

SUBSTITUTE HOUSE BILL 1268

State of Washington

57th Legislature

2002 Regular Session

By House Committee on State Government (originally sponsored by Representatives Romero, Campbell, Conway, Kenney, Kessler, Hurst, Keiser, Simpson, Ogden, Lovick, McIntire, Ruderman, O'Brien, Schual-Berke, Poulsen, Kagi, Cody, Edmonds, Wood and Haigh; by request of Governor Locke)

Read first time 01/24/2002. Referred to Committee on .

1 AN ACT Relating to personnel; amending RCW 41.06.030, 41.06.150,
2 41.06.150, 41.06.022, 41.06.070, 41.06.110, 41.06.160, 41.06.167,
3 41.06.170, 41.06.186, 41.06.196, 41.06.270, 41.06.350, 41.06.400,
4 41.06.410, 41.06.450, 41.06.475, 41.06.490, 28B.12.060, 34.05.030,
5 34.12.020, 41.50.804, 43.06.425, 43.131.090, 49.46.010, 41.06.340,
6 13.40.320, 39.29.006, 41.04.385, 47.46.040, 72.09.100, 41.06.079,
7 41.06.152, 41.06.152, 41.06.500, 41.06.500, 43.23.010, 49.74.030,
8 49.74.030, 49.74.040, 49.74.040, and 41.56.201; reenacting and amending
9 RCW 41.04.340; adding new sections to chapter 41.06 RCW; adding a new
10 chapter to Title 41 RCW; creating new sections; repealing RCW
11 41.06.163, 41.06.165, 41.06.140, 41.50.804, 41.06.520, 41.06.380,
12 41.06.382, 41.56.023, 41.56.201, 28B.16.015, 41.64.010, 41.64.020,
13 41.64.030, 41.64.040, 41.64.050, 41.64.060, 41.64.070, 41.64.080,
14 41.64.090, 41.64.100, 41.64.110, 41.64.120, 41.64.130, 41.64.140, and
15 41.64.910; providing effective dates; and providing expiration dates.

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

17 **PART I**

18 **TITLE**

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

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

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

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

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

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

10 ~~((15))~~ (d) A collective bargaining agreement entered into under
11 this subsection before July 1, 2004, covering employees subject to
12 sections 301 through 314 of this act, that expires after July 1, 2004,
13 shall remain in full force during its duration, or until superseded by
14 a collective bargaining agreement entered into by the parties under
15 sections 301 through 314 of this act. However, an agreement entered
16 into before July 1, 2004, may not be renewed or extended beyond July 1,
17 2005. This subsection (11) does not apply to collective bargaining
18 negotiations or collective bargaining agreements entered into under
19 sections 301 through 314 of this act;

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

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

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

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

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

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

1 implementation during the 1995-97 fiscal biennium does not exceed the
2 amounts specified by the legislature specifically for this purpose; or
3 (C) The implementation is a result of emergent conditions.
4 Emergent conditions are defined as emergency situations requiring the
5 establishment of positions necessary for the preservation of the public
6 health, safety, or general welfare, which do not exceed \$250,000 of the
7 moneys identified in section 718(2), chapter 18, Laws of 1995 2nd sp.
8 sess.

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

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

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

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

22 ((+17)) (14) Adoption and revision of a state salary schedule to
23 reflect the prevailing rates in Washington state private industries and
24 other governmental units but the rates in the salary schedules or plans
25 shall be increased if necessary to attain comparable worth under an
26 implementation plan under RCW 41.06.155 and that, for institutions of
27 higher education and related boards, shall be competitive for positions
28 of a similar nature in the state or the locality in which an
29 institution of higher education or related board is located, such
30 adoption and revision subject to approval by the director of financial
31 management in accordance with the provisions of chapter 43.88 RCW;

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

36 ((+19)) (16) Optional lump sum relocation compensation approved by
37 the agency director, whenever it is reasonably necessary that a person
38 make a domiciliary move in accepting a transfer or other employment
39 with the state. An agency must provide lump sum compensation within

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

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

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

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

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

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

10 **Sec. 203.** RCW 41.06.150 and 2002 c . . . s 202 (section 202 of
11 this act) are each amended to read as follows:

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

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

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

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

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

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

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

32 ~~(7) Transfers;~~

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

34 ~~(9) Hours of work;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 ~~(18))) (5) Permitting agency heads to delegate the authority to~~
37 ~~appoint, reduce, dismiss, suspend, or demote employees within their~~
38 ~~agencies if such agency heads do not have specific statutory authority~~
39 ~~to so delegate: PROVIDED, That the ((board)) director may not~~

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

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

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

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

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

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

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

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

27 (2) Training and career development;

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

32 (4) Transfers;

33 (5) Promotional preferences;

34 (6) Sick leaves and vacations;

35 (7) Hours of work;

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

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

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

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

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

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

1 of a veteran is entitled to the benefits of this section regardless of
2 the veteran's length of active military service. For the purposes of
3 this section, "veteran" does not include any person who has voluntarily
4 retired with twenty or more years of active military service and whose
5 military retirement pay is in excess of five hundred dollars per month.

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

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

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

17 (1) The board shall conduct a comprehensive review of all rules in
18 effect on the effective date of this section governing the
19 classification, allocation, and reallocation of positions within the
20 classified service. In conducting this review, the board shall consult
21 with state agencies, institutions of higher education, employee
22 organizations, and members of the general public. The department shall
23 assist the board in the conduct of this review, which shall be
24 completed by the board no later than July 1, 2003.

25 (2) By March 15, 2004, the board shall adopt new rules governing
26 the classification, allocation, and reallocation of positions in the
27 classified service. In adopting such rules, the board shall adhere to
28 the following goals:

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

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

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

4 (d) To value workplace diversity;

5 (e) To facilitate the reorganization and decentralization of
6 governmental services; and

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

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

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

15 In accordance with rules adopted by the board under section 205 of
16 this act, the director shall, by January 1, 2005, begin to implement a
17 new classification system for positions in the classified service. Any
18 employee who believes that the director has incorrectly applied the
19 rules of the board in determining a job classification for a job held
20 by that employee may appeal the director's decision to the board by
21 filing a notice in writing within thirty days of the action from which
22 the appeal is taken. Decisions of the board concerning such appeals
23 are final and not subject to further appeal.

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

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

27 (1) Formulates statewide policy or directs the work of an agency or
28 agency subdivision;

29 (2) Is responsible to administer one or more statewide policies or
30 programs of an agency or agency subdivision;

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

34 (4) Has substantial responsibility in personnel administration,
35 legislative relations, public information, or the preparation and
36 administration of budgets; or

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

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

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

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

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

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

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

25 (d) The department, agency, or institution of higher education has
26 established a contract monitoring process to measure contract
27 performance, costs, service delivery quality, and other contract
28 standards, and to cancel contracts that do not meet those standards;
29 and

30 (e) The department, agency, or institution of higher education has
31 demonstrated that the contract results in savings or efficiency
32 improvements. The contracting agency must consider the consequences
33 and potential mitigation of improper or failed performance by the
34 contractor.

35 (2) Any provision contrary to or in conflict with this section in
36 any collective bargaining agreement in effect on the effective date of
37 this section is not effective beyond the expiration date of the
38 agreement.

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

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

6 (a) At least ninety days prior to the date the contracting agency
7 requests bids from private entities for a contract for services
8 provided by classified employees, the contracting agency shall notify
9 the classified employees whose positions or work would be displaced by
10 the contract. The employees shall have sixty days from the date of
11 notification to offer alternatives to purchasing services by contract,
12 and the agency shall consider the alternatives before requesting bids.

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

17 (c) The director of personnel, with the advice and assistance of
18 the department of general administration, shall develop and make
19 available to employee business units training in the bidding process
20 and general bid preparation.

21 (d) The director of general administration, with the advice and
22 assistance of the department of personnel, shall, by rule, establish
23 procedures to ensure that bids are submitted and evaluated in a fair
24 and objective manner and that there exists a competitive market for the
25 service. Such rules shall include, but not be limited to: (i)
26 Prohibitions against participation in the bid evaluation process by
27 employees who prepared the business unit's bid or who perform any of
28 the services to be contracted; (ii) provisions to ensure no bidder
29 receives an advantage over other bidders and that bid requirements are
30 applied equitably to all parties; and (iii) procedures that require the
31 contracting agency to receive complaints regarding the bidding process
32 and to consider them before awarding the contract. Appeal of an
33 agency's actions under this subsection is an adjudicative proceeding
34 and subject to the applicable provisions of chapter 34.05 RCW, the
35 administrative procedure act, with the final decision to be rendered by
36 an administrative law judge assigned under chapter 34.12 RCW.

37 (e) An employee business unit's bid must include the fully
38 allocated costs of the service, including the cost of the employees'
39 salaries and benefits, space, equipment, materials, and other costs

1 necessary to perform the function. An employee business unit's cost
2 shall not include the state's indirect overhead costs unless those
3 costs can be attributed directly to the function in question and would
4 not exist if that function were not performed in state service.

5 (f) A department, agency, or institution of higher education may
6 contract with the department of general administration to conduct the
7 bidding process.

8 (5) As used in this section:

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

12 (b) "Indirect overhead costs" means the pro rata share of existing
13 agency administrative salaries and benefits, and rent, equipment costs,
14 utilities, and materials associated with those administrative
15 functions.

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

20 (6) The joint legislative audit and review committee shall conduct
21 a performance audit of the implementation of this section, including
22 the adequacy of the appeals process in subsection (4)(d) of this
23 section, and report to the legislature by January 1, 2007, on the
24 results of the audit.

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

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

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

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

37 (c) Officers, academic personnel, and employees of technical
38 colleges;

1 (d) The officers of the Washington state patrol;
2 (e) Elective officers of the state;
3 (f) The chief executive officer of each agency;
4 (g) In the departments of employment security and social and health
5 services, the director and the director's confidential secretary; in
6 all other departments, the executive head of which is an individual
7 appointed by the governor, the director, his or her confidential
8 secretary, and his or her statutory assistant directors;
9 (h) In the case of a multimember board, commission, or committee,
10 whether the members thereof are elected, appointed by the governor or
11 other authority, serve ex officio, or are otherwise chosen:
12 (i) All members of such boards, commissions, or committees;
13 (ii) If the members of the board, commission, or committee serve on
14 a part-time basis and there is a statutory executive officer: The
15 secretary of the board, commission, or committee; the chief executive
16 officer of the board, commission, or committee; and the confidential
17 secretary of the chief executive officer of the board, commission, or
18 committee;
19 (iii) If the members of the board, commission, or committee serve
20 on a full-time basis: The chief executive officer or administrative
21 officer as designated by the board, commission, or committee; and a
22 confidential secretary to the chair of the board, commission, or
23 committee;
24 (iv) If all members of the board, commission, or committee serve ex
25 officio: The chief executive officer; and the confidential secretary
26 of such chief executive officer;
27 (i) The confidential secretaries and administrative assistants in
28 the immediate offices of the elective officers of the state;
29 (j) Assistant attorneys general;
30 (k) Commissioned and enlisted personnel in the military service of
31 the state;
32 (l) Inmate, student, part-time, or temporary employees, and part-
33 time professional consultants, as defined by the Washington personnel
34 resources board;
35 (m) The public printer or to any employees of or positions in the
36 state printing plant;
37 (n) Officers and employees of the Washington state fruit
38 commission;

1 (o) Officers and employees of the Washington state apple
2 advertising commission;

3 (p) Officers and employees of the Washington state dairy products
4 commission;

5 (q) Officers and employees of the Washington tree fruit research
6 commission;

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

8 (s) Officers and employees of any commission formed under chapter
9 15.66 RCW;

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

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

14 ~~((v))~~ (v) Officers and employees of the nonprofit corporation
15 formed under chapter 67.40 RCW;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 Any person holding a classified position subject to the provisions
33 of this chapter shall, when and if such position is subsequently
34 exempted from the application of this chapter, be afforded the
35 following rights: If such person previously held permanent status in
36 another classified position, such person shall have a right of
37 reversion to the highest class of position previously held, or to a
38 position of similar nature and salary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 ~~((The first comprehensive salary and fringe benefit survey required~~
39 ~~by this section shall be completed and forwarded to the governor and~~

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

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

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

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

36 A comprehensive compensation survey plan and the recommendations of
37 the chief of the Washington state patrol shall be submitted jointly by
38 the department of personnel and the Washington state patrol to the

1 director of financial management, the legislative transportation
2 committee, the committee on ways and means of the senate, and the
3 committee on appropriations of the house of representatives six months
4 before the beginning of each periodic survey.)) Salary and fringe
5 benefit survey information collected from private employers which
6 identifies a specific employer with the salary and fringe benefit rates
7 which that employer pays to its employees shall not be subject to
8 public disclosure under chapter 42.17 RCW.

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

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

19 (2) Any employee who is reduced, dismissed, suspended, or demoted,
20 after completing his or her probationary period of service as provided
21 by the rules of the ((~~board~~)) director, or any employee who is
22 adversely affected by a violation of the state civil service law,
23 chapter 41.06 RCW, or rules adopted under it, shall have the right to
24 appeal ((~~to the personnel appeals board created by RCW 41.64.010~~)),
25 either individually or through his or her authorized representative,
26 not later than thirty days after the effective date of such action to
27 the personnel appeals board through June 30, 2005, and to the
28 Washington personnel resources board after June 30, 2005. The employee
29 shall be furnished with specified charges in writing when a reduction,
30 dismissal, suspension, or demotion action is taken. Such appeal shall
31 be in writing. Decisions of the Washington personnel resources board
32 on appeals filed after June 30, 2005, shall be final and not subject to
33 further appeal.

34 (3) Any employee whose position has been exempted after July 1,
35 1993, shall have the right to appeal ((~~to the personnel appeals board~~
36 ~~created by RCW 41.64.010~~)), either individually or through his or her
37 authorized representative, not later than thirty days after the
38 effective date of such action to the personnel appeals board through

1 June 30, 2005, and to the Washington personnel resources board after
2 June 30, 2005.

3 (4) An employee incumbent in a position at the time of its
4 allocation or reallocation, or the agency utilizing the position, may
5 appeal the allocation or reallocation to the personnel appeals board
6 (~~created by RCW 41.64.010~~) through December 31, 2005, and to the
7 Washington personnel resources board after December 31, 2005. Notice
8 of such appeal must be filed in writing within thirty days of the
9 action from which appeal is taken.

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

13 NEW SECTION. Sec. 214. The transfer of the powers, duties, and
14 functions of the personnel appeals board to the personnel resources
15 board under section 233 of this act and the transfer of jurisdiction
16 for appeals filed under section 213, chapter . . . , Laws of 2002
17 (section 213 of this act) after June 30, 2005, shall not affect the
18 right of an appellant to have an appeal filed on or before June 30,
19 2005, resolved by the personnel appeals board in accordance with the
20 authorities, rules, and procedures that were established under chapter
21 41.64 RCW as it existed before the effective date of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (c) Promote interagency sharing of resources for training and
29 career development;

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

36 (3) At an agency's request, the director may provide training and
37 career development programs for an agency's internal use which may be

1 conducted more efficiently and economically by the department of
2 personnel.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (g) Coordinate participation of applicable employee assistance
37 programs, as appropriate.

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

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

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

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

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

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

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

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

29 (3) Placing priority on providing:

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

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

36 (c) Off-campus community service placements;

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

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

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

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

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

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

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

18 (1) This chapter shall not apply to:

19 (a) The state militia, or

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

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

24 (2) The provisions of RCW 34.05.410 through 34.05.598 shall not
25 apply:

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

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

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

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

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

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

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

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

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

14 Unless the context clearly requires otherwise, the definitions in
15 this section apply throughout this chapter.

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

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

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

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

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

35 (1) An attendance incentive program is established for all eligible
36 employees. As used in this section the term "eligible employee" means
37 any employee of the state, other than eligible employees of the

1 community and technical colleges and the state board for community and
2 technical colleges identified in RCW 28B.50.553, and teaching and
3 research faculty at the state and regional universities and The
4 Evergreen State College, entitled to accumulate sick leave and for whom
5 accurate sick leave records have been maintained. No employee may
6 receive compensation under this section for any portion of sick leave
7 accumulated at a rate in excess of one day per month. The state and
8 regional universities and The Evergreen State College shall maintain
9 complete and accurate sick leave records for all teaching and research
10 faculty.

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

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

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

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

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

37 (7) In lieu of remuneration for unused sick leave at retirement as
38 provided in subsection (3) of this section, an agency head or designee
39 may with equivalent funds, provide eligible employees with a benefit

1 plan that provides for reimbursement for medical expenses. This plan
2 shall be implemented only after consultation with affected groups of
3 employees. For eligible employees covered by chapter 41.06 RCW,
4 procedures for the implementation of these plans shall be adopted by
5 the (~~Washington personnel resources board~~) director of personnel.
6 For eligible employees exempt from chapter 41.06 RCW, and classified
7 employees who have opted out of coverage of chapter 41.06 RCW as
8 provided in RCW 41.56.201, implementation procedures shall be adopted
9 by an agency head having jurisdiction over the employees.

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

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

1 requires an eligible employee to forfeit remuneration under subsection
2 (3) of this section if the employee belongs to a group that has been
3 designated to participate in the medical expense plan permitted under
4 this section and the employee refuses to execute the required
5 agreement.

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

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

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

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

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

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

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

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

33 **Sec. 230.** RCW 43.131.090 and 2000 c 189 s 7 are each amended to
34 read as follows:

35 Unless the legislature specifies a shorter period of time, a
36 terminated entity shall continue in existence until June 30th of the

1 next succeeding year for the purpose of concluding its affairs:
2 PROVIDED, That the powers and authority of the entity shall not be
3 reduced or otherwise limited during this period. Unless otherwise
4 provided:

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

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

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

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

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

28 **Sec. 231.** RCW 49.46.010 and 1997 c 203 s 3 are each amended to
29 read as follows:

30 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

3 (f) Any newspaper vendor or carrier;

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

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

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

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

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

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

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

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

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

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

35 **Sec. 232.** RCW 41.06.340 and 1993 c 281 s 35 are each amended to
36 read as follows:

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

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

12 (2) Each and every provision of RCW 41.56.140 through ~~((41.56.190))~~
13 41.56.160 shall be applicable to this chapter as it relates to state
14 civil service employees ~~((and the Washington personnel resources board,~~
15 ~~or its designee, whose final decision shall be appealable to the~~
16 ~~Washington personnel resources board, which is granted all powers and~~
17 ~~authority granted to the department of labor and industries by RCW~~
18 ~~41.56.140 through 41.56.190))~~.

19 (3) A collective bargaining agreement entered into under RCW
20 41.06.150 before July 1, 2004, covering employees subject to sections
21 301 through 314 of this act that expires after July 1, 2004, shall
22 remain in full force during its duration, or until superseded by a
23 collective bargaining agreement entered into by the parties under
24 sections 301 through 314 of this act. However, an agreement entered
25 into before July 1, 2004, may not be renewed or extended beyond July 1,
26 2005, or until superseded by a collective bargaining agreement entered
27 into under sections 301 through 314 of this act, whichever is later.

28 NEW SECTION. Sec. 233. A new section is added to chapter 41.06
29 RCW to read as follows:

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

36 (2)(a) All reports, documents, surveys, books, records, files,
37 papers, or written material in the possession of the personnel appeals
38 board shall be delivered to the custody of the department of personnel.

1 All cabinets, furniture, office equipment, motor vehicles, and other
2 tangible property employed by the personnel appeals board shall be made
3 available to the department of personnel. All funds, credits, leases,
4 or other assets held by the personnel appeals board shall be assigned
5 to the department of personnel.

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

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

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

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

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

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

35 **Sec. 234.** RCW 13.40.320 and 2001 c 137 s 1 are each amended to
36 read as follows:

37 (1) The department of social and health services shall establish a
38 medium security juvenile offender basic training camp program. This

1 program for juvenile offenders serving a term of confinement under the
2 supervision of the department is exempt from the licensing requirements
3 of chapter 74.15 RCW.

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

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

19 The department shall develop standards for the safe and effective
20 operation of the juvenile offender basic training camp program, for an
21 offender's successful program completion, and for the continued after-
22 care supervision of offenders who have successfully completed the
23 program.

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

28 (5) If the court determines that the offender is eligible for the
29 juvenile offender basic training camp option, the court may recommend
30 that the department place the offender in the program. The department
31 shall evaluate the offender and may place the offender in the program.
32 The evaluation shall include, at a minimum, a risk assessment developed
33 by the department and designed to determine the offender's suitability
34 for the program. No juvenile who is assessed as a high risk offender
35 or suffers from any mental or physical problems that could endanger his
36 or her health or drastically affect his or her performance in the
37 program shall be admitted to or retained in the juvenile offender basic
38 training camp program.

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

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

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

1 **Sec. 235.** RCW 39.29.006 and 1998 c 101 s 2 are each amended to
2 read as follows:

3 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

17 **Sec. 236.** RCW 41.04.385 and 1993 c 194 s 5 are each amended to
18 read as follows:

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

1 as provided in RCW 74.13.090, and state employee representatives ((as
2 provided under RCW 41.06.140)).

3 **Sec. 237.** RCW 47.46.040 and 2001 c 64 s 14 are each amended to
4 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 **Sec. 238.** RCW 72.09.100 and 1995 1st sp.s. c 19 s 33 are each
31 amended to read as follows:

32 It is the intent of the legislature to vest in the department the
33 power to provide for a comprehensive inmate work program and to remove
34 statutory and other restrictions which have limited work programs in
35 the past. For purposes of establishing such a comprehensive program,
36 the legislature recommends that the department consider adopting any or
37 all, or any variation of, the following classes of work programs:

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

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

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

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

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

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

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

20 Security and custody services shall be provided without charge by
21 the department of corrections.

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

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

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

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

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

3 (c) Whenever possible, to offset tax and other public support
4 costs.

5 Supervising, management, and custody staff shall be employees of
6 the department.

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

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

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

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

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

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

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

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

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

1 **Sec. 239.** RCW 41.06.079 and 1993 c 281 s 23 are each amended to
2 read as follows:

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

24 **Sec. 240.** RCW 41.06.152 and 1999 c 309 s 914 are each amended to
25 read as follows:

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

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

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

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

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

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

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

29 (3) When the board develops its priority list in the 1999-2001
30 biennium, for increases proposed for funding in the 2001-2003 biennium,
31 the board shall give top priority to proposed increases to address
32 documented recruitment and retention increases, and shall give lowest
33 priority to proposed increases to recognize increased duties and
34 responsibilities. When the board submits its prioritized list for the
35 2001-2003 biennium, the board shall also provide: A comparison of any
36 differences between the salary increases recommended by the department
37 of personnel staff and those adopted by the board; a review of any
38 salary compression, inversion, or inequities that would result from
39 implementing a recommended increase; and a complete description of the

1 information relied upon by the board in adopting its proposals and
2 priorities.

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

9 **Sec. 241.** RCW 41.06.152 and 2002 c . . . s 240 (section 240 of
10 this act) are each amended to read as follows:

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

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

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

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

30 Before the department of personnel's biennial budget request is due
31 to the office of financial management, the board shall prioritize
32 requests for reclassifications, class studies, and salary adjustments
33 for the next fiscal biennium. The board shall prioritize according to
34 such criteria as are developed by the board consistent with RCW
35 41.06.150(~~((+12))~~) (4)(a).

36 The board shall submit the prioritized list to the governor's
37 office and the fiscal committees of the house of representatives and
38 senate at the same time the department of personnel's biennial budget

1 request is submitted. The office of financial management shall review
2 the biennial cost of each proposed salary adjustment on the board's
3 prioritized list.

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

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

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

33 **Sec. 242.** RCW 41.06.500 and 1996 c 319 s 4 are each amended to
34 read as follows:

35 (1) Except as provided in RCW 41.06.070, notwithstanding any other
36 provisions of this chapter, the director is authorized to adopt, after
37 consultation with state agencies and employee organizations, rules for
38 managers as defined in RCW 41.06.022. These rules shall not apply to

1 managers employed by institutions of higher education or related boards
2 or whose positions are exempt. The rules shall govern recruitment,
3 appointment, classification and allocation of positions, examination,
4 training and career development, hours of work, probation,
5 certification, compensation, transfer, affirmative action, promotion,
6 layoff, reemployment, performance appraisals, discipline, and any and
7 all other personnel practices for managers. These rules shall be
8 separate from rules adopted by the board for other employees, and to
9 the extent that the rules adopted apply only to managers shall take
10 precedence over rules adopted by the board, and are not subject to
11 review by the board.

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

14 (a) Development of a simplified classification system that
15 facilitates movement of managers between agencies and promotes upward
16 mobility;

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

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

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

36 (e) Permitting flexible recruitment and hiring procedures that
37 enable agencies to compete effectively with other employers, both
38 public and private, for managers with appropriate skills and training;
39 allowing consideration of all qualified candidates for positions as

1 managers; and achieving affirmative action goals and diversity in the
2 workplace;

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

5 (g) Facilitating decentralized and regional administration.

6 **Sec. 243.** RCW 41.06.500 and 2002 c . . . s 242 (section 242 of
7 this act) are each amended to read as follows:

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

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

25 (a) Development of a simplified classification system that
26 facilitates movement of managers between agencies and promotes upward
27 mobility;

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

33 (c) Establishment of a performance appraisal system that emphasizes
34 individual accountability for program results and efficient management
35 of resources; effective planning, organization, and communication
36 skills; valuing and managing workplace diversity; development of
37 leadership and interpersonal abilities; and employee development;

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

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

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

18 (g) Facilitating decentralized and regional administration.

19 **Sec. 244.** RCW 43.23.010 and 1990 c 37 s 1 are each amended to read
20 as follows:

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

35 The director of agriculture shall have charge and general
36 supervision of the department and may assign supervisory and
37 administrative duties other than those specified in RCW 43.23.070 to

1 the division which in his or her judgment can most efficiently carry on
2 those functions.

3 **Sec. 245.** RCW 49.74.030 and 1993 c 281 s 58 are each amended to
4 read as follows:

5 The commission in conjunction with the department of personnel or
6 the state patrol, whichever is appropriate, shall attempt to resolve
7 the noncompliance through conciliation. If an agreement is reached for
8 the elimination of noncompliance, the agreement shall be reduced to
9 writing and an order shall be issued by the commission setting forth
10 the terms of the agreement. The noncomplying state agency, institution
11 of higher education, or state patrol shall make a good faith effort to
12 conciliate and make a full commitment to correct the noncompliance with
13 any action that may be necessary to achieve compliance, provided such
14 action is not inconsistent with the rules adopted under RCW
15 41.06.150(~~((+21))~~) (19) and 43.43.340(5), whichever is appropriate.

16 **Sec. 246.** RCW 49.74.030 and 2002 c . . . s 245 (section 245 of
17 this act) are each amended to read as follows:

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

29 **Sec. 247.** RCW 49.74.040 and 1985 c 365 s 11 are each amended to
30 read as follows:

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

1 higher education, or state patrol to comply with this chapter. The
2 administrative law judge may order any action that may be necessary to
3 achieve compliance, provided such action is not inconsistent with the
4 rules adopted under RCW (~~(28B.16.100(20),)~~) 41.06.150(~~(+21),)~~) (19) and
5 43.43.340(5), whichever is appropriate.

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

8 **Sec. 248.** RCW 49.74.040 and 2002 c . . . s 247 (section 247 of
9 this act) are each amended to read as follows:

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

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

23 **Sec. 249.** RCW 41.56.201 and 2000 c 19 s 2 are each amended to read
24 as follows:

25 (1) At any time after July 1, 1993, and prior to July 1, 2003, an
26 institution of higher education and the exclusive bargaining
27 representative of a bargaining unit of employees classified under
28 chapter (~~(28B.16—or)~~) 41.06 RCW as appropriate may exercise their
29 option to have their relationship and corresponding obligations
30 governed entirely by the provisions of this chapter by complying with
31 the following:

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

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

8 (c) On the first day of the month following the month during which
9 the institution of higher education and the exclusive bargaining
10 representative provide notice to the Washington personnel resources
11 board or its successor and the commission that they have executed an
12 initial collective bargaining agreement recognizing the notice of
13 intent filed under (a) of this subsection, chapter ((28B.16-01)) 41.06
14 RCW as appropriate shall cease to apply to all employees in the
15 bargaining unit covered by the agreement.

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

21 (a) The commission shall recognize, in its current form, the
22 bargaining unit as certified by the Washington personnel resources
23 board or its successor. For purposes of determining bargaining unit
24 status, positions meeting the criteria established under RCW 41.06.070
25 or its successor shall be excluded from coverage under this chapter.
26 An employer may exclude such positions from a bargaining unit at any
27 time the position meets the criteria established under RCW 41.06.070 or
28 its successor. The limitations on collective bargaining contained in
29 RCW 41.56.100 shall not apply to that bargaining unit.

30 (b) If, on the date of filing the notice under subsection (1)(a) of
31 this section, there is a union shop authorized for the bargaining unit
32 under rules adopted by the Washington personnel resources board or its
33 successor, the union shop requirement shall continue in effect for the
34 bargaining unit and shall be deemed incorporated into the collective
35 bargaining agreement applicable to the bargaining unit.

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

38 (i) Salary increases shall continue to be appropriated by the
39 legislature. The exclusive bargaining representative shall meet before

1 a legislative session with the governor or governor's designee and the
2 representative of the institution of higher education concerning the
3 total dollar amount for salary increases and health care contributions
4 that will be contained in the appropriations proposed by the governor
5 under RCW 43.88.060;

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

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

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

30 (4) Any collective bargaining agreement entered into under this
31 section before July 1, 2004, that expires after July 1, 2004, shall,
32 unless a superseding agreement complying with sections 301 through 314
33 of this act is negotiated by the parties, remain in full force and
34 effect during its duration, but the agreement may not be renewed or
35 extended beyond July 1, 2005, or until superseded by a collective
36 bargaining agreement entered into under sections 301 through 314 of
37 this act, whichever is later.

PART III

COLLECTIVE BARGAINING REFORM

NEW SECTION. **Sec. 301.** APPLICATION OF CHAPTER. Collective bargaining negotiations under this chapter shall commence no later than July 1, 2004. A collective bargaining agreement entered into under this chapter shall not be effective prior to July 1, 2005. However, any collective bargaining agreement entered into before July 1, 2004, covering employees affected by sections 301 through 314 of this act, that expires after July 1, 2004, shall, unless a superseding agreement complying with sections 301 through 314 of this act is negotiated by the parties, remain in full force during its duration, but the agreement may not be renewed or extended beyond July 1, 2005, or until superseded by a collective bargaining agreement entered into under sections 301 through 314 of this act, whichever is later.

NEW SECTION. **Sec. 302.** NEGOTIATION AND RATIFICATION OF COLLECTIVE BARGAINING AGREEMENTS. (1) For the purpose of negotiating collective bargaining agreements under this chapter, the employer shall be represented by the governor or governor's designee, except as provided for institutions of higher education in subsection (4) of this section. (2)(a) If an exclusive bargaining representative represents more than one bargaining unit, the exclusive bargaining representative shall negotiate with each employer representative as designated in subsection (1) of this section one master collective bargaining agreement on behalf of all the employees in bargaining units that the exclusive bargaining representative represents. For those exclusive bargaining representatives who represent fewer than a total of five hundred employees each, negotiation shall be by a coalition of all those exclusive bargaining representatives. The coalition shall bargain for a master collective bargaining agreement covering all of the employees represented by the coalition. The governor's designee and the exclusive bargaining representative or representatives are authorized to enter into supplemental bargaining of agency-specific issues for inclusion in or as an addendum to the master collective bargaining agreement, subject to the parties' agreement regarding the issues and procedures for supplemental bargaining. This section does not prohibit cooperation and coordination of bargaining between two or more exclusive bargaining representatives.

1 (b) This subsection (2) does not apply to exclusive bargaining
2 representatives who represent employees of institutions of higher
3 education, except when the institution of higher education has elected
4 to exercise its option under subsection (4) of this section to have its
5 negotiations conducted by the governor or governor's designee under the
6 procedures provided for general government agencies in subsections (1)
7 through (3) of this section.

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

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

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

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

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

35 (4) For the purpose of negotiating agreements for institutions of
36 higher education, the employer shall be the respective governing board
37 of each of the universities, colleges, or community and technical
38 colleges or a designee chosen by the board to negotiate on its behalf.
39 A governing board may elect to have its negotiations conducted by the

1 governor or governor's designee under the procedures provided for
2 general government agencies in subsections (1), (2), and (3) of this
3 section. Prior to entering into negotiations under this chapter, the
4 institutions of higher education or their designees shall consult with
5 the director of the office of financial management regarding financial
6 and budgetary issues that are likely to arise in the impending
7 negotiations. If appropriations are necessary to implement the
8 compensation and fringe benefit provisions of the bargaining agreements
9 reached between institutions of higher education and exclusive
10 bargaining representatives agreed to under the provisions of this
11 chapter, the governor shall submit a request for such funds to the
12 legislature according to the provisions of subsection (3) of this
13 section.

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

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

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

1 NEW SECTION. **Sec. 303.** SCOPE OF BARGAINING. (1) Except as

2 otherwise provided in this chapter, the matters subject to bargaining
3 include wages, hours, and other terms and conditions of employment, and
4 the negotiation of any question arising under a collective bargaining
5 agreement.

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

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

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

11 (c) Rules of the director of personnel or the Washington personnel
12 resources board adopted under section 203, chapter . . . , Laws of 2002
13 (section 203 of this act).

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

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

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

37 (6) Except as otherwise provided in this chapter, if a conflict
38 exists between an executive order, administrative rule, or agency
39 policy relating to wages, hours, and terms and conditions of employment

1 and a collective bargaining agreement negotiated under this chapter,
2 the collective bargaining agreement shall prevail. A provision of a
3 collective bargaining agreement that conflicts with the terms of a
4 statute is invalid and unenforceable.

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

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

10 (2) A collective bargaining agreement shall contain provisions
11 that:

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

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

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

33 (b) If a collective bargaining agreement between an employer and an
34 exclusive bargaining representative is concluded after the termination
35 date of the previous collective bargaining agreement between the
36 employer and the exclusive bargaining representative representing
37 different bargaining units, the effective date of the collective
38 bargaining agreement may be the day after the termination date of

1 whichever previous collective bargaining agreement covering one or more
2 of the units terminated first, and all benefits included in the new
3 collective bargaining agreement, including wage or salary increases,
4 may accrue beginning with that effective date.

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

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

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

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

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

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

25 NEW SECTION. **Sec. 307.** RIGHT TO STRIKE NOT GRANTED. Nothing
26 contained in chapter . . . , Laws of 2002 (this act) permits or grants
27 to any employee the right to strike or refuse to perform his or her
28 official duties.

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

1 certification. In determining the new units or modifications of
2 existing units, the commission shall consider: The duties, skills, and
3 working conditions of the employees; the history of collective
4 bargaining; the extent of organization among the employees; the desires
5 of the employees; and the avoidance of excessive fragmentation.
6 However, a unit is not appropriate if it includes:

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

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

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

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

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

32 (a) Secret balloting;

33 (b) Consulting with employee organizations;

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

36 (d) Absentee voting;

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

1 (f) Campaigning on the employer's property during working hours;
2 and

3 (g) Election observers.

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

15 (b) This subsection (2) does not apply to exclusive bargaining
16 representatives who represent employees of institutions of higher
17 education.

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

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

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

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

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

34 If a collective bargaining agreement previously negotiated under
35 this chapter should expire while negotiations are underway, the terms
36 and conditions specified in the collective bargaining agreement shall
37 remain in effect for a period not to exceed one year from the

1 expiration date stated in the agreement. Thereafter, the employer may
2 unilaterally implement according to law.

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

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

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

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

25 Costs for mediator services shall be borne by the commission, and
26 costs for fact-finding shall be borne equally by the negotiating
27 parties.

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

1 that represents a pro rata share of expenditures for purposes germane
2 to the collective bargaining process, to contract administration, or to
3 pursuing matters affecting wages, hours, and other conditions of
4 employment.

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

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

28 (4) Employee organizations that before the effective date of this
29 section were entitled to the benefits of this section shall continue to
30 be entitled to these benefits.

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

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

35 (b) To dominate or interfere with the formation or administration
36 of any employee organization or contribute financial or other support
37 to it: PROVIDED, That subject to rules adopted by the commission, an
38 employer shall not be prohibited from permitting employees to confer

1 with it or its representatives or agents during working hours without
2 loss of time or pay;

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

6 (d) To discharge or discriminate otherwise against an employee
7 because that employee has filed charges or given testimony under this
8 chapter;

9 (e) To refuse to bargain collectively with the representatives of
10 its employees.

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

12 (a) To restrain or coerce an employee in the exercise of the rights
13 guaranteed by this chapter: PROVIDED, That this subsection shall not
14 impair the right of an employee organization to prescribe its own rules
15 with respect to the acquisition or retention of membership in the
16 employee organization or to an employer in the selection of its
17 representatives for the purpose of bargaining or the adjustment of
18 grievances;

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

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

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

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

29 NEW SECTION. **Sec. 313.** UNFAIR LABOR PRACTICE PROCEDURES. (1)
30 The commission is empowered and directed to prevent any unfair labor
31 practice and to issue appropriate remedial orders: PROVIDED, That a
32 complaint shall not be processed for any unfair labor practice
33 occurring more than six months before the filing of the complaint with
34 the commission. This power shall not be affected or impaired by any
35 means of adjustment, mediation, or conciliation in labor disputes that
36 have been or may hereafter be established by law.

37 (2) If the commission determines that any person has engaged in or
38 is engaging in an unfair labor practice, the commission shall issue and

1 cause to be served upon the person an order requiring the person to
2 cease and desist from such unfair labor practice, and to take such
3 affirmative action as will effectuate the purposes and policy of this
4 chapter, such as the payment of damages and the reinstatement of
5 employees.

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

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

22 (2) An arbitrator may require any person to attend as a witness and
23 to bring with him or her any book, record, document, or other evidence.
24 The fees for such attendance shall be paid by the party requesting
25 issuance of the subpoena and shall be the same as the fees of witnesses
26 in the superior court. Arbitrators may administer oaths. Subpoenas
27 shall issue and be signed by the arbitrator and shall be served in the
28 same manner as subpoenas to testify before a court of record in this
29 state. If any person so summoned to testify refuses or neglects to
30 obey such subpoena, upon petition authorized by the arbitrator, the
31 superior court may compel the attendance of the person before the
32 arbitrator or punish the person for contempt in the same manner
33 provided for the attendance of witnesses or the punishment of them in
34 the courts of this state.

35 (3) The arbitrator shall appoint a time and place for the hearing
36 and notify the parties thereof, and may adjourn the hearing from time
37 to time as may be necessary, and, on application of either party and
38 for good cause, may postpone the hearing to a time not extending beyond

1 the date fixed by the collective bargaining agreement for making the
2 award. The arbitration award shall be in writing and signed by the
3 arbitrator. The arbitrator shall, promptly upon its rendition, serve
4 a true copy of the award on each of the parties or their attorneys of
5 record.

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

17 (5) If a party to a collective bargaining agreement negotiated
18 under this chapter refuses to comply with the award of an arbitrator
19 determining a grievance arising under the collective bargaining
20 agreement, the other party to the collective bargaining agreement may
21 invoke the jurisdiction of the superior court of Thurston county or of
22 any county in which the labor dispute exists and such court shall have
23 jurisdiction to issue an order enforcing the arbitration award.

24 NEW SECTION. **Sec. 315.** All powers, duties, and functions of the
25 department of personnel pertaining to collective bargaining are
26 transferred to the public employment relations commission except
27 mediation of grievances and contracts, arbitration of grievances and
28 contracts, and unfair labor practices, filed under a collective
29 bargaining agreement existing before the effective date of this
30 section. Any mediation, arbitration, or unfair labor practice issue
31 filed between July 1, 2004, and July 1, 2005, under a collective
32 bargaining agreement existing before the effective date of this
33 section, shall be resolved by the Washington personnel resources board
34 in accordance with the authorities, rules, and procedures that were
35 established under RCW 41.06.150(11) as it existed before the effective
36 date of this section.

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

13 Any appropriations made to the department of personnel for carrying
14 out the powers, functions, and duties transferred in section 315 of
15 this act shall be deleted at the time that such powers, functions, and
16 duties are transferred to the public employment relations commission.
17 All funding required to perform these transferred powers, functions,
18 and duties is to be provided by the public employment relations
19 commission once the transfers occur.

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

26 NEW SECTION. **Sec. 317.** After the effective date of this section,
27 the director of personnel and the executive director of the public
28 employment relations commission shall meet and agree upon a schedule
29 for the transfer of department of personnel labor relation employees
30 and property to the commission. Whenever a question arises as to the
31 transfer of any personnel, funds, books, documents, records, papers,
32 files, equipment, or other tangible property used or held in the
33 exercise of the powers and the performance of the duties and functions
34 transferred, the director of financial management shall make a
35 determination as to the proper allocation and certify the same to the
36 state agencies concerned.

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

8 NEW SECTION. **Sec. 319.** The transfer of the powers, duties,
9 functions, and personnel of the department of personnel shall not
10 affect the validity of any act performed before the effective date of
11 this section.

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

19 NEW SECTION. **Sec. 321.** DEFINITIONS. Unless the context clearly
20 requires otherwise, the definitions in this section apply throughout
21 this chapter.

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

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

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

32 (4) "Confidential employee" means an employee who, in the regular
33 course of his or her duties, assists in a confidential capacity persons
34 who formulate, determine, and effectuate management policies with
35 regard to labor relations or who, in the regular course of his or her
36 duties, has authorized access to information relating to the

1 effectuation or review of the employer's collective bargaining
2 policies, or who assists or aids a manager. "Confidential employee"
3 also includes employees who assist assistant attorneys general who
4 advise and represent managers or confidential employees in personnel or
5 labor relations matters, or who advise or represent the state in tort
6 actions.

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

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

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

14 (b) Confidential employees;

15 (c) Members of the Washington management service;

16 (d) Internal auditors in any agency; or

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

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

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

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

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

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

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

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

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

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

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

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

32 **PART IV**
33 **MISCELLANEOUS**

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

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

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

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

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

11 (2) RCW 41.50.804 (Existing collective bargaining agreements not
12 affected) and 2002 c . . . s 228 (section 228 of this act), 1993 c 281
13 s 40, & 1975-'76 2nd ex.s. c 105 s 17; and

14 (3) RCW 41.06.520 (Administration, management of institutions of
15 higher education--Rules--Audit and review by board) and 1993 c 281 s
16 11.

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

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

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

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

25 (4) RCW 41.56.201 (Employees of institutions of higher education--
26 Option to have relationship and obligations governed by chapter) and
27 2000 c 19 s 2 & 1993 c 379 s 304; and

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

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

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

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

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

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

6 (5) RCW 41.64.050 (Executive secretary--Appointment of assistants)
7 and 1981 c 311 s 6;

8 (6) RCW 41.64.060 (Location of principal office--Hearings--
9 Procedure) and 1981 c 311 s 7;

10 (7) RCW 41.64.070 (Journal of official actions) and 1981 c 311 s 8;

11 (8) RCW 41.64.080 (Employee appeals--Hearings examiners) and 1981
12 c 311 s 9;

13 (9) RCW 41.64.090 (Employee appeals--Jurisdiction) and 1993 c 281
14 s 41 & 1981 c 311 s 10;

15 (10) RCW 41.64.100 (Employee appeals--Hearing--Decision to be
16 rendered within ninety days, exceptions) and 1997 c 386 s 43 & 1981 c
17 311 s 11;

18 (11) RCW 41.64.110 (Employee appeals--Hearing--Procedure--Official
19 record) and 1985 c 461 s 7 & 1981 c 311 s 12;

20 (12) RCW 41.64.120 (Employee appeals--Findings of fact, conclusions
21 of law, order--Notice to employee and employing agency) and 1981 c 311
22 s 13;

23 (13) RCW 41.64.130 (Employee appeals--Review by superior court--
24 Grounds--Notice, service--Certified transcript) and 1981 c 311 s 14;

25 (14) RCW 41.64.140 (Employee appeals--Review by superior court--
26 Procedure--Appellate review) and 1988 c 202 s 42 & 1981 c 311 s 15; and

27 (15) RCW 41.64.910 (Severability--1981 c 311) and 1981 c 311 s 24.

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

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

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

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

5 NEW SECTION. **Sec. 409.** (1) Notwithstanding the provisions of
6 section 301 of this act, the parties to collective bargaining to be
7 conducted under sections 301 through 314 of this act shall meet by
8 September 1, 2003, to identify those payroll-related bargaining issues
9 that affect the capacity of the central state payroll system, as
10 determined by the department of personnel. The parties shall agree on
11 which bargaining issues will be bargained in a coalition of employee
12 representatives and will be agreed to uniformly in each collective
13 bargaining agreement. This agreement is effective only for collective
14 bargaining agreements entered into for implementation during the 2005-
15 2007 biennium. The purpose of the agreement is to minimize the risk to
16 the payroll system resulting from agreements reached in the first round
17 of collective bargaining under this act.

18 (2) This section expires June 30, 2007.

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

23 NEW SECTION. **Sec. 411.** (1) Sections 203, 204, 213 through 223,
24 227, 229 through 231, 241, 243, 246, 248, 301 through 307, 309 through
25 316, 318, 319, and 402 of this act take effect July 1, 2004.

26 (2) Section 224 of this act takes effect March 15, 2005.

27 (3) Sections 208, 234 through 238, and 403 of this act take effect
28 July 1, 2005.

29 (4) Sections 225, 226, 233, and 404 of this act take effect July 1,
30 2006.

31 NEW SECTION. **Sec. 412.** Section 230 of this act expires June 30,
32 2015.

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