

1 **SHB 1268** - H AMD

2 By Representative \_\_\_\_

3 Strike everything after the enacting clause and insert the  
4 following:

5 "NEW SECTION. **Sec. 1.** The legislature finds that there is a  
6 significant benefit in providing government services through a  
7 competitive system in which both public and private entities  
8 participate. The legislature also finds that updating the state civil  
9 service system and improving the system's classification of jobs to  
10 more clearly distinguish between management and nonmanagement personnel  
11 are needed to bring the system into the twenty-first century.

12 It is the intent of the legislature that managed competition be  
13 implemented at the discretion of a state agency or institution of  
14 higher education as an additional management strategy or tool to  
15 maximize the effectiveness and efficiency of government services.

16 **Sec. 2.** RCW 41.06.020 and 1993 c 281 s 19 are each amended to  
17 read as follows:

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

20 (1) "Agency" means an office, department, board, commission, or  
21 other separate unit or division, however designated, of the state  
22 government and all personnel thereof; it includes any unit of state  
23 government established by law, the executive officer or members of  
24 which are either elected or appointed, upon which the statutes confer  
25 powers and impose duties in connection with operations of either a  
26 governmental or proprietary nature.

27 (2) "Board" means the Washington personnel resources board  
28 established under the provisions of RCW 41.06.110, except that this  
29 definition does not apply to the words "board" or "boards" when used in  
30 RCW 41.06.070.

31 (3) "Business unit" means a team of employees, including  
32 supervisors, managers, and knowledgeable employees, who submit a bid  
33 under the managed competition process established in section 11 of this  
34 act.

35 (4) "Classified service" means all positions in the state service  
36 subject to the provisions of this chapter.

1           ~~((4))~~(5) "Competitive service" means all positions in the  
2 classified service for which a competitive examination is required as  
3 a condition precedent to appointment.

4           ~~((5))~~(6) "Comparable worth" means the provision of similar  
5 salaries for positions that require or impose similar responsibilities,  
6 judgments, knowledge, skills, and working conditions.

7           ~~((6))~~ (7) "Core service" means the service of an agency or  
8 institution of higher education determined to be core services under  
9 section 11 of this act.

10           (8) "Fully allocated cost" for the purposes of managed competition  
11 includes all direct personnel costs, materials and supplies, equipment,  
12 capital and equipment depreciation costs, rent, maintenance and  
13 repairs, utilities, insurance, travel, operations overhead, and general  
14 administrative overhead.

15           (9) "Managed competition" means the process established in section  
16 11 of this act by which state employees compete with private entities  
17 for the provision of services, other than core services, traditionally  
18 provided by government.

19           (10) "Noncompetitive service" means all positions in the  
20 classified service for which a competitive examination is not required.

21           ~~((7))~~(11) "Department" means an agency of government that has as  
22 its governing officer a person, or combination of persons such as a  
23 commission, board, or council, by law empowered to operate the agency  
24 responsible either to (a) no other public officer or (b) the governor.

25           ~~((8))~~(12) "Career development" means the progressive development  
26 of employee capabilities to facilitate productivity, job satisfaction,  
27 and upward mobility through work assignments as well as education and  
28 training that are both state-sponsored and are achieved by individual  
29 employee efforts, all of which shall be consistent with the needs and  
30 obligations of the state and its agencies.

31           ~~((9))~~(13) "Training" means activities designed to develop job-  
32 related knowledge and skills of employees.

33           ~~((10))~~(14) "Director" means the director of personnel appointed  
34 under the provisions of RCW 41.06.130.

35           ~~((11))~~(15) "Affirmative action" means a procedure by which  
36 racial minorities, women, persons in the protected age category,  
37 persons with disabilities, Vietnam-era veterans, and disabled veterans  
38 are provided with increased employment opportunities. It shall not  
39 mean any sort of quota system.

1           (((12)))(16) "Institutions of higher education" means the  
2 University of Washington, Washington State University, Central  
3 Washington University, Eastern Washington University, Western  
4 Washington University, The Evergreen State College, and the various  
5 state community colleges.

6           (((13)))(17) "Related boards" means the state board for community  
7 and technical colleges; and such other boards, councils, and  
8 commissions related to higher education as may be established.

9           **Sec. 3.** RCW 41.06.030 and 1993 c 281 s 20 are each amended to  
10 read as follows:

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

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

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

17           (a) The members of the legislature or to any employee of, or  
18 position in, the legislative branch of the state government including  
19 members, officers, and employees of the legislative council, joint  
20 legislative audit and review committee, statute law committee, and any  
21 interim committee of the legislature;

22           (b) The justices of the supreme court, judges of the court of  
23 appeals, judges of the superior courts or of the inferior courts, or to  
24 any employee of, or position in the judicial branch of state  
25 government;

26           (c) Officers, academic personnel, and employees of technical  
27 colleges;

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

29           (e) Elective officers of the state;

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

31           (g) In the departments of employment security and social and  
32 health services, the director and the director's confidential  
33 secretary; in all other departments, the executive head of which is an  
34 individual appointed by the governor, the director, his or her  
35 confidential secretary, and his or her statutory assistant directors;

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

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

5 (ii) If the members of the board, commission, or committee serve  
6 on a part-time basis and there is a statutory executive officer: The  
7 secretary of the board, commission, or committee; the chief executive  
8 officer of the board, commission, or committee; and the confidential  
9 secretary of the chief executive officer of the board, commission, or  
10 committee;

11 (iii) If the members of the board, commission, or committee serve  
12 on a full-time basis: The chief executive officer or administrative  
13 officer as designated by the board, commission, or committee; and a  
14 confidential secretary to the chair of the board, commission, or  
15 committee;

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

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

21 (j) Assistant attorneys general;

22 (k) Commissioned and enlisted personnel in the military service of  
23 the state;

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

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

29 (n) Officers and employees of the Washington state fruit  
30 commission;

31 (o) Officers and employees of the Washington state apple  
32 advertising commission;

33 (p) Officers and employees of the Washington state dairy products  
34 commission;

35 (q) Officers and employees of the Washington tree fruit research  
36 commission;

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

1 (s) Officers and employees of any commission formed under chapter  
2 15.66 RCW;

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

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

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

9 ~~((w))~~ (v) Executive assistants for personnel administration and  
10 labor relations in all state agencies employing such executive  
11 assistants including but not limited to all departments, offices,  
12 commissions, committees, boards, or other bodies subject to the  
13 provisions of this chapter and this subsection shall prevail over any  
14 provision of law inconsistent herewith unless specific exception is  
15 made in such law;

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

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

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

25 ~~(aa))~~ (y) Staff employed by the department of community, trade,  
26 and economic development to administer energy policy functions and  
27 manage energy site evaluation council activities under RCW  
28 43.21F.045(2)(m);

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

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

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

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

14 ~~(b) ((Student, part-time, or temporary employees, and part-time  
15 professional consultants, as defined by the Washington personnel  
16 resources board, employed by institutions of higher education and  
17 related boards;~~

18 ~~(c))~~ The governing board of each institution, and related boards,  
19 may also exempt from this chapter classifications involving research  
20 activities, counseling of students, extension or continuing education  
21 activities, graphic arts or publications activities requiring  
22 prescribed academic preparation or special training as determined by  
23 the board: PROVIDED, That no nonacademic employee engaged in office,  
24 clerical, maintenance, or food and trade services may be exempted by  
25 the board under this provision;

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

28 (3) In addition to the exemptions specifically provided by this  
29 chapter, the ~~((Washington personnel resources board))~~ director of  
30 personnel may provide for further exemptions pursuant to the following  
31 procedures. The governor or other appropriate elected official may  
32 submit requests for exemption to the ~~((Washington personnel resources~~  
33 ~~board))~~ director of personnel stating the reasons for requesting such  
34 exemptions. The ~~((Washington personnel resources board))~~ director of  
35 personnel shall hold a public hearing, after proper notice, on requests  
36 submitted pursuant to this subsection. If the ~~((board))~~ director of  
37 personnel determines that the position for which exemption is requested  
38 is one involving substantial responsibility for the formulation of  
39 basic agency or executive policy or one involving directing and

1 controlling program operations of an agency or a major administrative  
2 division thereof, the (~~Washington personnel resources board~~) director  
3 of personnel shall grant the request and such determination shall be  
4 final as to any decision made before July 1, 1993. The total number of  
5 additional exemptions permitted under this subsection shall not exceed  
6 one percent of the number of employees in the classified service not  
7 including employees of institutions of higher education and related  
8 boards for those agencies not directly under the authority of any  
9 elected public official other than the governor, and shall not exceed  
10 a total of twenty-five for all agencies under the authority of elected  
11 public officials other than the governor.

12 The salary and fringe benefits of all positions presently or  
13 hereafter exempted except for the chief executive officer of each  
14 agency, full-time members of boards and commissions, administrative  
15 assistants and confidential secretaries in the immediate office of an  
16 elected state official, and the personnel listed in subsections (1)(j)  
17 through (~~(v), (y), (z),~~) (u) and (x) and (2) of this section, shall  
18 be determined by the (~~Washington personnel resources board~~) director  
19 of personnel. However, beginning with changes proposed for the 1997-99  
20 fiscal biennium, changes to the classification plan affecting exempt  
21 salaries must meet the same provisions for classified salary increases  
22 resulting from adjustments to the classification plan as outlined in  
23 RCW 41.06.152.

24 Any person holding a classified position subject to the provisions  
25 of this chapter shall, when and if such position is subsequently  
26 exempted from the application of this chapter, be afforded the  
27 following rights: If such person previously held permanent status in  
28 another classified position, such person shall have a right of  
29 reversion to the highest class of position previously held, or to a  
30 position of similar nature and salary.

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

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

1           **Sec. 5.** RCW 41.06.110 and 1993 c 281 s 25 are each amended to  
2 read as follows:

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

18           (2) Each member of the board shall be compensated in accordance  
19 with RCW 43.03.250. The members of the board may receive any number of  
20 daily payments for official meetings of the board actually attended.  
21 Members of the board shall also be reimbursed for travel expenses  
22 incurred in the discharge of their official duties in accordance with  
23 RCW 43.03.050 and 43.03.060.

24           (3) At its first meeting following the appointment of all of its  
25 members, and annually thereafter, the board shall elect a chair and  
26 vice-chair from among its members to serve one year. The presence of  
27 at least two members of the board shall constitute a quorum to transact  
28 business. A written public record shall be kept by the board of all  
29 actions of the board. The director of personnel shall serve as  
30 secretary.

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

36           **Sec. 6.** RCW 41.06.150 and 1999 c 297 s 3 are each amended to read  
37 as follows:



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

5 (1) The reduction, dismissal, suspension, or demotion of an  
6 employee;

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

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

15 (4) Appointments;

16 (5) Training and career development;

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

21 (7) Transfers;

22 (8) Sick leaves and vacations;

23 (9) Hours of work;

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

26 (11) Collective bargaining, including:

27 (a) Determination of appropriate bargaining units within any  
28 agency(~~(: PROVIDED, That))~~). In making such determination the  
29 ~~(board)~~ director shall consider the duties, skills, and working  
30 conditions of the employees, the history of collective bargaining by  
31 the employees and their bargaining representatives, the extent of  
32 organization among the employees, and the desires of the employees.  
33 Employees who are members of the Washington management service may not  
34 be included in a bargaining unit;

35 (~~(+12+))~~ (b) Certification and decertification of exclusive  
36 bargaining representatives(~~(: PROVIDED, That))~~ subject to the  
37 following:

38 (i) After certification of an exclusive bargaining representative  
39 and upon the representative's request, the director shall hold an

1 election among employees in a bargaining unit to determine by a  
2 majority whether to require as a condition of employment membership in  
3 the certified exclusive bargaining representative on or after the  
4 thirtieth day following the beginning of employment or the date of such  
5 election, whichever is the later, and the failure of an employee to  
6 comply with such a condition of employment constitutes cause for  
7 dismissal(~~(:—PROVIDED FURTHER, That))~~);

8 (ii) No more often than once in each twelve-month period after  
9 expiration of twelve months following the date of the original election  
10 in a bargaining unit and upon petition of thirty percent of the members  
11 of a bargaining unit the director shall hold an election to determine  
12 whether a majority wish to rescind such condition of employment(~~(:—~~  
13 ~~PROVIDED FURTHER, That))~~);

14 (iii) For purposes of this ~~((clause))~~ subsection, membership in  
15 the certified exclusive bargaining representative is satisfied by the  
16 payment of monthly or other periodic dues and does not require payment  
17 of initiation, reinstatement, or any other fees or fines and includes  
18 full and complete membership rights(~~(:—AND PROVIDED FURTHER, That in~~  
19 ~~order))~~); and

20 (iv) To safeguard the right of nonassociation of public employees,  
21 based on bona fide religious tenets or teachings of a church or  
22 religious body of which such public employee is a member, such public  
23 employee shall pay to the union, for purposes within the program of the  
24 union as designated by such employee that would be in harmony with his  
25 or her individual conscience, an amount of money equivalent to regular  
26 union dues minus any included monthly premiums for union-sponsored  
27 insurance programs, and such employee shall not be a member of the  
28 union but is entitled to all the representation rights of a union  
29 member;

30 ~~((+13))~~ (c)(i) Agreements between agencies and certified  
31 exclusive bargaining representatives providing for grievance procedures  
32 and collective negotiations on all personnel matters over which the  
33 appointing authority of the appropriate bargaining unit of such agency  
34 may lawfully exercise discretion, except that collective negotiations  
35 are not permitted over wages or wage-related matters, management  
36 rights, or an agency's decision to purchase services by contract. A  
37 provision of a collective bargaining agreement that conflicts with a  
38 rule adopted under this chapter or a statute is invalid and  
39 unenforceable.

1           (ii) For the purposes of this subsection, "management rights"  
2 includes, in addition to all powers, duties, and rights established by  
3 constitutional provision or statute, at least the following:

4           (A) The functions and programs of the agency, the use of  
5 technology, and the structure of the organization;

6           (B) The agency's budget and the size of the agency work force,  
7 including determining the financial basis for layoffs;

8           (C) The right to direct and supervise employees; and

9           (D) The right to take whatever actions are deemed necessary to  
10 carry out the mission of the state and its agencies during emergencies;

11           ~~((+14))~~ (d) Authorization for written agreements ~~((may))~~ to  
12 contain provisions for payroll deductions of employee organization dues  
13 upon authorization by the employee member and for the cancellation of  
14 such payroll deduction by the filing of a proper prior notice by the  
15 employee with the appointing authority and the employee organization~~((+~~  
16 ~~PROVIDED, That))~~);

17           (e) Nothing contained ~~((herein))~~ in this chapter permits or grants  
18 to any employee the right to strike or refuse to perform his or her  
19 official duties;

20           ~~((+15))~~ (12) Adoption and revision of a comprehensive  
21 classification plan for all positions in the classified service, based  
22 on investigation and analysis of the duties and responsibilities of  
23 each such position.

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

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

32           (i) The board may approve the implementation of salary increases  
33 resulting from adjustments to the classification plan during the 1995-  
34 97 fiscal biennium only if:

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

38           (B) The implementation will take effect on July 1, 1996, and the  
39 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  
16 pay plan are exempt from (b)(i) (~~through~~) and (ii) of this  
17 subsection.

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

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

23 (~~(17)~~) (14) Adoption and revision of a state salary schedule to  
24 reflect the prevailing rates in Washington state private industries and  
25 other governmental units but the rates in the salary schedules or plans  
26 shall be increased if necessary to attain comparable worth under an  
27 implementation plan under RCW 41.06.155 and that, for institutions of  
28 higher education and related boards, shall be competitive for positions  
29 of a similar nature in the state or the locality in which an  
30 institution of higher education or related board is located, such  
31 adoption and revision subject to approval by the director of financial  
32 management in accordance with the provisions of chapter 43.88 RCW;

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

37 (~~(19)~~) (16) Optional lump sum relocation compensation approved  
38 by the agency director, whenever it is reasonably necessary that a  
39 person make a domiciliary move in accepting a transfer or other

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

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

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

36 ((+22+)) (19) Assuring persons who are or have been employed in  
37 classified positions before July 1, 1993, will be eligible for  
38 employment, reemployment, transfer, and promotion in respect to  
39 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~~) director shall consult with the human rights  
6 commission in the development of rules pertaining to affirmative  
7 action. The department of personnel shall transmit a report annually  
8 to the human rights commission which states the progress each state  
9 agency has made in meeting affirmative action goals and timetables.

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

12           (1) The board shall adopt only those job classification  
13 revisions, class studies, and salary adjustments under RCW  
14 41.06.150(~~(15)~~)(12) that:

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

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

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

31           Before the department of personnel's biennial budget request is  
32 due to the office of financial management, the board shall prioritize  
33 requests for reclassifications, class studies, and salary adjustments  
34 for the next fiscal biennium. The board shall prioritize according to  
35 such criteria as are developed by the board consistent with RCW  
36 41.06.150(~~(15)~~)(12)(a).

37           The board shall submit the prioritized list to the governor's  
38 office and the fiscal committees of the house of representatives and

1 senate at the same time the department of personnel's biennial budget  
2 request is submitted. The office of financial management shall review  
3 the biennial cost of each proposed salary adjustment on the board's  
4 prioritized list.

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

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

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

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

36 (1) In preparing classification and salary schedules as set forth  
37 in RCW 41.06.150 (~~((as now or hereafter amended))~~), the department of  
38 personnel shall give full consideration to prevailing rates in other

1 public employment and in private employment in this state. ((For this  
2 purpose)) The department shall ((undertake comprehensive salary and  
3 fringe benefit surveys, with such surveys to be conducted in the year  
4 prior to the convening of every other one hundred five day regular  
5 session of the state legislature. In the year prior to the convening  
6 of each one hundred five day regular session during which a  
7 comprehensive salary and fringe benefit survey is not conducted, the  
8 department shall plan and conduct a trend salary and fringe benefit  
9 survey. This survey shall measure average salary and fringe benefit  
10 movement for broad occupational groups which has occurred since the  
11 last comprehensive salary and fringe benefit survey was conducted. The  
12 results of each comprehensive and trend salary and fringe benefit  
13 survey)) use an appropriate mix of data gathered from surveys conducted  
14 by the department and from surveys conducted by other entities to  
15 determine the rate paid to the majority of workers. The majority rate  
16 results shall be ((completed and)) forwarded by September ((30)) 30th  
17 of each even-numbered year with a recommended state salary schedule to  
18 the governor and director of financial management for their use in  
19 preparing budgets to be submitted to the succeeding legislature. ((A  
20 copy of the data and supporting documentation shall be furnished by the  
21 department of personnel)) The information shall also be forwarded to  
22 the standing committees for appropriations of the senate and house of  
23 representatives.

24 ((In the case of comprehensive salary and fringe benefit surveys,  
25 the department shall furnish the following supplementary data in  
26 support of its recommended salary schedule:

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

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



1           ~~(3) A list of class codes and titles indicating recommended~~  
2 ~~monthly salary ranges for all state classes under the control of the~~  
3 ~~department of personnel with those salary ranges which do not~~  
4 ~~substantially conform to the prevailing rates developed from the salary~~  
5 ~~and fringe benefit survey distinctly marked and an explanation of the~~  
6 ~~reason for the deviation included;~~

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

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

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

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

32           ~~((The first comprehensive salary and fringe benefit survey~~  
33 ~~required by this section shall be completed and forwarded to the~~  
34 ~~governor and the director of financial management by September 30,~~  
35 ~~1986. The first trend salary and fringe benefit survey required by~~  
36 ~~this section shall be completed and forwarded to the governor and the~~  
37 ~~director of financial management by September 30, 1988.))~~

1           **Sec. 9.** RCW 41.06.167 and 1991 c 196 s 1 are each amended to read  
2 as follows:

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

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

32           ~~A comprehensive compensation survey plan and the recommendations  
33 of the chief of the Washington state patrol shall be submitted jointly  
34 by the department of personnel and the Washington state patrol to the  
35 director of financial management, the legislative transportation  
36 committee, the committee on ways and means of the senate, and the  
37 committee on appropriations of the house of representatives six months  
38 before the beginning of each periodic survey.))~~

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

3            (1) Any agency or institution of higher education may purchase  
4 services by contracting with individuals, nonprofit organizations,  
5 businesses, or other entities under the managed competition process  
6 established in section 11 of this act if:

7            (a) The service being contracted for is not a core service of the  
8 agency or institution of higher education;

9            (b) At least two private entities exist that provide the service  
10 being contracted for or at least two competitive bids for the service  
11 have been made by private entities to the state agency or institution  
12 of higher education; and

13            (c) The contract includes a provision directing a private entity  
14 that is awarded the contract to consider offering employment to state  
15 employees to perform the services under such a contract.

16            (2) The board shall adopt rules providing procedures for the  
17 department of personnel to assist a state employee to pursue another  
18 position in state service if awarding a contract to a private entity  
19 directly results in displacement of the employee.

20            (3) Any provision contrary to or in conflict with this section in  
21 any collective bargaining agreement in effect on the effective date of  
22 this section is not effective beyond the expiration date of the  
23 agreement.

24            (4) This section and section 11 of this act do not apply to the  
25 purchase of services or to any contracting for services that was  
26 authorized by law prior to the effective date of this section.

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

29            (1) Beginning with the budget submitted to the legislature for  
30 consideration during the 2003 regular legislative session, the governor  
31 shall include with the submittal a list of proposed core services for  
32 each agency and institution of higher education. In proposing core  
33 services, the head of the agency or institution must consider whether  
34 the public interest in having the service performed directly by state  
35 government outweighs the potential economic advantage of contracting  
36 for the service with a private entity. In assessing the public  
37 interest, the head of an agency or institution shall take into account:

1 (a) The consequences and potential mitigation of improper or  
2 failed performance by the contractor; and

3 (b) Whether performance of the contract involves the improper  
4 delegation of a policy-making function.

5 (2) The legislature may accept, reject, or modify the list of  
6 core services. If the legislature adopts by resolution a list of core  
7 services for any agency or institution of higher education, the agency  
8 or institution may develop a plan for implementing managed competition  
9 for some or all of the non-core services. The plan must be developed  
10 in consultation with the agency's or institution's joint employee-  
11 management committee under RCW 41.06.540.

12 (3) To implement managed competition for contracting for non-core  
13 services, an agency or institution of higher education must:

14 (a) Have a managed competition implementation plan approved by the  
15 office of financial management;

16 (b) Solicit bids or requests for proposals from private entities  
17 and business units of affected employees. At a minimum, the  
18 solicitation must include:

19 (i) Eligibility requirements and minimum qualifications of  
20 bidders;

21 (ii) Project scope of work, including expected outcomes and  
22 performance standards;

23 (iii) The term of the contract, but not longer than two years;

24 (iv) The maximum cost for the contract; and

25 (v) The bid evaluation process and evaluation criteria; and

26 (c) Give notice to potentially affected employees as follows:

27 (i) Employees must be notified at least ninety days prior to  
28 soliciting bids or proposals; and

29 (ii) If, within thirty days of receiving the notice, a group of  
30 employees informs the agency head of their desire to submit a bid  
31 through one or more business units established for the sole purpose of  
32 providing the services that are the subject of the request for bids,  
33 the agency head shall notify the office of financial management. The  
34 office of financial management shall provide the business unit or units  
35 with training on the bidding process within two weeks of notice and  
36 shall, if requested, provide adequate technical assistance in preparing  
37 a bid.

1 (4) The director of the office of financial management shall adopt  
2 rules to regarding procedures for managed competition. The rules shall  
3 include, but not be limited to:

4 (a) Requirements for soliciting bids or requests for proposals,  
5 including bidder eligibility and qualification requirements, scope of  
6 work, plans for management of the contract, methods of cost analysis,  
7 and performance standards addressing outcomes, service level, cost  
8 monitoring;

9 (b) Procedures for business units to suggest efficiencies through  
10 reengineering and/or organizational and management changes as part of  
11 a bid proposal;

12 (c) Processes for ensuring an objective and fair bid evaluation,  
13 including:

14 (i) Requiring business units to be subject to the same bidding  
15 requirements as private parties bidding on the contract, and  
16 prohibiting an award of a contract to a business unit unless the unit  
17 received no advantage over other bidders;

18 (ii) Comparing costs of bids, including a method for determining  
19 the fully allocated cost of a business unit. A business unit's bid  
20 price may not be less than its attributable fully allocated costs for  
21 performing the services. In comparing bid costs, costs must include  
22 transition costs and contract monitoring costs;

23 (iii) Prohibiting participation in a business unit's bid by any  
24 personnel who assisted in preparing a business unit's bid or who work  
25 in a business unit that has within its scope of responsibility the  
26 provision of any of the services to be contracted for; and

27 (iv) Providing a reasonable opportunity for private businesses and  
28 other business units to comment regarding the evaluation process and  
29 requiring consideration of these comments in making the final contract  
30 award;

31 (d) Performance guarantees for the winning bid, ensuring that the  
32 same terms, conditions, financial penalties, and performance  
33 measurements apply to both private entities and business units.  
34 Standards must include, at a minimum, outcomes, service level, and cost  
35 monitoring;

36 (e) Evaluation of and termination procedures for contracts  
37 awarded, including:

38 (i) Procedures for initiating cancellation of a contract if, in  
39 any financial quarter during the term of the contract, the contractor's

1 or business unit's cost attributable to the service provided under the  
2 contract exceeds the contract price for that period;

3 (ii) Requirements for monitoring contract performance monthly and  
4 initiating corrective action if the service delivery does not meet the  
5 performance standards and, if deficiencies are not corrected within  
6 sixty days of notice being given, requirements for the agency or  
7 institution of higher education to initiate cancellation of the  
8 contract; and

9 (iii) Procedures for issuing new requests for bids for the service  
10 provided under a contract that has been cancelled;

11 (f) Procedures for assessing the contractor or a business unit to  
12 provide surety for either or both:

13 (i) The cost overruns identified for each financial quarter of  
14 the contract; and

15 (ii) The cost associated with the agency's or institution of  
16 higher education's need to mitigate a failure to meet the performance  
17 standards required by the contract;

18 (g) Requirements for sanctions, including prohibiting bids from  
19 contractors or business units for at least one contract round following  
20 cancellation of a contract with the contractor or business unit; and

21 (h) Procedures for crediting the agency's savings incentive  
22 account under RCW 43.79.460 with savings attributable to implementing  
23 a managed competition plan.

24 (5) The joint legislative audit and review committee shall  
25 undertake a cost-benefit analysis of agencies' and institutions of  
26 higher education's implementation of managed competition plans, and the  
27 contracts for non-core services entered into pursuant to the plans, and  
28 report to the governor and the appropriate committees of the  
29 legislature by December 1 of each even-numbered year.

30 (6) This section does not modify the personal liability of a  
31 state employee who is performing his or her official duties.

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

34 The performance accountability account is created in the custody  
35 of the state treasury. All receipts from assessments made under rules  
36 adopted under section 11 of this act against business units as surety  
37 for contract cost overruns or cost of mitigating performance

1 deficiencies shall be deposited into the account and may be expended  
2 only for recovery of such costs upon request of the head of the agency  
3 or institution of higher education. Only the director of the office  
4 of financial management may authorize expenditures from the fund. The  
5 fund is subject to allotment procedures under chapter 43.88 RCW, but no  
6 appropriation is required for expenditures.

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

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

17 (2) Any employee who is reduced, dismissed, suspended, or demoted,  
18 after completing his or her probationary period of service as provided  
19 by the rules of the (~~board~~) director, or any employee who is  
20 adversely affected by a violation of the state civil service law,  
21 chapter 41.06 RCW, or rules adopted under it, shall have the right to  
22 appeal (~~to the personnel appeals board created by RCW 41.64.010~~) not  
23 later than thirty days after the effective date of such action to the  
24 personnel appeals board. The employee shall be furnished with  
25 specified charges in writing when a reduction, dismissal, suspension,  
26 or demotion action is taken. Such appeal shall be in writing.

27 (3) Any employee whose position has been exempted after July 1,  
28 1993, shall have the right to appeal (~~to the personnel appeals board~~  
29 ~~created by RCW 41.64.010~~) not later than thirty days after the  
30 effective date of such action to the personnel appeals board.

31 (4) An employee incumbent in a position at the time of its  
32 allocation or reallocation, or the agency utilizing the position, may  
33 appeal the allocation or reallocation to the personnel appeals board  
34 (~~created by RCW 41.64.010~~). Notice of such appeal must be filed in  
35 writing within thirty days of the action from which appeal is taken.

36 **Sec. 14.** RCW 41.06.170 and 2002 c . . . s 10 (section 13 of this  
37 act) are each amended to read as follows:

1 (1) The director, in the adoption of rules governing suspensions  
2 for cause, shall not authorize an appointing authority to suspend an  
3 employee for more than fifteen calendar days as a single penalty or  
4 more than thirty calendar days in any one calendar year as an  
5 accumulation of several penalties. The director shall require that the  
6 appointing authority give written notice to the employee not later than  
7 one day after the suspension takes effect, stating the reasons for and  
8 the duration thereof.

9 (2) Any employee who is reduced, dismissed, suspended, or demoted,  
10 after completing his or her probationary period of service as provided  
11 by the rules of the director, or any employee who is adversely affected  
12 by a violation of the state civil service law, chapter 41.06 RCW, or  
13 rules adopted under it, shall have the right to appeal, either  
14 individually or through the employee's authorized representative, not  
15 later than thirty days after the effective date of such action to the  
16 Washington personnel ((appeals)) resources board. The employee shall  
17 be furnished with specified charges in writing when a reduction,  
18 dismissal, suspension, or demotion action is taken. Such appeal shall  
19 be in writing. The board shall furnish the agency concerned with a  
20 copy of the appeal in advance of the hearing. The board or hearings  
21 officer will process an appeal, or a review of a hearings officer's  
22 recommended decision, if any, as quickly as is feasible to provide  
23 prompt resolution of the appeal.

24 (3) Any employee whose position has been exempted after July 1,  
25 1993, shall have the right to appeal, either individually or through  
26 the employee's authorized representative, not later than thirty days  
27 after the effective date of such action to the Washington personnel  
28 ((appeals)) resources board.

29 (4) An employee incumbent in a position at the time of its  
30 allocation or reallocation, or the agency utilizing the position, may  
31 appeal the allocation or reallocation to the Washington personnel  
32 ((appeals)) resources board. Notice of such appeal must be filed in  
33 writing within thirty days of the action from which appeal is taken.

34 (5) The board may consolidate two or more appeals when the cases  
35 present issues appropriate for joint resolution.

36 (6) A decision of the Washington personnel resources board under  
37 subsection (3) or (4) of this section is final and not subject to  
38 appeal.



1            NEW SECTION.    **Sec. 15.**    A new section is added to chapter 41.06  
2    RCW to read as follows:

3            (1) The board may appoint, following consultation with employee  
4    organizations and employing agencies, one or more hearings officers to  
5    conduct hearings and make recommended decisions in accordance with  
6    rules adopted by the board.    The hearings officer shall conduct  
7    hearings in the same manner and shall have the same authority as  
8    provided in hearings by the board.    The recommended decision must be  
9    forthwith served upon the parties and transmitted to the board.

10           (2)(a) Within thirty days of service of the recommended decision  
11    of a hearings officer, any party adversely affected may request the  
12    board to review the recommended decision.    The request for review must  
13    include a statement of the issues to which the party takes exception.  
14    The board's review is limited to the stated issues and the requesting  
15    party is deemed to have waived all objections or irregularities not  
16    specifically stated in the request.    The requesting party must provide  
17    written argument in support of the exceptions and may, at the  
18    discretion of the board, provide oral argument.    The board's decision  
19    is subject to section 17 of this act.

20           (b) If a request for review of a hearings officer's decision is  
21    not filed as required by this section, the recommended decision of the  
22    hearings officer shall be adopted by the board as the board's decision.

23           NEW SECTION.    **Sec. 16.**    A new section is added to chapter 41.06  
24    RCW to read as follows:

25           (1) Hearings on appeals under this chapter shall be open to the  
26    public, except for cases in which the board determines there is  
27    substantial reason for not having an open hearing or in cases where the  
28    employee so requests, and shall be informal with technical rules of  
29    evidence not applying to the proceedings except the rules of privilege  
30    recognized by law.    Both the employee and his or her employing agency  
31    shall be notified reasonably in advance of the hearing and may select  
32    representatives of their choosing, present and cross-examine witnesses,  
33    and give evidence before the board.

34           (2) Members of the board or the executive secretary may, and shall  
35    at the request of either party, issue subpoenas and subpoenas duces  
36    tecum.    All testimony shall be on oath administered by a member of the  
37    board.    The board shall certify to the superior court the facts of any  
38    refusals to obey a subpoena, take the oath, or testify.    The court

1 shall summarily hear the evidence on the refusal and, if the evidence  
2 warrants, punish the refusal in the same manner and to the same extent  
3 as for contempt committed before, or in connection with the proceedings  
4 of, the court.

5 (3) The board shall prepare an official record of the hearing,  
6 including all testimony, recorded manually or by mechanical device, and  
7 exhibits, but the board may not be required to transcribe the record  
8 unless requested by the employee, who shall be furnished with a  
9 complete transcript upon payment of a reasonable charge. However,  
10 payment of the cost of a transcript used on appeal shall await  
11 determination of the appeal and shall be made by the employing agency  
12 if the employee prevails.

13 NEW SECTION. **Sec. 17.** A new section is added to chapter 41.06  
14 RCW to read as follows:

15 (1) Within sixty days after the conclusion of an appeal hearing  
16 under this chapter, the board shall make and fully record in its  
17 permanent records the following: (a) Findings of fact; (b) conclusions  
18 of law when the construction of a rule, regulation, or statute is in  
19 question; (c) reasons for the action taken; and (d) the board's order  
20 based thereon. The order is final and not appealable to court, except  
21 as provided in section 18 of this act.

22 (2) The board shall simultaneously send a copy of the findings,  
23 conclusions, and order by certified mail to the employing agency and to  
24 the employee or the employee's designated representative.

25 NEW SECTION. **Sec. 18.** A new section is added to chapter 41.06  
26 RCW to read as follows:

27 (1) Within thirty days after the mailing of a recorded order under  
28 section 16 of this act, the employee may appeal a decision and order of  
29 the board made under RCW 41.06.170(2) to the superior court of Thurston  
30 county on one or more of the grounds that the order was:

31 (a) Founded on or contained an error of law, which shall  
32 specifically include error in construction or application of any  
33 pertinent rules or regulations;

34 (b) Contrary to a preponderance of the evidence as disclosed by  
35 the entire record with respect to any specified finding or findings of  
36 fact;

37 (c) Materially affected by unlawful procedure;

1 (d) Based on violation of any constitutional provision; or

2 (e) Arbitrary or capricious.

3 (2) The grounds for appeal shall be stated in a written notice of  
4 appeal filed with the court, with copies thereof served on the director  
5 of personnel or a member of his or her staff or a member of the board  
6 and on the employing agency, all within the time stated.

7 (3) Within thirty days after service of a notice of appeal, or  
8 within such further time as the court may allow, the board shall  
9 transmit to the court a certified transcript, with exhibits, of the  
10 hearing; but by stipulation between the employing agency and the  
11 employee the transcript may be shortened, and either party unreasonably  
12 refusing to stipulate to such limitation may be ordered by the court to  
13 pay the additional cost involved. The court may require or permit  
14 subsequent corrections or additions to the transcript.

15 NEW SECTION. **Sec. 19.** A new section is added to chapter 41.06  
16 RCW to read as follows:

17 (1) The court shall review the hearing without a jury on the basis  
18 of the transcript and exhibits, except that in case of alleged  
19 irregularities in procedure before the board not shown by the  
20 transcript the court may order testimony to be given thereon. The  
21 court shall upon request by either party hear oral argument and receive  
22 written briefs.

23 (2) The court may affirm the order of the board, remand the matter  
24 for further proceedings before the board, or reverse or modify the  
25 order if it finds that the objection thereto is well taken on any of  
26 the grounds stated. Appellate review of the order of the superior  
27 court may be sought as in other civil cases.

28 **Sec. 20.** RCW 41.06.186 and 1993 c 281 s 32 are each amended to  
29 read as follows:

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

33 **Sec. 21.** RCW 41.06.196 and 1993 c 281 s 33 are each amended to  
34 read as follows:

35 The ((~~Washington personnel resources board~~)) director shall adopt  
36 rules designed to remove from supervisory positions those supervisors

1 who in violation of the rules adopted under RCW 41.06.186 have  
2 tolerated the continued employment of employees under their supervision  
3 whose performance has warranted termination from state employment.

4 **Sec. 22.** RCW 41.06.270 and 1979 c 151 s 61 are each amended to  
5 read as follows:

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

11 **Sec. 23.** RCW 41.06.350 and 1993 c 281 s 36 are each amended to  
12 read as follows:

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

18 **Sec. 24.** RCW 41.06.400 and 1980 c 118 s 4 are each amended to  
19 read as follows:

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

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

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

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

33 (c) Promote interagency sharing of resources for training and  
34 career development;

35 (d) Monitor and review the impact of training and career  
36 development programs to ensure that the responsibilities of the state

1 to provide equal employment opportunities are diligently carried out.  
2 (~~The director shall report to the board the impact of training and~~  
3 ~~career development programs on the fulfillment of such~~  
4 ~~responsibilities.~~)

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

9 **Sec. 25.** RCW 41.06.410 and 1980 c 118 s 5 are each amended to  
10 read as follows:

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

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

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

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

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

23 **Sec. 26.** RCW 41.06.450 and 1993 c 281 s 37 are each amended to  
24 read as follows:

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

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

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

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

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

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

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

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

11 **Sec. 27.** RCW 41.06.475 and 1993 c 281 s 38 are each amended to  
12 read as follows:

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

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

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

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

26 (b) Provide for eligibility in the return-to-work program, for a  
27 minimum of two years from the date the temporary disability commenced,  
28 for any permanent employee who is receiving compensation under RCW  
29 51.32.090 and who is, by reason of his or her temporary disability,  
30 unable to return to his or her previous work, but who is physically  
31 capable of carrying out work of a lighter or modified nature;

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

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

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

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

6 (g) Coordinate participation of applicable employee assistance  
7 programs, as appropriate.

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

12 **Sec. 29.** RCW 41.06.500 and 1996 c 319 s 4 are each amended to  
13 read as follows:

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

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

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

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

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

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

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

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

24 (g) Facilitating decentralized and regional administration.

25 **Sec. 30.** RCW 41.64.090 and 1993 c 281 s 41 are each amended to  
26 read as follows:

27 (1) The board shall have jurisdiction to decide appeals filed on  
28 or after July 1, 1981, and before July 1, 2003, of employees under the  
29 jurisdiction of the Washington personnel resources board pursuant to  
30 RCW 41.06.170(~~(, as now or hereafter amended)~~)).

31 (2) The board shall have jurisdiction to decide appeals filed on  
32 or after July 1, 1993, and before July 1, 2003, of employees of  
33 institutions of higher education and related boards under the  
34 jurisdiction of the Washington personnel resources board pursuant to  
35 RCW 41.06.170. An appeal under this subsection by an employee of an  
36 institution of higher education or a related board shall be held in the  
37 county in which the institution is located or the county in which the  
38 person was employed when the appeal was filed.



1           **Sec. 31.** RCW 28B.12.060 and 1994 c 130 s 6 are each amended to  
2 read as follows:

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

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

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

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

19           (b) Has been accepted for enrollment as at least a half-time  
20 student at the eligible institution or, in the case of a student  
21 already enrolled in and attending the eligible institution, is in good  
22 standing and in at least half-time attendance there either as an  
23 undergraduate, graduate or professional student; and

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

25           (3) Placing priority on providing:

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

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

32           (c) Off-campus community service placements;

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

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

37           (b) That all positions established which are comparable shall be  
38 identified to a job classification under the (~~Washington personnel~~

1 ~~resources board's~~) director of personnel's classification plan and  
2 shall receive equal compensation;

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

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

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

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

14 (1) This chapter shall not apply to:

15 (a) The state militia, or

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

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

20 (2) The provisions of RCW 34.05.410 through 34.05.598 shall not  
21 apply:

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

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

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

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

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

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

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

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

9 **Sec. 33.** RCW 34.12.020 and 1995 c 331 s 1 are each amended to  
10 read as follows:

11 Unless the context clearly requires otherwise, the definitions in  
12 this section apply throughout this chapter.

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

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

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

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

30 **Sec. 34.** RCW 41.04.340 and 1998 c 254 s 1 and 1998 c 116 s 2 are  
31 each reenacted and amended to read as follows:

32 (1) An attendance incentive program is established for all  
33 eligible employees. As used in this section the term "eligible  
34 employee" means any employee of the state, other than eligible  
35 employees of the community and technical colleges and the state board  
36 for community and technical colleges identified in RCW 28B.50.553, and  
37 teaching and research faculty at the state and regional universities

1 and The Evergreen State College, entitled to accumulate sick leave and  
2 for whom accurate sick leave records have been maintained. No employee  
3 may receive compensation under this section for any portion of sick  
4 leave accumulated at a rate in excess of one day per month. The state  
5 and regional universities and The Evergreen State College shall  
6 maintain complete and accurate sick leave records for all teaching and  
7 research faculty.

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

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

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

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

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

34 (7) In lieu of remuneration for unused sick leave at retirement as  
35 provided in subsection (3) of this section, an agency head or designee  
36 may with equivalent funds, provide eligible employees with a benefit  
37 plan that provides for reimbursement for medical expenses. This plan  
38 shall be implemented only after consultation with affected groups of  
39 employees. For eligible employees covered by chapter 41.06 RCW,

1 procedures for the implementation of these plans shall be adopted by  
2 the ((~~Washington personnel resources board~~)) director of personnel.  
3 For eligible employees exempt from chapter 41.06 RCW, and classified  
4 employees who have opted out of coverage of chapter 41.06 RCW as  
5 provided in RCW 41.56.201, implementation procedures shall be adopted  
6 by an agency head having jurisdiction over the employees.

7 (8) Implementing procedures adopted by the ((~~Washington personnel~~  
8 ~~resources board~~)) director of personnel or agency heads shall require  
9 that each medical expense plan authorized by subsection (7) of this  
10 section apply to all eligible employees in any one of the following  
11 groups: (a) Employees in an agency; (b) employees in a major  
12 organizational subdivision of an agency; (c) employees at a major  
13 operating location of an agency; (d) exempt employees under the  
14 jurisdiction of an elected or appointed Washington state executive; (e)  
15 employees of the Washington state senate; (f) employees of the  
16 Washington state house of representatives; (g) classified employees in  
17 a bargaining unit established by the Washington personnel resources  
18 board; or (h) other group of employees defined by an agency head that  
19 is not designed to provide an individual-employee choice regarding  
20 participation in a medical expense plan. However, medical expense  
21 plans for eligible employees in any of the groups under (a) through (h)  
22 of this subsection who are covered by a collective bargaining agreement  
23 shall be implemented only by written agreement with the bargaining  
24 unit's exclusive representative and a separate medical expense plan may  
25 be provided for unrepresented employees.

26 (9) Medical expense plans authorized by subsection (7) of this  
27 section must require as a condition of participation in the plan that  
28 employees in the group affected by the plan sign an agreement with the  
29 employer. The agreement must include a provision to hold the employer  
30 harmless should the United States government find that the employer or  
31 the employee is in debt to the United States as a result of the  
32 employee not paying income taxes due on the equivalent funds placed  
33 into the plan, or as a result of the employer not withholding or  
34 deducting a tax, assessment, or other payment on the funds as required  
35 by federal law. The agreement must also include a provision that  
36 requires an eligible employee to forfeit remuneration under subsection  
37 (3) of this section if the employee belongs to a group that has been  
38 designated to participate in the medical expense plan permitted under

1 this section and the employee refuses to execute the required  
2 agreement.

3 **Sec. 35.** RCW 41.50.804 and 1993 c 281 s 40 are each amended to  
4 read as follows:

5 Nothing contained in this chapter shall be construed to alter any  
6 existing collective bargaining agreement until any such agreement has  
7 expired or until any such bargaining unit has been modified by action  
8 of the ((~~Washington personnel resources board~~)) director of personnel  
9 as provided by law.

10 **Sec. 36.** RCW 43.06.425 and 1993 c 281 s 48 are each amended to  
11 read as follows:

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

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

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

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

26 (4) Participants in the executive fellows program who were not  
27 public employees prior to accepting a position in the program receive  
28 sick and vacation leave allowances commensurate with other state  
29 employees.

30 **Sec. 37.** RCW 49.46.010 and 1997 c 203 s 3 are each amended to  
31 read as follows:

32 As used in this chapter:

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

34 (2) "Wage" means compensation due to an employee by reason of  
35 employment, payable in legal tender of the United States or checks on  
36 banks convertible into cash on demand at full face value, subject to

1 such deductions, charges, or allowances as may be permitted by rules of  
2 the director;

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

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

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

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

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

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

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

38 (e) Any individual employed full time by any state or local  
39 governmental body or agency who provides voluntary services but only

1 with regard to the provision of the voluntary services. The voluntary  
2 services and any compensation therefor shall not affect or add to  
3 qualification, entitlement or benefit rights under any state, local  
4 government, or publicly supported retirement system other than that  
5 provided under chapter 41.24 RCW;

6 (f) Any newspaper vendor or carrier;

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

9 (h) Any individual engaged in forest protection and fire  
10 prevention activities;

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

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

20 (k) Any resident, inmate, or patient of a state, county, or  
21 municipal correctional, detention, treatment or rehabilitative  
22 institution;

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

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

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

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

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



1           **Sec. 38.** RCW 13.40.320 and 2001 c 137 s 1 are each amended to  
2 read as follows:

3           (1) The department of social and health services shall establish  
4 a medium security juvenile offender basic training camp program. This  
5 program for juvenile offenders serving a term of confinement under the  
6 supervision of the department is exempt from the licensing requirements  
7 of chapter 74.15 RCW.

8           (2) The department may contract under this chapter with private  
9 companies, the national guard, or other federal, state, or local  
10 agencies to operate the juvenile offender basic training camp(~~(7~~  
11 ~~notwithstanding the provisions of RCW 41.06.380)~~)).

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

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

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

33           (5) If the court determines that the offender is eligible for the  
34 juvenile offender basic training camp option, the court may recommend  
35 that the department place the offender in the program. The department  
36 shall evaluate the offender and may place the offender in the program.  
37 The evaluation shall include, at a minimum, a risk assessment developed  
38 by the department and designed to determine the offender's suitability  
39 for the program. No juvenile who is assessed as a high risk offender

1 or suffers from any mental or physical problems that could endanger his  
2 or her health or drastically affect his or her performance in the  
3 program shall be admitted to or retained in the juvenile offender basic  
4 training camp program.

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

21 (7) All offenders who successfully graduate from the juvenile  
22 offender basic training camp program shall spend the remainder of their  
23 disposition on parole in a juvenile rehabilitation administration  
24 intensive aftercare program in the local community. Violation of the  
25 conditions of parole is subject to sanctions specified in RCW  
26 13.40.210(4). The program shall provide for the needs of the offender  
27 based on his or her progress in the aftercare program as indicated by  
28 ongoing assessment of those needs and progress. The intensive  
29 aftercare program shall monitor postprogram juvenile offenders and  
30 assist them to successfully reintegrate into the community. In  
31 addition, the program shall develop a process for closely monitoring  
32 and assessing public safety risks. The intensive aftercare program  
33 shall be designed and funded by the department of social and health  
34 services.

35 (8) The department shall also develop and maintain a data base to  
36 measure recidivism rates specific to this incarceration program. The  
37 data base shall maintain data on all juvenile offenders who complete  
38 the juvenile offender basic training camp program for a period of two  
39 years after they have completed the program. The data base shall also

1 maintain data on the criminal activity, educational progress, and  
2 employment activities of all juvenile offenders who participated in the  
3 program.

4 **Sec. 39.** RCW 39.29.006 and 1998 c 101 s 2 are each amended to  
5 read as follows:

6 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

22 **Sec. 40.** RCW 47.46.040 and 2001 c 64 s 14 are each amended to  
23 read as follows:

24 (1) All projects designed, constructed, and operated under this  
25 authority must comply with all applicable rules and statutes in  
26 existence at the time the agreement is executed, including but not  
27 limited to the following provisions: Chapter 39.12 RCW, this title,  
28 ((RCW 41.06.380)) section 11 of this act, chapter 47.64 RCW, RCW  
29 49.60.180, and 49 C.F.R. Part 21.

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

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

1 provide for ownership of the facility by the private entity during the  
2 term of the agreement.

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

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

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

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

1 construction and the term of the lease, authority to negotiate  
2 acquisition of rights of way in excess of appraised value, and any  
3 other provision deemed necessary by the secretary.

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

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

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

33 (10)(a) In carrying out the public involvement process required in  
34 subsection (9) of this section, the private entity shall proactively  
35 seek public participation through a process appropriate to the  
36 characteristics of the project that assesses and demonstrates public  
37 support among: Users of the project, residents of communities in the  
38 vicinity of the project, and residents of communities impacted by the  
39 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(6)(b) (ii) and (iii) and appointments to such committee shall  
35 be made no later than thirty days after the project area is defined.

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

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

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

9 **Sec. 41.** RCW 72.09.100 and 1995 1st sp.s. c 19 s 33 are each  
10 amended to read as follows:

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

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

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

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

34 Inmates who work in free venture industries shall do so at their  
35 own choice. They shall be paid a wage comparable to the wage paid for  
36 work of a similar nature in the locality in which the industry is  
37 located, as determined by the director of correctional industries. If



1 the director cannot reasonably determine the comparable wage, then the  
2 pay shall not be less than the federal minimum wage.

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

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

38 Security and custody services shall be provided without charge by  
39 the department of corrections.

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

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

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

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

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

21 (c) Whenever possible, to offset tax and other public support  
22 costs.

23 Supervising, management, and custody staff shall be employees of  
24 the department.

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

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

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

37 Inmates in this program shall reside in facilities owned by,  
38 contracted for, or licensed by the department of corrections. A unit

1 of local government shall provide work supervision services without  
2 charge to the state and shall pay the inmate's wage.

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

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

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

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

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

20 **Sec. 42.** RCW 49.74.030 and 1993 c 281 s 58 are each amended to  
21 read as follows:

22 The commission in conjunction with the department of personnel or  
23 the state patrol, whichever is appropriate, shall attempt to resolve  
24 the noncompliance through conciliation. If an agreement is reached for  
25 the elimination of noncompliance, the agreement shall be reduced to  
26 writing and an order shall be issued by the commission setting forth  
27 the terms of the agreement. The noncomplying state agency, institution  
28 of higher education, or state patrol shall make a good faith effort to  
29 conciliate and make a full commitment to correct the noncompliance with  
30 any action that may be necessary to achieve compliance, provided such  
31 action is not inconsistent with the rules adopted under RCW  
32 41.06.150(~~(+21)~~) (19) and 43.43.340(5), whichever is appropriate.

33 **Sec. 43.** RCW 49.74.040 and 1985 c 365 s 11 are each amended to  
34 read as follows:

35 If no agreement can be reached under RCW 49.74.030, the commission  
36 may refer the matter to the administrative law judge for hearing  
37 pursuant to RCW 49.60.250. If the administrative law judge finds that

1 the state agency, institution of higher education, or state patrol has  
2 not made a good faith effort to correct the noncompliance, the  
3 administrative law judge shall order the state agency, institution of  
4 higher education, or state patrol to comply with this chapter. The  
5 administrative law judge may order any action that may be necessary to  
6 achieve compliance, provided such action is not inconsistent with the  
7 rules adopted under RCW (~~(28B.16.100(20),)~~) 41.06.150(~~(+21),)~~) (19) and  
8 43.43.340(5), whichever is appropriate.

9 An order by the administrative law judge may be appealed to  
10 superior court.

11 **Sec. 44.** RCW 72.10.030 and 1989 c 157 s 4 are each amended to  
12 read as follows:

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

19 (2) In contracting for services, the secretary is authorized to  
20 provide for indemnification of health care practitioners who cannot  
21 obtain professional liability insurance through reasonable effort, from  
22 liability on any action, claim, or proceeding instituted against them  
23 arising out of the good faith performance or failure of performance of  
24 services on behalf of the department. The contracts may provide that  
25 for the purposes of chapter 4.92 RCW only, those health care  
26 practitioners with whom the department has contracted shall be  
27 considered state employees.

28 **Sec. 45.** RCW 82.01.070 and 1997 c 156 s 1 are each amended to  
29 read as follows:

30 The director shall have charge and general supervision of the  
31 department of revenue. The director shall appoint an assistant  
32 director for administration, hereinafter in chapter 26, Laws of 1967  
33 ex. sess. referred to as the assistant director, and subject to the  
34 provisions of chapter 41.06 RCW may appoint and employ such clerical,  
35 technical and other personnel as may be necessary to carry out the  
36 powers and duties of the department. The director may also enter into  
37 personal service contracts with (~~out-of-state~~) individuals or

1 business entities for the performance of auditing services (~~outside~~  
2 ~~the state of Washington when normal efforts to recruit classified~~  
3 ~~employees are unsuccessful~~). The director may agree to pay to the  
4 department's employees or contractors who reside out of state such  
5 amounts in addition to their ordinary rate of compensation as are  
6 necessary to defray the extra costs of facilities, living, and other  
7 costs reasonably related to the out-of-state services, subject to  
8 legislative appropriation for those purposes. The special allowances  
9 shall be in such amounts or at such rates as are approved by the office  
10 of financial management. This section does not apply to audit  
11 functions performed in states contiguous to the state of Washington.

12 NEW SECTION. Sec. 46. (1) All powers, duties, and functions of  
13 the personnel appeals board pertaining to appeals filed under RCW  
14 41.06.170 on or after the effective date of this section are  
15 transferred to the Washington personnel resources board. All appeals  
16 filed under RCW 41.06.170 before the effective date of this section  
17 shall be resolved by the personnel appeals board in accordance with the  
18 authorities, rules, and procedures that were in effect at the time of  
19 the appeal.

20 (2) All reports, documents, surveys, books, records, files,  
21 papers, or written material in the possession of the department of  
22 personnel pertaining to the powers, functions, and duties transferred  
23 in subsection (1) of this section shall be delivered to the custody of  
24 the Washington personnel resources board. All cabinets, furniture,  
25 office equipment, motor vehicles, and other tangible property employed  
26 by the personnel appeals board in carrying out the powers, functions,  
27 and duties transferred in subsection (1) of this section shall be made  
28 available to the Washington personnel resources board. All funds,  
29 credits, or other assets held in connection with the powers, functions,  
30 and duties transferred in subsection (1) of this section shall be  
31 assigned to the Washington personnel resources board.

32 (3) Any appropriations made to the personnel appeals board for  
33 carrying out the powers, functions, and duties transferred in  
34 subsection (1) of this section shall, on the effective date of this  
35 section, be transferred and credited to the Washington personnel  
36 resources board.

37 (4) Whenever any question arises as to the transfer of any  
38 personnel, funds, books, documents, records, papers, files, equipment,

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

5 (5) After the effective date of this section, the director of  
6 personnel and the executive secretary of the personnel appeals board  
7 shall meet and agree upon a schedule for the transfer of personnel  
8 appeals board employees and property to the Washington personnel  
9 resources board. Whenever a question arises as to the transfer of any  
10 personnel, funds, books, documents, records, papers, files, equipment,  
11 or other tangible property used or held in the exercise of the powers  
12 and the performance of the duties and functions transferred, the  
13 director of financial management shall make a determination as to the  
14 proper allocation and certify the same to the state agencies concerned.

15 (6) The transfer of the powers, duties, functions, and personnel  
16 of the personnel appeals board under this section does not affect the  
17 validity of any act performed before the effective date of this  
18 section. All existing contracts and obligations of the personnel  
19 appeals board shall remain in full force and shall be performed by the  
20 personnel appeals board.

21 NEW SECTION. **Sec. 47.** (1) The personnel appeals board is hereby  
22 abolished and its powers, duties, and functions are hereby transferred  
23 to the Washington personnel resources board. All references to the  
24 executive secretary of the personnel appeals board or the personnel  
25 appeals board in the Revised Code of Washington shall be construed to  
26 mean the director of personnel or the Washington personnel resources  
27 board, respectively.

28 (2)(a) All reports, documents, surveys, books, records, files,  
29 papers, or written material in the possession of the personnel appeals  
30 board shall be delivered to the custody of the Washington personnel  
31 resources board. All cabinets, furniture, office equipment, motor  
32 vehicles, and other tangible property employed by the personnel appeals  
33 board shall be made available to the department of personnel. All  
34 funds, credits, or other assets held by the personnel appeals board  
35 shall be assigned to the department of personnel.

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

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

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

14 (4) All rules and all pending business before the personnel  
15 appeals board shall be continued and acted upon by the Washington  
16 personnel resources board. All existing contracts and obligations  
17 shall remain in full force and shall be performed by the Washington  
18 personnel resources board.

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

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

28 NEW SECTION. **Sec. 48.** The following acts or parts of acts are  
29 each repealed:

30 (1) RCW 41.64.010 (Personnel appeals board--Created--Membership--  
31 Definitions) and 1981 c 311 s 1;

32 (2) RCW 41.64.020 (Removal of members--Hearing) and 1981 c 311 s  
33 3;

34 (3) RCW 41.64.030 (Compensation of members--Travel expenses--  
35 Disclosure of financial affairs) and 1984 c 287 s 73, 1984 c 34 s 4, &  
36 1981 c 311 s 4;

37 (4) RCW 41.64.040 (Election of chairperson--Biennial meetings) and  
38 1981 c 311 s 5;

- 1 (5) RCW 41.64.050 (Executive secretary--Appointment of assistants)  
2 and 1981 c 311 s 6;
- 3 (6) RCW 41.64.060 (Location of principal office--Hearings--  
4 Procedure) and 1981 c 311 s 7;
- 5 (7) RCW 41.64.070 (Journal of official actions) and 1981 c 311 s  
6 8;
- 7 (8) RCW 41.64.080 (Employee appeals--Hearings examiners) and 1981  
8 c 311 s 9;
- 9 (9) RCW 41.64.090 (Employee appeals--Jurisdiction) and 1999 c  
10 . . . s 27 (section 27 of this act), 1993 c 281 s 41, & 1981 c 311 s  
11 10;
- 12 (10) RCW 41.64.100 (Employee appeals--Hearing--Decision to be  
13 rendered within ninety days, exceptions) and 1997 c 386 s 43 & 1981 c  
14 311 s 11;
- 15 (11) RCW 41.64.110 (Employee appeals--Hearing--Procedure--Official  
16 record) and 1985 c 461 s 7 & 1981 c 311 s 12;
- 17 (12) RCW 41.64.120 (Employee appeals--Findings of fact,  
18 conclusions of law, order--Notice to employee and employing agency) and  
19 1981 c 311 s 13;
- 20 (13) RCW 41.64.130 (Employee appeals--Review by superior court--  
21 Grounds--Notice, service--Certified transcript) and 1981 c 311 s 14;
- 22 (14) RCW 41.64.140 (Employee appeals--Review by superior court--  
23 Procedure--Appellate review) and 1988 c 202 s 42 & 1981 c 311 s 15; and  
24 (15) RCW 41.64.910 (Severability--1981 c 311) and 1981 c 311 s 24.

25 NEW SECTION. **Sec. 49.** The following acts or parts of acts are  
26 each repealed:

- 27 (1) RCW 41.06.163 (Comprehensive salary and fringe benefit survey  
28 plan required--Contents) and 1993 c 281 s 30, 1987 c 185 s 9, 1986 c  
29 158 s 6, 1979 c 151 s 59, & 1977 ex.s. c 152 s 3;
- 30 (2) RCW 41.06.165 (Salary surveys--Criteria) and 1977 ex.s. c 152  
31 s 4;
- 32 (3) RCW 41.06.380 (Purchasing services by contract not prohibited--  
33 Limitations) and 1979 ex.s. c 46 s 2; and
- 34 (4) RCW 41.06.382 (Purchasing services by contract not prohibited--  
35 Limitations) and 1979 ex.s. c 46 s 1.

36 NEW SECTION. **Sec. 50.** Provisions of a collective bargaining  
37 agreement adopted under chapter 41.06 RCW that are in effect on the



1 effective date of section 9 of this act and that conflict with section  
2 5 or 9 of this act shall continue in effect until contract expiration,  
3 unless a superseding agreement resolving the conflict is executed by  
4 the parties before expiration; after expiration, any new agreement  
5 executed between the parties must be consistent with sections 5 and 9  
6 of this act.

7 NEW SECTION. **Sec. 51.** If any provision of this act or its  
8 application to any person or circumstance is held invalid, the  
9 remainder of the act or the application of the provision to other  
10 persons or circumstances is not affected.

11 NEW SECTION. **Sec. 52.** (1) Sections 3, 5, 6, 9, 10, 17 through  
12 28, 31 through 43, and 48 of this act are necessary for the immediate  
13 preservation of the public peace, health, or safety, or support of the  
14 state government and its existing public institutions, and take effect  
15 July 1, 2002.

16 (2) Sections 4, 11 through 16, and 44 of this act take effect July  
17 1, 2003.

18 (3) Sections 29, 30, 45, and 47 of this act take effect July 1,  
19 2004."

20 Correct the title.

**EFFECT:** Changes the civil service system and allows agencies to contract out for personal services. Eliminates the "Rule of 7" and the requirement that layoffs be by seniority. Members of the Washington Management Service may not participate in collective bargaining. The DOP is no longer required to conduct salary and fringe benefit surveys for employees other than the State Patrol. Eliminates the PAB and transfers authority to hear appeals to the WPRB. Civil service rulemaking authority is transferred from the WPRB to the DOP. Prohibits parties to collective bargaining to negotiate wages and the state's ability to contract out for services.