

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1268

57th Legislature
2002 Regular Session

Passed by the House March 11, 2002
Yeas 56 Nays 40

Speaker of the House of Representatives

Passed by the Senate March 8, 2002
Yeas 29 Nays 19

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1268** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

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 determined 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 is expressly mandated by the
2 legislature or was authorized by law prior to the effective date of
3 this section, including contracts and agreements between public
4 entities, shall not be subject to the processes set forth in
5 subsections (1) and (4) through (6) of this section.

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

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

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

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

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

38 (e) An employee business unit's bid must include the fully
39 allocated costs of the service, including the cost of the employees'

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

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

9 (5) As used in this section:

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

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

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

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

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

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

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

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

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

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

4 (e) Elective officers of the state;

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

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

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

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

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

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

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

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

31 (j) Assistant attorneys general;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 ~~(aa))~~ (y) Staff employed by the department of community, trade,
35 and economic development to administer energy policy functions and
36 manage energy site evaluation council activities under RCW
37 43.21F.045(2)(m);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (3) Any employee whose position has been exempted after July 1,
38 1993, shall have the right to appeal (~~to the personnel appeals board~~

1 ~~created by RCW 41.64.010~~), either individually or through his or her
2 authorized representative, not later than thirty days after the
3 effective date of such action to the personnel appeals board through
4 June 30, 2005, and to the Washington personnel resources board after
5 June 30, 2005.

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

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

16 NEW SECTION. Sec. 214. The transfer of the powers, duties, and
17 functions of the personnel appeals board to the personnel resources
18 board under section 233 of this act and the transfer of jurisdiction
19 for appeals filed under section 213, chapter . . . , Laws of 2002
20 (section 213 of this act) after June 30, 2005, shall not affect the
21 right of an appellant to have an appeal filed on or before June 30,
22 2005, resolved by the personnel appeals board in accordance with the
23 authorities, rules, and procedures that were established under chapter
24 41.64 RCW as it existed before the effective date of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (~~The director shall report to the board the impact of training and~~
36 ~~career development programs on the fulfillment of such~~
37 ~~responsibilities.~~)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (3) Placing priority on providing:

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

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

38 (c) Off-campus community service placements;

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

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

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

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

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

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

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

20 (1) This chapter shall not apply to:

21 (a) The state militia, or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (7) In lieu of remuneration for unused sick leave at retirement as
2 provided in subsection (3) of this section, an agency head or designee
3 may with equivalent funds, provide eligible employees with a benefit
4 plan that provides for reimbursement for medical expenses. This plan
5 shall be implemented only after consultation with affected groups of
6 employees. For eligible employees covered by chapter 41.06 RCW,
7 procedures for the implementation of these plans shall be adopted by
8 the ((~~Washington personnel resources board~~)) director of personnel.
9 For eligible employees exempt from chapter 41.06 RCW, and classified
10 employees who have opted out of coverage of chapter 41.06 RCW as
11 provided in RCW 41.56.201, implementation procedures shall be adopted
12 by an agency head having jurisdiction over the employees.

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

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

1 into the plan, or as a result of the employer not withholding or
2 deducting a tax, assessment, or other payment on the funds as required
3 by federal law. The agreement must also include a provision that
4 requires an eligible employee to forfeit remuneration under subsection
5 (3) of this section if the employee belongs to a group that has been
6 designated to participate in the medical expense plan permitted under
7 this section and the employee refuses to execute the required
8 agreement.

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

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

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

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

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

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

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

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

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

3 Unless the legislature specifies a shorter period of time, a
4 terminated entity shall continue in existence until June 30th of the
5 next succeeding year for the purpose of concluding its affairs:
6 PROVIDED, That the powers and authority of the entity shall not be
7 reduced or otherwise limited during this period. Unless otherwise
8 provided:

9 (1) All employees of terminated entities classified under chapter
10 41.06 RCW, the state civil service law, shall be transferred as
11 appropriate or as otherwise provided in the procedures adopted by the
12 (~~Washington personnel resources board~~) director of personnel pursuant
13 to RCW 41.06.150;

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

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

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

28 (5) All contractual rights and duties of an entity shall be
29 assigned or delegated to the entity assuming the responsibilities of
30 the terminated entity, or if there is none to such entity as the
31 governor shall direct.

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

34 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

6 (f) Any newspaper vendor or carrier;

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

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

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

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

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

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

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

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

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

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

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

3 (1) With respect to collective bargaining as authorized by sections
4 301 through 314 of this act, the public employment relations commission
5 created by chapter 41.58 RCW shall have authority to adopt rules, on
6 and after the effective date of this section, relating to determination
7 of appropriate bargaining units within any agency. In making such
8 determination the commission shall consider the duties, skills, and
9 working conditions of the employees, the history of collective
10 bargaining by the employees and their bargaining representatives, the
11 extent of organization among the employees, and the desires of the
12 employees. The public employment relations commission created in
13 chapter 41.58 RCW shall adopt rules and make determinations relating to
14 the certification and decertification of exclusive bargaining
15 representatives.

16 (2) Each and every provision of RCW 41.56.140 through ((41.56.190))
17 41.56.160 shall be applicable to this chapter as it relates to state
18 civil service employees ((and the Washington personnel resources board,
19 or its designee, whose final decision shall be appealable to the
20 Washington personnel resources board, which is granted all powers and
21 authority granted to the department of labor and industries by RCW
22 41.56.140 through 41.56.190)).

23 (3) A collective bargaining agreement entered into under RCW
24 41.06.150 before July 1, 2004, covering employees subject to sections
25 301 through 314 of this act that expires after July 1, 2004, shall
26 remain in full force during its duration, or until superseded by a
27 collective bargaining agreement entered into by the parties under
28 sections 301 through 314 of this act. However, an agreement entered
29 into before July 1, 2004, may not be renewed or extended beyond July 1,
30 2005, or until superseded by a collective bargaining agreement entered
31 into under sections 301 through 314 of this act, whichever is later.

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

34 (1) The personnel appeals board is hereby abolished and its powers,
35 duties, and functions are hereby transferred to the Washington
36 personnel resources board. All references to the executive secretary
37 or the personnel appeals board in the Revised Code of Washington shall

1 be construed to mean the director of the department of personnel or the
2 Washington personnel resources board.

3 (2)(a) All reports, documents, surveys, books, records, files,
4 papers, or written material in the possession of the personnel appeals
5 board shall be delivered to the custody of the department of personnel.
6 All cabinets, furniture, office equipment, motor vehicles, and other
7 tangible property employed by the personnel appeals board shall be made
8 available to the department of personnel. All funds, credits, leases,
9 or other assets held by the personnel appeals board shall be assigned
10 to the department of personnel.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 or her health or drastically affect his or her performance in the
2 program shall be admitted to or retained in the juvenile offender basic
3 training camp program.

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

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

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

1 employment activities of all juvenile offenders who participated in the
2 program.

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

5 As used in this chapter:

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

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

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

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

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

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

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

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

37 (7) "Personal service" means professional or technical expertise
38 provided by a consultant to accomplish a specific study, project, task,

1 or other work statement. This term does not include purchased services
2 as defined under subsection (9) of this section. This term does
3 include client services.

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

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

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

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

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

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

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

8 (1) All projects designed, constructed, and operated under this
9 authority must comply with all applicable rules and statutes in
10 existence at the time the agreement is executed, including but not
11 limited to the following provisions: Chapter 39.12 RCW, this title,
12 ((~~RCW 41.06.380~~)) section 208 of this act, chapter 47.64 RCW, RCW
13 49.60.180, and 49 C.F.R. Part 21.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (3) When the board develops its priority list in the 1999-2001
35 biennium, for increases proposed for funding in the 2001-2003 biennium,
36 the board shall give top priority to proposed increases to address
37 documented recruitment and retention increases, and shall give lowest
38 priority to proposed increases to recognize increased duties and
39 responsibilities. When the board submits its prioritized list for the

1 2001-2003 biennium, the board shall also provide: A comparison of any
2 differences between the salary increases recommended by the department
3 of personnel staff and those adopted by the board; a review of any
4 salary compression, inversion, or inequities that would result from
5 implementing a recommended increase; and a complete description of the
6 information relied upon by the board in adopting its proposals and
7 priorities.

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

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

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

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

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

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

35 Before the department of personnel's biennial budget request is due
36 to the office of financial management, the board shall prioritize
37 requests for reclassifications, class studies, and salary adjustments
38 for the next fiscal biennium. The board shall prioritize according to

1 such criteria as are developed by the board consistent with RCW
2 41.06.150(~~((+12+))~~) (4)(a).

3 The board shall submit the prioritized list to the governor's
4 office and the fiscal committees of the house of representatives and
5 senate at the same time the department of personnel's biennial budget
6 request is submitted. The office of financial management shall review
7 the biennial cost of each proposed salary adjustment on the board's
8 prioritized list.

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

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

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

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

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

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

20 (a) Development of a simplified classification system that
21 facilitates movement of managers between agencies and promotes upward
22 mobility;

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

28 (c) Establishment of a performance appraisal system that emphasizes
29 individual accountability for program results and efficient management
30 of resources; effective planning, organization, and communication
31 skills; valuing and managing workplace diversity; development of
32 leadership and interpersonal abilities; and employee development;

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

1 be improved; and enhancing mobility and career advancement
2 opportunities;

3 (e) Permitting flexible recruitment and hiring procedures that
4 enable agencies to compete effectively with other employers, both
5 public and private, for managers with appropriate skills and training;
6 allowing consideration of all qualified candidates for positions as
7 managers; and achieving affirmative action goals and diversity in the
8 workplace;

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

11 (g) Facilitating decentralized and regional administration.

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

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

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

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

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

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

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

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

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

23 (g) Facilitating decentralized and regional administration.

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

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

1 a state veterinarian who shall be an experienced veterinarian properly
2 licensed to practice veterinary medicine in this state.

3 The director of agriculture shall have charge and general
4 supervision of the department and may assign supervisory and
5 administrative duties other than those specified in RCW 43.23.070 to
6 the division which in his or her judgment can most efficiently carry on
7 those functions.

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

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

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

23 The commission in conjunction with the department of personnel or
24 the state patrol, whichever is appropriate, shall attempt to resolve
25 the noncompliance through conciliation. If an agreement is reached for
26 the elimination of noncompliance, the agreement shall be reduced to
27 writing and an order shall be issued by the commission setting forth
28 the terms of the agreement. The noncomplying state agency, institution
29 of higher education, or state patrol shall make a good faith effort to
30 conciliate and make a full commitment to correct the noncompliance with
31 any action that may be necessary to achieve compliance, provided such
32 action is not inconsistent with the rules adopted under RCW
33 41.06.150(~~((19))~~) (6) and 43.43.340(5), whichever is appropriate.

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

1 If no agreement can be reached under RCW 49.74.030, the commission
2 may refer the matter to the administrative law judge for hearing
3 pursuant to RCW 49.60.250. If the administrative law judge finds that
4 the state agency, institution of higher education, or state patrol has
5 not made a good faith effort to correct the noncompliance, the
6 administrative law judge shall order the state agency, institution of
7 higher education, or state patrol to comply with this chapter. The
8 administrative law judge may order any action that may be necessary to
9 achieve compliance, provided such action is not inconsistent with the
10 rules adopted under RCW (~~(28B.16.100(20),)~~) 41.06.150(~~(+21),)~~) (19) and
11 43.43.340(5), whichever is appropriate.

12 An order by the administrative law judge may be appealed to
13 superior court.

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

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

27 An order by the administrative law judge may be appealed to
28 superior court.

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

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

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

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

13 (c) On the first day of the month following the month during which
14 the institution of higher education and the exclusive bargaining
15 representative provide notice to the Washington personnel resources
16 board or its successor and the commission that they have executed an
17 initial collective bargaining agreement recognizing the notice of
18 intent filed under (a) of this subsection, chapter ((28B.16-07)) 41.06
19 RCW as appropriate shall cease to apply to all employees in the
20 bargaining unit covered by the agreement.

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

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

35 (b) If, on the date of filing the notice under subsection (1)(a) of
36 this section, there is a union shop authorized for the bargaining unit
37 under rules adopted by the Washington personnel resources board or its
38 successor, the union shop requirement shall continue in effect for the

1 bargaining unit and shall be deemed incorporated into the collective
2 bargaining agreement applicable to the bargaining unit.

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

5 (i) Salary increases shall continue to be appropriated by the
6 legislature. The exclusive bargaining representative shall meet before
7 a legislative session with the governor or governor's designee and the
8 representative of the institution of higher education concerning the
9 total dollar amount for salary increases and health care contributions
10 that will be contained in the appropriations proposed by the governor
11 under RCW 43.88.060;

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

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

30 (3) Nothing in this section may be construed to permit an
31 institution of higher education to bargain collectively with an
32 exclusive bargaining representative concerning any matter covered by:

33 (a) Chapter 41.05 RCW, except for the related cost or dollar
34 contributions or additional or supplemental benefits as permitted by
35 chapter 492, Laws of 1993; or (b) chapter 41.32 or 41.40 RCW.

36 (4) Any collective bargaining agreement entered into under this
37 section before July 1, 2004, that expires after July 1, 2004, shall,
38 unless a superseding agreement complying with sections 301 through 314
39 of this act is negotiated by the parties, remain in full force and

1 effect during its duration, but the agreement may not be renewed or
2 extended beyond July 1, 2005, or until superseded by a collective
3 bargaining agreement entered into under sections 301 through 314 of
4 this act, whichever is later.

5 **PART III**

6 **COLLECTIVE BARGAINING REFORM**

7 NEW SECTION. **Sec. 301.** APPLICATION OF CHAPTER. Collective
8 bargaining negotiations under this chapter shall commence no later than
9 July 1, 2004. A collective bargaining agreement entered into under
10 this chapter shall not be effective prior to July 1, 2005. However,
11 any collective bargaining agreement entered into before July 1, 2004,
12 covering employees affected by sections 301 through 314 of this act,
13 that expires after July 1, 2004, shall, unless a superseding agreement
14 complying with sections 301 through 314 of this act is negotiated by
15 the parties, remain in full force during its duration, but the
16 agreement may not be renewed or extended beyond July 1, 2005, or until
17 superseded by a collective bargaining agreement entered into under
18 sections 301 through 314 of this act, whichever is later. The duration
19 of any collective bargaining agreement under this chapter shall not
20 exceed one fiscal biennium.

21 NEW SECTION. **Sec. 302.** NEGOTIATION AND RATIFICATION OF COLLECTIVE
22 BARGAINING AGREEMENTS. (1) For the purpose of negotiating collective
23 bargaining agreements under this chapter, the employer shall be
24 represented by the governor or governor's designee, except as provided
25 for institutions of higher education in subsection (4) of this section.
26 (2)(a) If an exclusive bargaining representative represents more
27 than one bargaining unit, the exclusive bargaining representative shall
28 negotiate with each employer representative as designated in subsection
29 (1) of this section one master collective bargaining agreement on
30 behalf of all the employees in bargaining units that the exclusive
31 bargaining representative represents. For those exclusive bargaining
32 representatives who represent fewer than a total of five hundred
33 employees each, negotiation shall be by a coalition of all those
34 exclusive bargaining representatives. The coalition shall bargain for
35 a master collective bargaining agreement covering all of the employees
36 represented by the coalition. The governor's designee and the exclusive

1 bargaining representative or representatives are authorized to enter
2 into supplemental bargaining of agency-specific issues for inclusion in
3 or as an addendum to the master collective bargaining agreement,
4 subject to the parties' agreement regarding the issues and procedures
5 for supplemental bargaining. This section does not prohibit
6 cooperation and coordination of bargaining between two or more
7 exclusive bargaining representatives.

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

15 (c) If five hundred or more employees of an independent state
16 elected official listed in RCW 43.01.010 are organized in a bargaining
17 unit or bargaining units under section 308 of this act, the official
18 shall be consulted by the governor or the governor's designee before
19 any agreement is reached under (a) of this subsection concerning
20 supplemental bargaining of agency specific issues affecting the
21 employees in such bargaining unit.

22 (3) The governor shall submit a request for funds necessary to
23 implement the compensation and fringe benefit provisions in the master
24 collective bargaining agreement or for legislation necessary to
25 implement the agreement. Requests for funds necessary to implement the
26 provisions of bargaining agreements shall not be submitted to the
27 legislature by the governor unless such requests:

28 (a) Have been submitted to the director of the office of financial
29 management by October 1 prior to the legislative session at which the
30 requests are to be considered; and

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

33 The legislature shall approve or reject the submission of the
34 request for funds as a whole. The legislature shall not consider a
35 request for funds to implement a collective bargaining agreement unless
36 the request is transmitted to the legislature as part of the governor's
37 budget document submitted under RCW 43.88.030 and 43.88.060. If the
38 legislature rejects or fails to act on the submission, either party may
39 reopen all or part of the agreement or the exclusive bargaining

1 representative may seek to implement the procedures provided for in
2 section 310 of this act.

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

21 (5) There is hereby created a joint committee on employment
22 relations, which consists of two members with leadership positions in
23 the house of representatives, representing each of the two largest
24 caucuses; the chair and ranking minority member of the house
25 appropriations committee, or its successor, representing each of the
26 two largest caucuses; two members with leadership positions in the
27 senate, representing each of the two largest caucuses; and the chair
28 and ranking minority member of the senate ways and means committee, or
29 its successor, representing each of the two largest caucuses. The
30 governor shall periodically consult with the committee regarding
31 appropriations necessary to implement the compensation and fringe
32 benefit provisions in the master collective bargaining agreements, and
33 upon completion of negotiations, advise the committee on the elements
34 of the agreements and on any legislation necessary to implement the
35 agreements.

36 (6) If, after the compensation and fringe benefit provisions of an
37 agreement are approved by the legislature, a significant revenue
38 shortfall occurs resulting in reduced appropriations, as declared by
39 proclamation of the governor or by resolution of the legislature, both

1 parties shall immediately enter into collective bargaining for a
2 mutually agreed upon modification of the agreement.

3 (7) After the expiration date of a collective bargaining agreement
4 negotiated under this chapter, all of the terms and conditions
5 specified in the collective bargaining agreement remain in effect until
6 the effective date of a subsequently negotiated agreement, not to
7 exceed one year from the expiration date stated in the agreement.
8 Thereafter, the employer may unilaterally implement according to law.

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

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

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

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

19 (c) Rules of the director of personnel or the Washington personnel
20 resources board adopted under section 203, chapter . . . , Laws of 2002
21 (section 203 of this act).

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

36 (4) The employer and the exclusive bargaining representative shall
37 not agree to any proposal that would prevent the implementation of
38 approved affirmative action plans or that would be inconsistent with

1 the comparable worth agreement that provided the basis for the salary
2 changes implemented beginning with the 1983-1985 biennium to achieve
3 comparable worth.

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

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

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

16 NEW SECTION. **Sec. 304.** CONTENTS OF COLLECTIVE BARGAINING

17 AGREEMENTS. (1) The parties to a collective bargaining agreement shall
18 reduce the agreement to writing and both shall execute it.

19 (2) A collective bargaining agreement shall contain provisions
20 that:

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

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

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

1 collective bargaining agreement, and all benefits included in the new
2 collective bargaining agreement, including wage or salary increases,
3 may accrue beginning with that effective date.

4 (b) If a collective bargaining agreement between an employer and an
5 exclusive bargaining representative is concluded after the termination
6 date of the previous collective bargaining agreement between the
7 employer and the exclusive bargaining representative representing
8 different bargaining units, the effective date of the collective
9 bargaining agreement may be the day after the termination date of
10 whichever previous collective bargaining agreement covering one or more
11 of the units terminated first, and all benefits included in the new
12 collective bargaining agreement, including wage or salary increases,
13 may accrue beginning with that effective date.

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

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

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

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

23 (4) The right to take whatever actions are deemed necessary to
24 carry out the mission of the state and its agencies during emergencies;
25 and

26 (5) Retirement plans and retirement benefits.

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

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

5 NEW SECTION. **Sec. 308.** BARGAINING UNITS. (1) A bargaining unit
6 of employees covered by this chapter existing on the effective date of
7 this section shall be considered an appropriate unit, unless the unit
8 does not meet the requirements of (a) and (b) of this subsection. The
9 commission, after hearing upon reasonable notice to all interested
10 parties, shall decide, in each application for certification as an
11 exclusive bargaining representative, the unit appropriate for
12 certification. In determining the new units or modifications of
13 existing units, the commission shall consider: The duties, skills, and
14 working conditions of the employees; the history of collective
15 bargaining; the extent of organization among the employees; the desires
16 of the employees; and the avoidance of excessive fragmentation.
17 However, a unit is not appropriate if it includes:

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

22 (b) More than one institution of higher education. For the
23 purposes of this section, any branch or regional campus of an
24 institution of higher education is part of that institution of higher
25 education.

26 (2) The exclusive bargaining representatives certified to represent
27 the bargaining units existing on the effective date of this section
28 shall continue as the exclusive bargaining representative without the
29 necessity of an election.

30 (3) If a single employee organization is the exclusive bargaining
31 representative for two or more units, upon petition by the employee
32 organization, the units may be consolidated into a single larger unit
33 if the commission considers the larger unit to be appropriate. If
34 consolidation is appropriate, the commission shall certify the employee
35 organization as the exclusive bargaining representative of the new
36 unit.

1 NEW SECTION. **Sec. 309.** REPRESENTATION. (1) The commission shall
2 determine all questions pertaining to representation and shall
3 administer all elections and be responsible for the processing and
4 adjudication of all disputes that arise as a consequence of elections.
5 The commission shall adopt rules that provide for at least the
6 following:

7 (a) Secret balloting;

8 (b) Consulting with employee organizations;

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

11 (d) Absentee voting;

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

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

14 and

15 (g) Election observers.

16 (2)(a) If an employee organization has been certified as the
17 exclusive bargaining representative of the employees of a bargaining
18 unit, the employee organization may act for and negotiate master
19 collective bargaining agreements that will include within the coverage
20 of the agreement all employees in the bargaining unit as provided in
21 section 302(2)(a) of this act. However, if a master collective
22 bargaining agreement is in effect for the exclusive bargaining
23 representative, it shall apply to the bargaining unit for which the
24 certification has been issued. Nothing in this section requires the
25 parties to engage in new negotiations during the term of that
26 agreement.

27 (b) This subsection (2) does not apply to exclusive bargaining
28 representatives who represent employees of institutions of higher
29 education.

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

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

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

38 (b) A valid collective bargaining agreement exists covering the
39 unit, except for that period of no more than one hundred twenty

1 calendar days nor less than ninety calendar days before the expiration
2 of the contract.

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

7 If a collective bargaining agreement previously negotiated under
8 this chapter should expire while negotiations are underway, the terms
9 and conditions specified in the collective bargaining agreement shall
10 remain in effect for a period not to exceed one year from the
11 expiration date stated in the agreement. Thereafter, the employer may
12 unilaterally implement according to law.

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

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

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

29 Nothing in this section shall be construed to prohibit an employer
30 and an exclusive bargaining representative from agreeing to substitute,
31 at their own expense, their own procedure for resolving impasses in
32 collective bargaining for that provided in this section or from
33 agreeing to utilize for the purposes of this section any other
34 governmental or other agency or person in lieu of the commission.

35 Costs for mediator services shall be borne by the commission, and
36 costs for fact-finding shall be borne equally by the negotiating
37 parties.

1 NEW SECTION. **Sec. 311.** UNION SECURITY. (1) A collective
2 bargaining agreement may contain a union security provision requiring
3 as a condition of employment the payment, no later than the thirtieth
4 day following the beginning of employment or the effective date of this
5 section, whichever is later, of an agency shop fee to the employee
6 organization that is the exclusive bargaining representative for the
7 bargaining unit in which the employee is employed. The amount of the
8 fee shall be equal to the amount required to become a member in good
9 standing of the employee organization. Each employee organization
10 shall establish a procedure by which any employee so requesting may pay
11 a representation fee no greater than the part of the membership fee
12 that represents a pro rata share of expenditures for purposes germane
13 to the collective bargaining process, to contract administration, or to
14 pursuing matters affecting wages, hours, and other conditions of
15 employment.

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

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

1 (4) Employee organizations that before the effective date of this
2 section were entitled to the benefits of this section shall continue to
3 be entitled to these benefits.

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

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

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

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

17 (d) To discharge or discriminate otherwise against an employee
18 because that employee has filed charges or given testimony under this
19 chapter;

20 (e) To refuse to bargain collectively with the representatives of
21 its employees.

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

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

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

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

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

35 (3) The expressing of any views, arguments, or opinion, or the
36 dissemination thereof to the public, whether in written, printed,
37 graphic, or visual form, shall not constitute or be evidence of an

1 unfair labor practice under this chapter, if such expression contains
2 no threat of reprisal or force or promise of benefit.

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

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

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

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

34 (2) An arbitrator may require any person to attend as a witness and
35 to bring with him or her any book, record, document, or other evidence.
36 The fees for such attendance shall be paid by the party requesting
37 issuance of the subpoena and shall be the same as the fees of witnesses

1 in the superior court. Arbitrators may administer oaths. Subpoenas
2 shall issue and be signed by the arbitrator and shall be served in the
3 same manner as subpoenas to testify before a court of record in this
4 state. If any person so summoned to testify refuses or neglects to
5 obey such subpoena, upon petition authorized by the arbitrator, the
6 superior court may compel the attendance of the person before the
7 arbitrator or punish the person for contempt in the same manner
8 provided for the attendance of witnesses or the punishment of them in
9 the courts of this state.

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

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

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

37 NEW SECTION. **Sec. 315.** All powers, duties, and functions of the
38 department of personnel pertaining to collective bargaining are

1 transferred to the public employment relations commission except
2 mediation of grievances and contracts, arbitration of grievances and
3 contracts, and unfair labor practices, filed under a collective
4 bargaining agreement existing before the effective date of this
5 section. Any mediation, arbitration, or unfair labor practice issue
6 filed between July 1, 2004, and July 1, 2005, under a collective
7 bargaining agreement existing before the effective date of this
8 section, shall be resolved by the Washington personnel resources board
9 in accordance with the authorities, rules, and procedures that were
10 established under RCW 41.06.150(11) as it existed before the effective
11 date of this section.

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

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

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

1 NEW SECTION. **Sec. 317.** After the effective date of this section,
2 the director of personnel and the executive director of the public
3 employment relations commission shall meet and agree upon a schedule
4 for the transfer of department of personnel labor relation employees
5 and property to the commission. Whenever a question arises as to the
6 transfer of any personnel, funds, books, documents, records, papers,
7 files, equipment, or other tangible property used or held in the
8 exercise of the powers and the performance of the duties and functions
9 transferred, the director of financial management shall make a
10 determination as to the proper allocation and certify the same to the
11 state agencies concerned.

12 NEW SECTION. **Sec. 318.** All business pending before the department
13 of personnel pertaining to the powers, functions, and duties
14 transferred in section 315 of this act shall be continued and acted
15 upon by the public employment relations commission. All existing
16 contracts and obligations of the department of personnel, pertaining to
17 collective bargaining, shall remain in full force and shall be
18 performed by the public employment relations commission.

19 NEW SECTION. **Sec. 319.** The transfer of the powers, duties,
20 functions, and personnel of the department of personnel shall not
21 affect the validity of any act performed before the effective date of
22 this section.

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

30 NEW SECTION. **Sec. 321.** DEFINITIONS. Unless the context clearly
31 requires otherwise, the definitions in this section apply throughout
32 this chapter.

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

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

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

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

20 (5) "Director" means the director of the public employment
21 relations commission.

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

25 (a) Employees covered for collective bargaining by chapter 41.56
26 RCW;

27 (b) Confidential employees;

28 (c) Members of the Washington management service;

29 (d) Internal auditors in any agency; or

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

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

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

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

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

5 (11) "Labor dispute" means any controversy concerning terms,
6 tenure, or conditions of employment, or concerning the association or
7 representation of persons in negotiating, fixing, maintaining,
8 changing, or seeking to arrange terms or conditions of employment with
9 respect to the subjects of bargaining provided in this chapter,
10 regardless of whether the disputants stand in the proximate relation of
11 employer and employee.

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

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

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

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

1 from time to time. Payment for services rendered under this chapter
2 shall be made on a quarterly basis to the state treasurer and deposited
3 into the office of financial management's labor relations service
4 account.

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

9 **PART IV**
10 **MISCELLANEOUS**

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

13 (1) RCW 41.06.163 (Comprehensive salary and fringe benefit survey
14 plan required--Contents) and 1993 c 281 s 30, 1987 c 185 s 9, 1986 c
15 158 s 6, 1979 c 151 s 59, & 1977 ex.s. c 152 s 3; and

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

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

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

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

26 (3) RCW 41.06.520 (Administration, management of institutions of
27 higher education--Rules--Audit and review by board) and 1993 c 281 s
28 11.

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

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

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

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

3 (4) RCW 41.56.201 (Employees of institutions of higher education--
4 Option to have relationship and obligations governed by chapter) and
5 2000 c 19 s 2 & 1993 c 379 s 304; and

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

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

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

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

13 (3) RCW 41.64.030 (Compensation of members--Travel expenses--
14 Disclosure of financial affairs) and 1984 c 287 s 73, 1984 c 34 s 4, &
15 1981 c 311 s 4;

16 (4) RCW 41.64.040 (Election of chairperson--Biennial meetings) and
17 1981 c 311 s 5;

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

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

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

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

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

27 (10) RCW 41.64.100 (Employee appeals--Hearing--Decision to be
28 rendered within ninety days, exceptions) and 1997 c 386 s 43 & 1981 c
29 311 s 11;

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

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

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

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

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

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

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

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

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

13 NEW SECTION. **Sec. 409.** (1) Notwithstanding the provisions of
14 section 301 of this act, the parties to collective bargaining to be
15 conducted under sections 301 through 314 of this act shall meet by
16 September 1, 2003, to identify those payroll-related bargaining issues
17 that affect the capacity of the central state payroll system, as
18 determined by the department of personnel. The parties shall agree on
19 which bargaining issues will be bargained in a coalition of employee
20 representatives and will be agreed to uniformly in each collective
21 bargaining agreement. This agreement is effective only for collective
22 bargaining agreements entered into for implementation during the 2005-
23 2007 biennium. The purpose of the agreement is to minimize the risk to
24 the payroll system resulting from agreements reached in the first round
25 of collective bargaining under this act.

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

27 NEW SECTION. **Sec. 410.** If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 411.** (1) Sections 203, 204, 213 through 223,
2 227, 229 through 231, 241, 243, 246, 248, 301 through 307, 309 through
3 316, 318, 319, and 402 of this act take effect July 1, 2004.

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

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

7 (4) Sections 225, 226, 233, and 404 of this act take effect July 1,
8 2006.

9 NEW SECTION. **Sec. 412.** Section 230 of this act expires June 30,
10 2015.

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