date of this section, relating to determination
18 of appropriate bargaining units within any agency. In making such
19 determination the commission shall consider the duties, skills, and
20 working conditions of the employees, the history of collective
21 bargaining by the employees and their bargaining representatives, the
22 extent of organization among the employees, and the desires of the
23 employees. The public employment relations commission created in
24 chapter 41.58 RCW shall adopt rules and make determinations relating to
25 the certification and decertification of exclusive bargaining
26 representatives.

27 (2) Each and every provision of RCW 41.56.140 through ((41.56.190))
28 41.56.160 shall be applicable to this chapter as it relates to state
29 civil service employees ((and the Washington personnel resources board,
30 or its designee, whose final decision shall be appealable to the
31 Washington personnel resources board, which is granted all powers and
32 authority granted to the department of labor and industries by RCW
33 41.56.140 through 41.56.190)).

34 (3) A collective bargaining agreement entered into under RCW
35 41.06.150 before July 1, 2002, covering employees subject to sections
36 301 through 314 of this act that expires after July 1, 2002, shall
37 remain in full force during its duration, or until superseded by a
38 collective bargaining agreement entered into by the parties under

1 sections 301 through 314 of this act. However, an agreement entered
2 into before July 1, 2002, may not be renewed or extended beyond July 1,
3 2003, or until superseded by a collective bargaining agreement entered
4 into under sections 301 through 314 of this act, whichever is later.

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

7 (1) The personnel appeals board is hereby abolished and its powers,
8 duties, and functions are hereby transferred to the Washington
9 personnel resources board. All references to the executive secretary
10 or the personnel appeals board in the Revised Code of Washington shall
11 be construed to mean the director of the department of personnel or the
12 Washington personnel resources board.

13 (2)(a) All reports, documents, surveys, books, records, files,
14 papers, or written material in the possession of the personnel appeals
15 board shall be delivered to the custody of the department of personnel.
16 All cabinets, furniture, office equipment, motor vehicles, and other
17 tangible property employed by the personnel appeals board shall be made
18 available to the department of personnel. All funds, credits, leases,
19 or other assets held by the personnel appeals board shall be assigned
20 to the department of personnel.

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

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

30 (3) All employees of the personnel appeals board are transferred to
31 the jurisdiction of the department of personnel. All employees
32 classified under chapter 41.06 RCW, the state civil service law, are
33 assigned to the department of personnel to perform their usual duties
34 upon the same terms as formerly, without any loss of rights, subject to
35 any action that may be appropriate thereafter in accordance with the
36 laws and rules governing state civil service.

37 (4) All rules and all pending business before the personnel appeals
38 board shall be continued and acted upon by the Washington personnel

1 resources board. All existing contracts and obligations shall remain
2 in full force and shall be performed by the department of personnel.

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

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

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

14 (1) The department of social and health services shall establish
15 and operate a medium security juvenile offender basic training camp
16 program. The department shall site a juvenile offender basic training
17 camp facility in the most cost-effective facility possible and shall
18 review the possibility of using an existing abandoned and/or available
19 state, federally, or military-owned site or facility.

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

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

30 (4) The juvenile offender basic training camp shall be a structured
31 and regimented model lasting one hundred twenty days emphasizing the
32 building up of an offender's self-esteem, confidence, and discipline.
33 The juvenile offender basic training camp program shall provide
34 participants with basic education, prevocational training, work-based
35 learning, live work, work ethic skills, conflict resolution counseling,
36 substance abuse intervention, anger management counseling, and
37 structured intensive physical training. The juvenile offender basic
38 training camp program shall have a curriculum training and work

1 schedule that incorporates a balanced assignment of these or other
2 rehabilitation and training components for no less than sixteen hours
3 per day, six days a week.

4 The department shall adopt rules for the safe and effective
5 operation of the juvenile offender basic training camp program,
6 standards for an offender's successful program completion, and rules
7 for the continued after-care supervision of offenders who have
8 successfully completed the program.

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

13 (6) If the court determines that the offender is eligible for the
14 juvenile offender basic training camp option, the court may recommend
15 that the department place the offender in the program. The department
16 shall evaluate the offender and may place the offender in the program.
17 The evaluation shall include, at a minimum, a risk assessment developed
18 by the department and designed to determine the offender's suitability
19 for the program. No juvenile who is assessed as a high risk offender
20 or suffers from any mental or physical problems that could endanger his
21 or her health or drastically affect his or her performance in the
22 program shall be admitted to or retained in the juvenile offender basic
23 training camp program.

24 (7) All juvenile offenders eligible for the juvenile offender basic
25 training camp sentencing option shall spend one hundred twenty days of
26 their disposition in a juvenile offender basic training camp. If the
27 juvenile offender's activities while in the juvenile offender basic
28 training camp are so disruptive to the juvenile offender basic training
29 camp program, as determined by the secretary according to rules adopted
30 by the department, as to result in the removal of the juvenile offender
31 from the juvenile offender basic training camp program, or if the
32 offender cannot complete the juvenile offender basic training camp
33 program due to medical problems, the secretary shall require that the
34 offender be committed to a juvenile institution to serve the entire
35 remainder of his or her disposition, less the amount of time already
36 served in the juvenile offender basic training camp program.

37 (8) All offenders who successfully graduate from the one hundred
38 twenty day juvenile offender basic training camp program shall spend
39 the remainder of their disposition on parole in a division of juvenile

1 rehabilitation intensive aftercare program in the local community. The
2 program shall provide for the needs of the offender based on his or her
3 progress in the aftercare program as indicated by ongoing assessment of
4 those needs and progress. The intensive aftercare program shall
5 monitor postprogram juvenile offenders and assist them to successfully
6 reintegrate into the community. In addition, the program shall develop
7 a process for closely monitoring and assessing public safety risks.
8 The intensive aftercare program shall be designed and funded by the
9 department of social and health services.

10 (9) The department shall also develop and maintain a data base to
11 measure recidivism rates specific to this incarceration program. The
12 data base shall maintain data on all juvenile offenders who complete
13 the juvenile offender basic training camp program for a period of two
14 years after they have completed the program. The data base shall also
15 maintain data on the criminal activity, educational progress, and
16 employment activities of all juvenile offenders who participated in the
17 program.

18 **Sec. 236.** RCW 39.29.006 and 1998 c 101 s 2 are each amended to
19 read as follows:

20 As used in this chapter:

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

25 (2) "Client services" means services provided directly to agency
26 clients including, but not limited to, medical and dental services,
27 employment and training programs, residential care, and subsidized
28 housing.

29 (3) "Competitive solicitation" means a documented formal process
30 providing an equal and open opportunity to qualified parties and
31 culminating in a selection based on criteria which may include such
32 factors as the consultant's fees or costs, ability, capacity,
33 experience, reputation, responsiveness to time limitations,
34 responsiveness to solicitation requirements, quality of previous
35 performance, and compliance with statutes and rules relating to
36 contracts or services.

37 (4) "Consultant" means an independent individual or firm
38 contracting with an agency to perform a service or render an opinion or

1 recommendation according to the consultant's methods and without being
2 subject to the control of the agency except as to the result of the
3 work. The agency monitors progress under the contract and authorizes
4 payment.

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

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

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

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

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

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

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

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

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

37 The legislature finds that (1) demographic, economic, and social
38 trends underlie a critical and increasing demand for child care in the

1 state of Washington; (2) working parents and their children benefit
2 when the employees' child care needs have been resolved; (3) the state
3 of Washington should serve as a model employer by creating a supportive
4 atmosphere, to the extent feasible, in which its employees may meet
5 their child care needs; and (4) the state of Washington should
6 encourage the development of partnerships between state agencies, state
7 employees, state employee labor organizations, and private employers to
8 expand the availability of affordable quality child care. The
9 legislature finds further that resolving employee child care concerns
10 not only benefits the employees and their children, but may benefit the
11 employer by reducing absenteeism, increasing employee productivity,
12 improving morale, and enhancing the employer's position in recruiting
13 and retaining employees. Therefore, the legislature declares that it
14 is the policy of the state of Washington to assist state employees by
15 creating a supportive atmosphere in which they may meet their child
16 care needs. Policies and procedures for state agencies to address
17 employee child care needs will be the responsibility of the director of
18 personnel in consultation with the child care coordinating committee,
19 as provided in RCW 74.13.090, and state employee representatives ((as
20 provided under RCW 41.06.140)).

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

23 (1) All projects designed, constructed, and operated under this
24 authority must comply with all applicable rules and statutes in
25 existence at the time the agreement is executed, including but not
26 limited to the following provisions: Chapter 39.12 RCW, this title,
27 ((RCW 41.06.380)) section 208 of this act, chapter 47.64 RCW, RCW
28 49.60.180, and 49 C.F.R. Part 21.

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

32 (3) Agreements shall provide for private ownership of the projects
33 during the construction period. After completion and final acceptance
34 of each project or discrete segment thereof, the agreement shall
35 provide for state ownership of the transportation systems and
36 facilities and lease to the private entity unless the state elects to
37 provide for ownership of the facility by the private entity during the
38 term of the agreement.

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

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

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

28 (6) For the purpose of facilitating these projects and to assist
29 the private entity in the financing, development, construction, and
30 operation of the transportation systems and facilities, the agreements
31 may include provisions for the department to exercise its authority,
32 including the lease of facilities, rights of way, and airspace,
33 exercise of the power of eminent domain, granting of development rights
34 and opportunities, granting of necessary easements and rights of
35 access, issuance of permits and other authorizations, protection from
36 competition, remedies in the event of default of either of the parties,
37 granting of contractual and real property rights, liability during
38 construction and the term of the lease, authority to negotiate

1 acquisition of rights of way in excess of appraised value, and any
2 other provision deemed necessary by the secretary.

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

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

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

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

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

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

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

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

37 (e) Local involvement committees shall act in an advisory capacity
38 to the department and the private entity on all issues related to the

1 development and implementation of the public involvement process
2 established under this section.

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

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

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

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

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

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

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

36 Inmates who work in free venture industries shall do so at their
37 own choice. They shall be paid a wage comparable to the wage paid for
38 work of a similar nature in the locality in which the industry is

1 located, as determined by the director of correctional industries. If
2 the director cannot reasonably determine the comparable wage, then the
3 pay shall not be less than the federal minimum wage.

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

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

1 Security and custody services shall be provided without charge by
2 the department of corrections.

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

8 Subject to approval of the correctional industries board,
9 provisions of (~~RCW 41.06.380 prohibiting contracting out work~~
10 ~~performed by classified employees~~) section 208 of this act shall not
11 apply to contracts with Washington state businesses entered into by the
12 department of corrections through class II industries.

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

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

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

23 (c) Whenever possible, to offset tax and other public support
24 costs.

25 Supervising, management, and custody staff shall be employees of
26 the department.

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

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

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

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

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

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

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

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

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

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

24 In addition to the exemptions set forth in RCW 41.06.070, the
25 provisions of this chapter shall not apply in the department of
26 transportation to the secretary, a deputy secretary, an administrative
27 assistant to the secretary, if any, one assistant secretary for each
28 division designated pursuant to RCW 47.01.081, one confidential
29 secretary for each of the above-named officers, up to six
30 transportation district administrators and one confidential secretary
31 for each district administrator, up to six additional new
32 administrators or confidential secretaries designated by the secretary
33 of the department of transportation and approved by the Washington
34 personnel resources board pursuant to the provisions of RCW
35 41.06.070(~~(1)~~(z)), the legislative liaison for the department, the
36 state construction engineer, the state aid engineer, the personnel
37 manager, the state project development engineer, the state maintenance
38 and operations engineer, one confidential secretary for each of the

1 last-named five positions, and a confidential secretary for the public
2 affairs administrator. The individuals appointed under this section
3 shall be exempt from the provisions of the state civil service law, and
4 shall be paid salaries to be fixed by the governor in accordance with
5 the procedure established by law for the fixing of salaries for
6 individuals exempt from the operation of the state civil service law.

7 **Sec. 241.** RCW 41.06.152 and 1999 c 309 s 914 are each amended to
8 read as follows:

9 (1) The board shall adopt only those job classification revisions,
10 class studies, and salary adjustments under RCW 41.06.150(~~(+15+)~~) (12)
11 that:

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

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

22 (2) In addition to reclassifications, class studies, and salary
23 adjustments under subsection (1)(b) of this section, the board may
24 approve other reclassifications, class studies, and salary adjustments
25 that meet the requirements of subsection (1)(a) of this section and
26 have been approved under the procedures established under this
27 subsection.

28 Before the department of personnel's biennial budget request is due
29 to the office of financial management, the board shall prioritize
30 requests for reclassifications, class studies, and salary adjustments
31 for the next fiscal biennium. The board shall prioritize according to
32 such criteria as are developed by the board consistent with RCW
33 41.06.150(~~(+15+)~~) (12)(a).

34 The board shall submit the prioritized list to the governor's
35 office and the fiscal committees of the house of representatives and
36 senate at the same time the department of personnel's biennial budget
37 request is submitted. The office of financial management shall review

1 the biennial cost of each proposed salary adjustment on the board's
2 prioritized list.

3 In the biennial appropriations acts, the legislature may establish
4 a level of funding, from the state general fund and other accounts, to
5 be applied by the board to the prioritized list. Upon enactment of the
6 appropriations act, the board may approve reclassifications, class
7 studies, and salary adjustments only to the extent that the total cost
8 does not exceed the level of funding established in the appropriations
9 acts and the board's actions are consistent with the priorities
10 established in the list. The legislature may also specify or otherwise
11 limit in the appropriations act the implementation dates for actions
12 approved by the board under this section.

13 (3) When the board develops its priority list in the 1999-2001
14 biennium, for increases proposed for funding in the 2001-2003 biennium,
15 the board shall give top priority to proposed increases to address
16 documented recruitment and retention increases, and shall give lowest
17 priority to proposed increases to recognize increased duties and
18 responsibilities. When the board submits its prioritized list for the
19 2001-2003 biennium, the board shall also provide: A comparison of any
20 differences between the salary increases recommended by the department
21 of personnel staff and those adopted by the board; a review of any
22 salary compression, inversion, or inequities that would result from
23 implementing a recommended increase; and a complete description of the
24 information relied upon by the board in adopting its proposals and
25 priorities.

26 (4) This section does not apply to the higher education hospital
27 special pay plan or to any adjustments to the classification plan under
28 RCW 41.06.150(~~((+15))~~) (12) that are due to emergent conditions.
29 Emergent conditions are defined as emergency conditions requiring the
30 establishment of positions necessary for the preservation of the public
31 health, safety, or general welfare.

32 **Sec. 242.** RCW 41.06.152 and 2000 c . . . s 241 (section 241 of
33 this act) are each amended to read as follows:

34 (1) The (~~board~~) director shall adopt only those job
35 classification revisions, class studies, and salary adjustments under
36 RCW 41.06.150(~~((+12))~~) (4) that:

37 (a) Are due to documented recruitment and retention difficulties,
38 salary compression or inversion, increased duties and responsibilities,

1 or inequities. For these purposes, inequities are defined as similar
2 work assigned to different job classes with a salary disparity greater
3 than 7.5 percent; and

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

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

15 Before the department of personnel's biennial budget request is due
16 to the office of financial management, the board shall prioritize
17 requests for reclassifications, class studies, and salary adjustments
18 for the next fiscal biennium. The board shall prioritize according to
19 such criteria as are developed by the board consistent with RCW
20 41.06.150(~~((12))~~) (4)(a).

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

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

37 (3) When the board develops its priority list in the 1999-2001
38 biennium, for increases proposed for funding in the 2001-2003 biennium,
39 the board shall give top priority to proposed increases to address

1 documented recruitment and retention increases, and shall give lowest
2 priority to proposed increases to recognize increased duties and
3 responsibilities. When the board submits its prioritized list for the
4 2001-2003 biennium, the board shall also provide: A comparison of any
5 differences between the salary increases recommended by the department
6 of personnel staff and those adopted by the board; a review of any
7 salary compression, inversion, or inequities that would result from
8 implementing a recommended increase; and a complete description of the
9 information relied upon by the board in adopting its proposals and
10 priorities.

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

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

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

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

36 (a) Development of a simplified classification system that
37 facilitates movement of managers between agencies and promotes upward
38 mobility;

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

6 (c) Establishment of a performance appraisal system that emphasizes
7 individual accountability for program results and efficient management
8 of resources; effective planning, organization, and communication
9 skills; valuing and managing workplace diversity; development of
10 leadership and interpersonal abilities; and employee development;

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

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

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

28 (g) Facilitating decentralized and regional administration.

29 **Sec. 244.** RCW 41.06.500 and 2000 c . . . s 243 (section 243 of
30 this act) are each amended to read as follows:

31 (1) Except as provided in RCW 41.06.070, notwithstanding any other
32 provisions of this chapter, the director is authorized to adopt, after
33 consultation with state agencies and employee organizations, rules for
34 managers as defined in RCW 41.06.022. These rules shall not apply to
35 managers employed by institutions of higher education or related boards
36 or whose positions are exempt. The rules shall govern recruitment,
37 appointment, classification and allocation of positions, examination,
38 training and career development, hours of work, probation,

1 certification, compensation, transfer, affirmative action, promotion,
2 layoff, reemployment, performance appraisals, discipline, and any and
3 all other personnel practices for managers. These rules shall be
4 separate from rules adopted (~~by the board~~) for other employees, and
5 to the extent that the rules adopted under this section apply only to
6 managers shall take precedence over rules adopted (~~by the board~~) for
7 other employees, and are not subject to review by the board.

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

10 (a) Development of a simplified classification system that
11 facilitates movement of managers between agencies and promotes upward
12 mobility;

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

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

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

32 (e) Permitting flexible recruitment and hiring procedures that
33 enable agencies to compete effectively with other employers, both
34 public and private, for managers with appropriate skills and training;
35 allowing consideration of all qualified candidates for positions as
36 managers; and achieving affirmative action goals and diversity in the
37 workplace;

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

1 (g) Facilitating decentralized and regional administration.

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

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

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

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

21 (b) A clear and simplified organizational design promoting
22 accessibility, responsiveness, and accountability to the legislature,
23 the consumer, and the general public; and

24 (c) Maximum span of control without jeopardizing adequate
25 supervision.

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

30 (a) Working with other state agencies and local governments to
31 strengthen the state and local governmental partnership in providing
32 public protection;

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

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

36 (d) Working with other federal, state, and local agencies and
37 facilitating their involvement in planning and implementing marine
38 safety measures;

1 (e) Providing information to the public; and
2 (f) Carrying out such other related actions as may be appropriate
3 to this purpose.

4 (4) In accordance with the administrative procedure act, chapter
5 34.05 RCW, the office shall ensure an opportunity for consultation,
6 review, and comment before the adoption of standards, guidelines, and
7 rules.

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

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

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

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

37 The director of agriculture shall have charge and general
38 supervision of the department and may assign supervisory and

1 administrative duties other than those specified in RCW 43.23.070 to
2 the division which in his or her judgment can most efficiently carry on
3 those functions.

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

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

17 **Sec. 248.** RCW 49.74.030 and 2000 c . . . s 247 (section 247 of
18 this act) are each amended to read as follows:

19 The commission in conjunction with the department of personnel or
20 the state patrol, whichever is appropriate, shall attempt to resolve
21 the noncompliance through conciliation. If an agreement is reached for
22 the elimination of noncompliance, the agreement shall be reduced to
23 writing and an order shall be issued by the commission setting forth
24 the terms of the agreement. The noncomplying state agency, institution
25 of higher education, or state patrol shall make a good faith effort to
26 conciliate and make a full commitment to correct the noncompliance with
27 any action that may be necessary to achieve compliance, provided such
28 action is not inconsistent with the rules adopted under RCW
29 41.06.150(~~((18))~~) (6) and 43.43.340(5), whichever is appropriate.

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

32 If no agreement can be reached under RCW 49.74.030, the commission
33 may refer the matter to the administrative law judge for hearing
34 pursuant to RCW 49.60.250. If the administrative law judge finds that
35 the state agency, institution of higher education, or state patrol has
36 not made a good faith effort to correct the noncompliance, the

1 administrative law judge shall order the state agency, institution of
2 higher education, or state patrol to comply with this chapter. The
3 administrative law judge may order any action that may be necessary to
4 achieve compliance, provided such action is not inconsistent with the
5 rules adopted under RCW (~~(28B.16.100(20),)~~) 41.06.150(~~(+21),)~~) (18) and
6 43.43.340(5), whichever is appropriate.

7 An order by the administrative law judge may be appealed to
8 superior court.

9 **Sec. 250.** RCW 49.74.040 and 2000 c . . . s 249 (section 249 of
10 this act) are each amended to read as follows:

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

22 An order by the administrative law judge may be appealed to
23 superior court.

24 **Sec. 251.** RCW 41.56.201 and 1993 c 379 s 304 are each amended to
25 read as follows:

26 (1) At any time after July 1, 1993, and prior to July 1, 2000, an
27 institution of higher education and the exclusive bargaining
28 representative of a bargaining unit of employees classified under
29 chapter (~~(28B.16-er)~~) 41.06 RCW as appropriate may exercise their
30 option to have their relationship and corresponding obligations
31 governed entirely by the provisions of this chapter by complying with
32 the following:

33 (a) The parties will file notice of the parties' intent to be so
34 governed, subject to the mutual adoption of a collective bargaining
35 agreement permitted by this section recognizing the notice of intent.
36 The parties shall provide the notice to the higher education personnel
37 board or its successor and the commission;

1 (b) During the negotiation of an initial contract between the
2 parties under this chapter, the parties' scope of bargaining shall be
3 governed by this chapter and any disputes arising out of the collective
4 bargaining rights and obligations under this subsection shall be
5 determined by the commission. If the commission finds that the parties
6 are at impasse, the notice filed under (a) of this subsection shall be
7 void and have no effect; and

8 (c) On the first day of the month following the month during which
9 the institution of higher education and the exclusive bargaining
10 representative provide notice to the higher education personnel board
11 or its successor and the commission that they have executed an initial
12 collective bargaining agreement recognizing the notice of intent filed
13 under (a) of this subsection, chapter ((28B.16—~~or~~)) 41.06 RCW as
14 appropriate shall cease to apply to all employees in the bargaining
15 unit covered by the agreement.

16 (2) All collective bargaining rights and obligations concerning
17 relations between an institution of higher education and the exclusive
18 bargaining representative of its employees who have agreed to exercise
19 the option permitted by this section shall be determined under this
20 chapter, subject to the following:

21 (a) The commission shall recognize, in its current form, the
22 bargaining unit as certified by the higher education personnel board or
23 its successor and the limitations on collective bargaining contained in
24 RCW 41.56.100 shall not apply to that bargaining unit.

25 (b) If, on the date of filing the notice under subsection (1)(a) of
26 this section, there is a union shop authorized for the bargaining unit
27 under rules adopted by the higher education personnel board or its
28 successor, the union shop requirement shall continue in effect for the
29 bargaining unit and shall be deemed incorporated into the collective
30 bargaining agreement applicable to the bargaining unit.

31 (c) Salary increases negotiated for the employees in the bargaining
32 unit shall be subject to the following:

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

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

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

19 (3) Nothing in this section may be construed to permit an
20 institution of higher education to bargain collectively with an
21 exclusive bargaining representative concerning any matter covered by:
22 (a) Chapter 41.05 RCW, except for the related cost or dollar
23 contributions or additional or supplemental benefits as permitted by
24 chapter 492, Laws of 1993; or (b) chapter 41.32 or 41.40 RCW.

25 (4) Any collective bargaining agreement entered into under this
26 section before July 1, 2002, that expires after July 1, 2002, shall,
27 unless a superseding agreement complying with sections 301 through 314
28 of this act is negotiated by the parties, remain in full force and
29 effect during its duration, but the agreement may not be renewed or
30 extended beyond July 1, 2003, or until superseded by a collective
31 bargaining agreement entered into under sections 301 through 314 of
32 this act, whichever is later.

33 **PART III**

34 **COLLECTIVE BARGAINING REFORM**

35 NEW SECTION. **Sec. 301.** APPLICATION OF CHAPTER. Collective
36 bargaining negotiations under this chapter shall commence no later than
37 July 1, 2002. A collective bargaining agreement entered into under

1 this chapter shall not be effective prior to July 1, 2003. However,
2 any collective bargaining agreement entered into before July 1, 2002,
3 covering employees affected by sections 301 through 314 of this act,
4 that expires after July 1, 2002, shall, unless a superseding agreement
5 complying with sections 301 through 314 of this act is negotiated by
6 the parties, remain in full force during its duration, but the
7 agreement may not be renewed or extended beyond July 1, 2003, or until
8 superseded by a collective bargaining agreement entered into under
9 sections 301 through 314 of this act, whichever is later.

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

15 (2)(a) If an exclusive bargaining representative represents more
16 than one bargaining unit, the exclusive bargaining representative shall
17 negotiate with each employer representative as designated in subsection
18 (1) of this section one master collective bargaining agreement on
19 behalf of all the employees in bargaining units that the exclusive
20 bargaining representative represents. For those exclusive bargaining
21 representatives who represent fewer than a total of five hundred
22 employees each, negotiation shall be by a coalition of all those
23 exclusive bargaining representatives. The coalition shall bargain for
24 a master collective bargaining agreement covering all of the employees
25 represented by the coalition. The governor's designee and the exclusive
26 bargaining representative or representatives are authorized to enter
27 into supplemental bargaining of agency-specific issues for inclusion in
28 or as an addendum to the master collective bargaining agreement,
29 subject to the parties' agreement regarding the issues and procedures
30 for supplemental bargaining. This section does not prohibit
31 cooperation and coordination of bargaining between two or more
32 exclusive bargaining representatives.

33 (b) This subsection (2) does not apply to exclusive bargaining
34 representatives who represent employees of institutions of higher
35 education, except when the institution of higher education has elected
36 to exercise its option under subsection (4) of this section to have its
37 negotiations conducted by the governor or governor's designee under the

1 procedures provided for general government agencies in subsections (1)
2 through (3) of this section.

3 (c) If five hundred or more employees of an independent state
4 elected official listed in RCW 43.01.010 are organized in a bargaining
5 unit or bargaining units under section 308 of this act, the official
6 shall be consulted by the governor or the governor's designee before
7 any agreement is reached under (a) of this subsection concerning
8 supplemental bargaining of agency specific issues affecting the
9 employees in such bargaining unit.

10 (3) The governor shall submit a request for funds necessary to
11 implement the compensation and fringe benefit provisions in the master
12 collective bargaining agreement or for legislation necessary to
13 implement the agreement within ten days of the date on which the
14 exclusive bargaining representative or representatives ratify the
15 agreement or, if the legislature is not in session, within ten days
16 after the legislature next convenes. Requests for funds necessary to
17 implement the provisions of bargaining agreements negotiated by
18 institutions of higher education according to subsection (4) of this
19 section shall not be submitted to the legislature by the governor
20 unless such requests:

21 (a) Have been submitted to the director of the office of financial
22 management prior to October 1 of the year they are negotiated; and

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

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

30 (4) For the purpose of negotiating agreements for institutions of
31 higher education, the employer shall be the respective governing board
32 of each of the universities, colleges, or community and technical
33 colleges or a designee chosen by the board to negotiate on its behalf.
34 A governing board may elect to have its negotiations conducted by the
35 governor or governor's designee under the procedures provided for
36 general government agencies in subsections (1), (2), and (3) of this
37 section. Prior to entering into negotiations under this chapter, the
38 institutions of higher education or their designees shall consult with
39 the director of the office of financial management regarding financial

1 and budgetary issues that are likely to arise in the impending
2 negotiations. If appropriations are necessary to implement the
3 compensation and fringe benefit provisions of the bargaining agreements
4 reached between institutions of higher education and exclusive
5 bargaining representatives agreed to under the provisions of this
6 chapter, the governor shall submit a request for such funds to the
7 legislature according to the provisions of subsection (3) of this
8 section.

9 (5) There is hereby created a joint committee on employment
10 relations, which consists of two members with leadership positions in
11 the house of representatives, representing each of the two largest
12 caucuses; two members of the house appropriations committee, or its
13 successor, representing each of the two largest caucuses; two members
14 with leadership positions in the senate, representing each of the two
15 largest caucuses; and two members of the senate ways and means
16 committee, or its successor, representing each of the two largest
17 caucuses. The governor shall periodically consult with the committee
18 regarding appropriations necessary to implement the compensation and
19 fringe benefit provisions in the master collective bargaining
20 agreements, and upon completion of negotiations, advise the committee
21 on the elements of the agreements and on any legislation necessary to
22 implement the agreements.

23 (6) If, after the compensation and fringe benefit provisions of an
24 agreement are approved by the legislature, a significant revenue
25 shortfall occurs resulting in reduced appropriations, both parties
26 shall immediately enter into collective bargaining for a mutually
27 agreed upon modification of the agreement.

28 (7) After the expiration date of a collective bargaining agreement
29 negotiated under this chapter, all of the terms and conditions
30 specified in the collective bargaining agreement remain in effect until
31 the effective date of a subsequently negotiated agreement, not to
32 exceed one year from the expiration date stated in the agreement.
33 Thereafter, the employer may unilaterally implement according to law.

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

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

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

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

6 (c) Rules of the director of personnel or the Washington personnel
7 resources board adopted under section 203, chapter . . . , Laws of 2000
8 (section 203 of this act).

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

23 (4) The employer and the exclusive bargaining representative shall
24 not agree to any proposal that would prevent the implementation of
25 approved affirmative action plans or that would be inconsistent with
26 the comparable worth agreement that provided the basis for the salary
27 changes implemented beginning with the 1983-1985 biennium to achieve
28 comparable worth.

29 (5) The employer and the exclusive bargaining representative shall
30 not bargain over matters pertaining to:

31 (a) Management rights established in section 305 of this act; or

32 (b) Rules pertaining to veteran's preference established under RCW
33 41.06.150.

34 (6) Except as otherwise provided in this chapter, if a conflict
35 exists between an executive order, administrative rule, or agency
36 policy relating to wages, hours, and terms and conditions of employment
37 and a collective bargaining agreement negotiated under this chapter,
38 the collective bargaining agreement shall prevail. A provision of a

1 collective bargaining agreement that conflicts with the terms of a
2 statute is invalid and unenforceable.

3 (7) This section does not prohibit bargaining that affects
4 contracts authorized by section 208 of this act.

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

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

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

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

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

31 (b) If a collective bargaining agreement between an employer and an
32 exclusive bargaining representative is concluded after the termination
33 date of the previous collective bargaining agreement between the
34 employer and the exclusive bargaining representative representing
35 different bargaining units, the effective date of the collective
36 bargaining agreement may be the day after the termination date of
37 whichever previous collective bargaining agreement covering one or more
38 of the units terminated first, and all benefits included in the new

1 collective bargaining agreement, including wage or salary increases,
2 may accrue beginning with that effective date.

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

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

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

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

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

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

23 NEW SECTION. **Sec. 307.** RIGHT TO STRIKE NOT GRANTED. Nothing
24 contained in chapter . . . , Laws of 2000 (this act) permits or grants
25 to any employee the right to strike or refuse to perform his or her
26 official duties.

27 NEW SECTION. **Sec. 308.** BARGAINING UNITS. (1) A bargaining unit
28 of employees covered by this chapter existing on the effective date of
29 this section shall be considered an appropriate unit, unless the unit
30 does not meet the requirements of (a) and (b) of this subsection. The
31 commission, after hearing upon reasonable notice to all interested
32 parties, shall decide, in each application for certification as an
33 exclusive bargaining representative, the unit appropriate for
34 certification. In determining the new units or modifications of
35 existing units, the commission shall consider: The duties, skills, and

1 working conditions of the employees; the history of collective
2 bargaining; the extent of organization among the employees; the desires
3 of the employees; and the avoidance of excessive fragmentation.
4 However, a unit is not appropriate if it includes:

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

9 (b) More than one institution of higher education. For the
10 purposes of this section, any branch or regional campus of an
11 institution of higher education is part of that institution of higher
12 education.

13 (2) The exclusive bargaining representatives certified to represent
14 the bargaining units existing on the effective date of this section
15 shall continue as the exclusive bargaining representative without the
16 necessity of an election.

17 (3) If a single employee organization is the exclusive bargaining
18 representative for two or more units, upon petition by the employee
19 organization, the units may be consolidated into a single larger unit
20 if the commission considers the larger unit to be appropriate. If
21 consolidation is appropriate, the commission shall certify the employee
22 organization as the exclusive bargaining representative of the new
23 unit.

24 NEW SECTION. **Sec. 309.** REPRESENTATION. (1) The commission shall
25 determine all questions pertaining to representation and shall
26 administer all elections and be responsible for the processing and
27 adjudication of all disputes that arise as a consequence of elections.
28 The commission shall adopt rules that provide for at least the
29 following:

30 (a) Secret balloting;

31 (b) Consulting with employee organizations;

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

34 (d) Absentee voting;

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

36 (f) Campaigning on the employer's property during working hours;

37 and

38 (g) Election observers.

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

12 (b) This subsection (2) does not apply to exclusive bargaining
13 representatives who represent employees of institutions of higher
14 education.

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

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

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

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

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

31 If a collective bargaining agreement previously negotiated under
32 this chapter should expire while negotiations are underway, the terms
33 and conditions specified in the collective bargaining agreement shall
34 remain in effect for a period not to exceed one year from the
35 expiration date stated in the agreement. Thereafter, the employer may
36 unilaterally implement according to law.

37 If resolution is not reached through mediation by one hundred days
38 beyond the expiration date of a contract previously negotiated under

1 this chapter, or one hundred days from the initiation of mediated
2 negotiations if no such contract exists, an independent fact-finder
3 shall be appointed by the commission.

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

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

15 Nothing in this section shall be construed to prohibit an employer
16 and an exclusive bargaining representative from agreeing to substitute,
17 at their own expense, their own procedure for resolving impasses in
18 collective bargaining for that provided in this section or from
19 agreeing to utilize for the purposes of this section any other
20 governmental or other agency or person in lieu of the commission.

21 Costs for mediator services shall be borne by the commission, and
22 costs for fact-finding shall be borne equally by the negotiating
23 parties.

24 NEW SECTION. **Sec. 311.** UNION SECURITY. (1) A collective
25 bargaining agreement may contain a union security provision requiring
26 as a condition of employment the payment, no later than the thirtieth
27 day following the beginning of employment or the effective date of this
28 section, whichever is later, of an agency shop fee to the employee
29 organization that is the exclusive bargaining representative for the
30 bargaining unit in which the employee is employed. The amount of the
31 fee shall be equal to the amount required to become a member in good
32 standing of the employee organization. Each employee organization
33 shall establish a procedure by which any employee so requesting may pay
34 a representation fee no greater than the part of the membership fee
35 that represents a pro rata share of expenditures for purposes germane
36 to the collective bargaining process, to contract administration, or to
37 pursuing matters affecting wages, hours, and other conditions of
38 employment.

1 (2) An employee who is covered by a union security provision and
2 who asserts a right of nonassociation based on bona fide religious
3 tenets, or teachings of a church or religious body of which the
4 employee is a member, shall, as a condition of employment, make
5 payments to a nonreligious charity or to another charitable
6 organization of the affected employee's choice. The amount of the
7 payments shall be equal to the periodic dues and fees uniformly
8 required as a condition of acquiring or retaining membership in the
9 employee organization minus any included monthly premiums for insurance
10 programs sponsored by the employee organization. The employee shall
11 not be a member of the employee organization but is entitled to all the
12 representation rights of a member of the employee organization.

13 (3) Upon filing with the employer the written authorization of a
14 bargaining unit employee under this chapter, the employee organization
15 that is the exclusive bargaining representative of the bargaining unit
16 shall have the exclusive right to have deducted from the salary of the
17 employee an amount equal to the fees and dues uniformly required as a
18 condition of acquiring or retaining membership in the employee
19 organization. The fees and dues shall be deducted each pay period from
20 the pay of all employees who have given authorization for the deduction
21 and shall be transmitted by the employer as provided for by agreement
22 between the employer and the employee organization.

23 (4) Employee organizations that before the effective date of this
24 section were entitled to the benefits of this section shall continue to
25 be entitled to these benefits.

26 (5) Disputes arising from the provisions of this section shall be
27 adjudicated by the commission.

28 (6) An exclusive bargaining representative making a contribution to
29 a bona fide political party shall provide an employee paying dues to
30 the exclusive bargaining representative under this section the
31 opportunity to direct a pro rata share of the contribution attributable
32 to the employee's dues to the bona fide political party of the
33 employee's choice. If the employee does not direct the pro rata share
34 of the contribution attributable to the employee's dues to a bona fide
35 political party under this subsection, the exclusive bargaining
36 representative shall contribute the share equally among the major
37 political parties in the state as defined in RCW 29.01.090.

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

3 (a) To interfere with, restrain, or coerce employees in the
4 exercise of the rights guaranteed by this chapter;

5 (b) To dominate or interfere with the formation or administration
6 of any employee organization or contribute financial or other support
7 to it: PROVIDED, That subject to rules adopted by the commission, an
8 employer shall not be prohibited from permitting employees to confer
9 with it or its representatives or agents during working hours without
10 loss of time or pay;

11 (c) To encourage or discourage membership in any employee
12 organization by discrimination in regard to hire, tenure of employment,
13 or any term or condition of employment;

14 (d) To discharge or discriminate otherwise against an employee
15 because that employee has filed charges or given testimony under this
16 chapter;

17 (e) To refuse to bargain collectively with the representatives of
18 its employees.

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

20 (a) To restrain or coerce an employee in the exercise of the rights
21 guaranteed by this chapter: PROVIDED, That this subsection shall not
22 impair the right of an employee organization to prescribe its own rules
23 with respect to the acquisition or retention of membership in the
24 employee organization or to an employer in the selection of its
25 representatives for the purpose of bargaining or the adjustment of
26 grievances;

27 (b) To cause or attempt to cause an employer to discriminate
28 against an employee in violation of subsection (1)(c) of this section;

29 (c) To discriminate against an employee because that employee has
30 filed charges or given testimony under this chapter;

31 (d) To refuse to bargain collectively with an employer.

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

37 NEW SECTION. **Sec. 313.** UNFAIR LABOR PRACTICE PROCEDURES. (1)
38 The commission is empowered and directed to prevent any unfair labor

1 practice and to issue appropriate remedial orders: PROVIDED, That a
2 complaint shall not be processed for any unfair labor practice
3 occurring more than six months before the filing of the complaint with
4 the commission. This power shall not be affected or impaired by any
5 means of adjustment, mediation, or conciliation in labor disputes that
6 have been or may hereafter be established by law.

7 (2) If the commission determines that any person has engaged in or
8 is engaging in an unfair labor practice, the commission shall issue and
9 cause to be served upon the person an order requiring the person to
10 cease and desist from such unfair labor practice, and to take such
11 affirmative action as will effectuate the purposes and policy of this
12 chapter, such as the payment of damages and the reinstatement of
13 employees.

14 (3) The commission may petition the superior court for the county
15 in which the main office of the employer is located or in which the
16 person who has engaged or is engaging in such unfair labor practice
17 resides or transacts business, for the enforcement of its order and for
18 appropriate temporary relief.

19 NEW SECTION. **Sec. 314.** ENFORCEMENT OF COLLECTIVE BARGAINING
20 AGREEMENTS. (1) For the purposes of implementing final and binding
21 arbitration under grievance procedures required by section 304 of this
22 act, the parties to a collective bargaining agreement may agree on one
23 or more permanent umpires to serve as arbitrator, or may agree on any
24 impartial person to serve as arbitrator, or may agree to select
25 arbitrators from any source available to them, including federal and
26 private agencies, in addition to the staff and list of arbitrators
27 maintained by the commission. If the parties cannot agree to the
28 selection of an arbitrator, the commission shall supply a list of names
29 in accordance with the procedures established by the commission.

30 (2) An arbitrator may require any person to attend as a witness and
31 to bring with him or her any book, record, document, or other evidence.
32 The fees for such attendance shall be paid by the party requesting
33 issuance of the subpoena and shall be the same as the fees of witnesses
34 in the superior court. Arbitrators may administer oaths. Subpoenas
35 shall issue and be signed by the arbitrator and shall be served in the
36 same manner as subpoenas to testify before a court of record in this
37 state. If any person so summoned to testify refuses or neglects to
38 obey such subpoena, upon petition authorized by the arbitrator, the

1 superior court may compel the attendance of the person before the
2 arbitrator or punish the person for contempt in the same manner
3 provided for the attendance of witnesses or the punishment of them in
4 the courts of this state.

5 (3) The arbitrator shall appoint a time and place for the hearing
6 and notify the parties thereof, and may adjourn the hearing from time
7 to time as may be necessary, and, on application of either party and
8 for good cause, may postpone the hearing to a time not extending beyond
9 the date fixed by the collective bargaining agreement for making the
10 award. The arbitration award shall be in writing and signed by the
11 arbitrator. The arbitrator shall, promptly upon its rendition, serve
12 a true copy of the award on each of the parties or their attorneys of
13 record.

14 (4) If a party to a collective bargaining agreement negotiated
15 under this chapter refuses to submit a grievance for arbitration, the
16 other party to the collective bargaining agreement may invoke the
17 jurisdiction of the superior court of Thurston county or of any county
18 in which the labor dispute exists and such court shall have
19 jurisdiction to issue an order compelling arbitration. Disputes
20 concerning compliance with grievance procedures shall be reserved for
21 determination by the arbitrator. Arbitration shall be ordered if the
22 grievance states a claim that on its face is covered by the collective
23 bargaining agreement. Doubts as to the coverage of the arbitration
24 clause shall be resolved in favor of arbitration.

25 (5) If a party to a collective bargaining agreement negotiated
26 under this chapter refuses to comply with the award of an arbitrator
27 determining a grievance arising under the collective bargaining
28 agreement, the other party to the collective bargaining agreement may
29 invoke the jurisdiction of the superior court of Thurston county or of
30 any county in which the labor dispute exists and such court shall have
31 jurisdiction to issue an order enforcing the arbitration award.

32 NEW SECTION. **Sec. 315.** All powers, duties, and functions of the
33 department of personnel pertaining to collective bargaining are
34 transferred to the public employment relations commission except
35 mediation of grievances and contracts, arbitration of grievances and
36 contracts, and unfair labor practices, filed under a collective
37 bargaining agreement existing before the effective date of this
38 section. Any mediation, arbitration, or unfair labor practice issue

1 filed between July 1, 2002, and July 1, 2003, under a collective
2 bargaining agreement existing before the effective date of this
3 section, shall be resolved by the Washington personnel resources board
4 in accordance with the authorities, rules, and procedures that were
5 established under RCW 41.06.150(11) as it existed before the effective
6 date of this section.

7 NEW SECTION. **Sec. 316.** All reports, documents, surveys, books,
8 records, files, papers, or written material in the possession of the
9 department of personnel pertaining to the powers, functions, and duties
10 transferred in section 315 of this act shall be delivered to the
11 custody of the public employment relations commission. All cabinets,
12 furniture, office equipment, motor vehicles, and other tangible
13 property employed by the department of personnel in carrying out the
14 powers, functions, and duties transferred in section 315 of this act
15 shall be made available to the public employment relations commission.
16 All funds, credits, leases, and other assets held in connection with
17 the powers, functions, and duties transferred in section 315 of this
18 act shall be assigned to the public employment relations commission.

19 Any appropriations made to the department of personnel for carrying
20 out the powers, functions, and duties transferred in section 315 of
21 this act shall be deleted at the time that such powers, functions, and
22 duties are transferred to the public employment relations commission.
23 All funding required to perform these transferred powers, functions,
24 and duties is to be provided by the public employment relations
25 commission once the transfers occur.

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

32 NEW SECTION. **Sec. 317.** After the effective date of this section,
33 the director of personnel and the executive director of the public
34 employment relations commission shall meet and agree upon a schedule
35 for the transfer of department of personnel labor relation employees
36 and property to the commission. Whenever a question arises as to the
37 transfer of any personnel, funds, books, documents, records, papers,

1 files, equipment, or other tangible property used or held in the
2 exercise of the powers and the performance of the duties and functions
3 transferred, the director of financial management shall make a
4 determination as to the proper allocation and certify the same to the
5 state agencies concerned.

6 NEW SECTION. **Sec. 318.** All business pending before the department
7 of personnel pertaining to the powers, functions, and duties
8 transferred in section 315 of this act shall be continued and acted
9 upon by the public employment relations commission. All existing
10 contracts and obligations of the department of personnel, pertaining to
11 collective bargaining, shall remain in full force and shall be
12 performed by the public employment relations commission.

13 NEW SECTION. **Sec. 319.** The transfer of the powers, duties,
14 functions, and personnel of the department of personnel shall not
15 affect the validity of any act performed before the effective date of
16 this section.

17 NEW SECTION. **Sec. 320.** If apportionments of budgeted funds are
18 required because of the transfers directed by sections 316 through 319
19 of this act, the director of financial management shall certify the
20 apportionments to the agencies affected, the state auditor, and the
21 state treasurer. Each of these shall make the appropriate transfer and
22 adjustments in funds and appropriation accounts and equipment records
23 in accordance with the certification.

24 NEW SECTION. **Sec. 321.** DEFINITIONS. Unless the context clearly
25 requires otherwise, the definitions in this section apply throughout
26 this chapter.

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

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

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

2 (4) "Confidential employee" means an employee who, in the regular
3 course of his or her duties, assists in a confidential capacity persons
4 who formulate, determine, and effectuate management policies with
5 regard to labor relations or who, in the regular course of his or her
6 duties, has authorized access to information relating to the
7 effectuation or review of the employer's collective bargaining
8 policies, or who assists or aids a manager. "Confidential employee"
9 also includes employees who assist assistant attorneys general who
10 advise and represent managers or confidential employees in personnel or
11 labor relations matters, or who advise or represent the state in tort
12 actions.

13 (5) "Director" means the director of the public employment
14 relations commission.

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

18 (a) Employees covered for collective bargaining by chapter 41.56
19 RCW;

20 (b) Confidential employees;

21 (c) Members of the Washington management service;

22 (d) Internal auditors in any agency; or

23 (e) Any employee of the commission, the office of financial
24 management, or the department of personnel.

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

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

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

32 (10) "Institutions of higher education" means the University of
33 Washington, Washington State University, Central Washington University,
34 Eastern Washington University, Western Washington University, The
35 Evergreen State College, and the various state community colleges.

36 (11) "Labor dispute" means any controversy concerning terms,
37 tenure, or conditions of employment, or concerning the association or
38 representation of persons in negotiating, fixing, maintaining,
39 changing, or seeking to arrange terms or conditions of employment with

1 respect to the subjects of bargaining provided in this chapter,
2 regardless of whether the disputants stand in the proximate relation of
3 employer and employee.

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

5 (13) "Supervisor" means an employee who has authority, in the
6 interest of the employer, to hire, transfer, suspend, lay off, recall,
7 promote, discharge, direct, reward, or discipline employees, or to
8 adjust employee grievances, or effectively to recommend such action, if
9 the exercise of the authority is not of a merely routine nature but
10 requires the consistent exercise of individual judgment. However, no
11 employee who is a member of the Washington management service may be
12 included in a collective bargaining unit established under this
13 section.

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

16 NEW SECTION. **Sec. 322.** OFFICE OF FINANCIAL MANAGEMENT'S LABOR
17 RELATIONS SERVICE ACCOUNT. (1) The office of financial management's
18 labor relations service account is created in the custody of the state
19 treasurer to be used as a revolving fund for the payment of labor
20 relations services required for the negotiation of the collective
21 bargaining agreements entered into under this chapter. An amount not
22 to exceed one percent of the approved allotments of salaries and wages
23 for all bargaining unit positions in the classified service in each of
24 the agencies subject to this chapter, except the institutions of higher
25 education, shall be charged to the operations appropriations of each
26 agency and credited to the office of financial management's labor
27 relations service account as the allotments are approved pursuant to
28 chapter 43.88 RCW. Subject to the above limitations, the amount shall
29 be charged against the allotments pro rata, at a rate to be fixed by
30 the director of financial management from time to time. Payment for
31 services rendered under this chapter shall be made on a quarterly basis
32 to the state treasurer and deposited into the office of financial
33 management's labor relations service account.

34 (2) Moneys from the office of financial management's labor
35 relations service account shall be disbursed by the state treasurer by
36 warrants on vouchers authorized by the director of financial management
37 or the director's designee. An appropriation is not required.

PART IV
MISCELLANEOUS

1
2
3 NEW SECTION. **Sec. 401.** The following acts or parts of acts are
4 each repealed:

5 (1) RCW 41.06.163 (Comprehensive salary and fringe benefit survey
6 plan required--Contents) and 1993 c 281 s 30, 1987 c 185 s 9, 1986 c
7 158 s 6, 1979 c 151 s 59, & 1977 ex.s. c 152 s 3; and

8 (2) RCW 41.06.165 (Salary surveys--Criteria) and 1977 ex.s. c 152
9 s 4.

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

12 (1) RCW 41.06.140 (Employee participation in policy and rule
13 making, administration, etc.--Publication of board rules) and 1961 c 1
14 s 14;

15 (2) RCW 41.50.804 (Existing collective bargaining agreements not
16 affected) and 2000 c . . . s 228 (section 228 of this act), 1993 c 281
17 s 40, & 1975-'76 2nd ex.s. c 105 s 17; and

18 (3) RCW 41.06.520 (Administration, management of institutions of
19 higher education--Rules--Audit and review by board) and 1993 c 281 s
20 11.

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

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

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

27 (3) RCW 41.56.023 (Application of chapter to employees of
28 institutions of higher education) and 1993 c 379 s 301;

29 (4) RCW 41.56.201 (Employees of institutions of higher education--
30 Option to have relationship and obligations governed by chapter) and
31 1993 c 379 s 304; and

32 (5) RCW 28B.16.015 (Option to have relationship and obligations
33 governed by chapter 41.56 RCW) and 1993 c 379 s 310.

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

- 1 (1) RCW 41.64.010 (Personnel appeals board--Created--Membership--
2 Definitions) and 1981 c 311 s 1;
- 3 (2) RCW 41.64.020 (Removal of members--Hearing) and 1981 c 311 s 3;
- 4 (3) RCW 41.64.030 (Compensation of members--Travel expenses--
5 Disclosure of financial affairs) and 1984 c 287 s 73, 1984 c 34 s 4, &
6 1981 c 311 s 4;
- 7 (4) RCW 41.64.040 (Election of chairperson--Biennial meetings) and
8 1981 c 311 s 5;
- 9 (5) RCW 41.64.050 (Executive secretary--Appointment of assistants)
10 and 1981 c 311 s 6;
- 11 (6) RCW 41.64.060 (Location of principal office--Hearings--
12 Procedure) and 1981 c 311 s 7;
- 13 (7) RCW 41.64.070 (Journal of official actions) and 1981 c 311 s 8;
- 14 (8) RCW 41.64.080 (Employee appeals--Hearings examiners) and 1981
15 c 311 s 9;
- 16 (9) RCW 41.64.090 (Employee appeals--Jurisdiction) and 1993 c 281
17 s 41 & 1981 c 311 s 10;
- 18 (10) RCW 41.64.100 (Employee appeals--Hearing--Decision to be
19 rendered within ninety days, exceptions) and 1997 c 386 s 43 & 1981 c
20 311 s 11;
- 21 (11) RCW 41.64.110 (Employee appeals--Hearing--Procedure--Official
22 record) and 1985 c 461 s 7 & 1981 c 311 s 12;
- 23 (12) RCW 41.64.120 (Employee appeals--Findings of fact, conclusions
24 of law, order--Notice to employee and employing agency) and 1981 c 311
25 s 13;
- 26 (13) RCW 41.64.130 (Employee appeals--Review by superior court--
27 Grounds--Notice, service--Certified transcript) and 1981 c 311 s 14;
- 28 (14) RCW 41.64.140 (Employee appeals--Review by superior court--
29 Procedure--Appellate review) and 1988 c 202 s 42 & 1981 c 311 s 15; and
30 (15) RCW 41.64.910 (Severability--1981 c 311) and 1981 c 311 s 24.

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

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

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

4 NEW SECTION. **Sec. 408.** Until July 1, 2004, the public employment
5 relations commission is authorized to contract with the department of
6 personnel for labor relations staffing necessary to carry out its
7 functions.

8 NEW SECTION. **Sec. 409.** (1) Notwithstanding the provisions of
9 section 301 of this act, the parties to collective bargaining to be
10 conducted under sections 301 through 314 of this act shall meet by
11 September 1, 2000, to identify those payroll-related bargaining issues
12 that affect the capacity of the central state payroll system, as
13 determined by the department of personnel. The parties shall agree on
14 which bargaining issues will be bargained in a coalition of employee
15 representatives and will be agreed to uniformly in each collective
16 bargaining agreement. This agreement is effective only for collective
17 bargaining agreements entered into for implementation during the 2003-
18 2005 biennium. The purpose of the agreement is to minimize the risk to
19 the payroll system resulting from year 2000 conversion and agreements
20 reached in the first round of collective bargaining under this act.
21 (2) This section expires June 30, 2005.

22 NEW SECTION. **Sec. 410.** If any provision of this act or its
23 application to any person or circumstance is held invalid, the
24 remainder of the act or the application of the provision to other
25 persons or circumstances is not affected.

26 NEW SECTION. **Sec. 411.** (1) Sections 203, 204, 213 through 223,
27 227, 229 through 232, 242, 244, 248, 250, 301 through 307, 309 through
28 316, 318, 319, and 402 of this act take effect July 1, 2002.

29 (2) Section 224 of this act takes effect March 15, 2003.

30 (3) Sections 208, 235 through 239, and 403 of this act take effect
31 July 1, 2003.

32 (4) Sections 225, 226, 234, and 404 of this act take effect July 1,
33 2004.

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