
SENATE BILL 5073

State of Washington

64th Legislature

2015 Regular Session

By Senators Roach and Liias; by request of Office of Financial Management

Read first time 01/13/15. Referred to Committee on Government Operations & State Security.

1 AN ACT Relating to nonsubstantive updates and realignments of the
2 statutory responsibilities of the office of financial management;
3 amending RCW 43.82.055, 43.82.150, 43.88.160, 47.64.170, 47.64.360,
4 79.44.060, 28A.345.060, 34.05.030, 34.12.100, 41.04.665, 41.04.680,
5 41.06.157, 41.06.167, 42.17A.705, 41.80.020, 43.03.040, 43.06.013,
6 43.41.113, 43.131.090, 48.37.060, and 49.74.020; reenacting and
7 amending RCW 41.04.340 and 41.06.020; adding new sections to chapter
8 43.19 RCW; recodifying RCW 43.41.130, 43.41.140, 43.41.150,
9 43.41.370, and 43.41.380; and repealing RCW 43.41.190 and 43.41.195.

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

11 **PART I**
12 **GENERAL PROVISIONS**

13 **Sec. 101.** RCW 43.82.055 and 2007 c 506 s 6 are each amended to
14 read as follows:

15 The office of financial management shall:

16 (1) Work with the department of (~~general administration~~)
17 enterprise services and all other state agencies to determine the
18 long-term facility needs of state government; (~~and~~)

19 (2) Develop and submit a six-year facility plan to the
20 legislature by January 1st of every odd-numbered year(~~(, beginning~~)

1 ~~January 1, 2009,~~) that includes state agency space requirements and
2 other pertinent data necessary for cost-effective facility planning.
3 The department of (~~general administration~~) enterprise services
4 shall assist with this effort as required by the office of financial
5 management; and

6 (3) Establish and enforce policies, standards, and workplace
7 strategies that promote the efficient use of state facilities.

8 **Sec. 102.** RCW 43.82.150 and 2007 c 506 s 7 are each amended to
9 read as follows:

10 (1) The office of financial management shall develop and maintain
11 an inventory system to account for all facilities owned or leased
12 (~~facilities utilized~~) by state government. At a minimum, the
13 inventory system must include the facility owner, location, type,
14 condition, use data, and size of each facility. In addition, for
15 owned facilities, the inventory system must include the date and cost
16 of original construction and the cost of any major remodeling or
17 renovation. The inventory must be updated by all agencies,
18 departments, boards, commissions, and institutions by June 30th of
19 each year. The office of financial management shall publish a report
20 summarizing information contained in the inventory system for each
21 agency by October 1st of each year, beginning in 2010 and shall
22 submit this report to the appropriate fiscal committees of the
23 legislature.

24 (2) (~~All agencies, departments, boards, commissions, and~~
25 ~~institutions of the state of Washington shall provide to the office~~
26 ~~of financial management a complete inventory of owned and leased~~
27 ~~facilities by September 1, 2010. The inventory must be updated and~~
28 ~~submitted to the office of financial management by September 1st of~~
29 ~~each subsequent year.)) The ((inventories)) inventory required under
30 this subsection must be submitted in a standard format prescribed by
31 the office of financial management.~~

32 (3) (~~The office of financial management shall report to the~~
33 ~~legislature by September 1, 2008, on recommended improvements to the~~
34 ~~inventory system, redevelopment costs, and an implementation schedule~~
35 ~~for the redevelopment of the inventory system. The report shall also~~
36 ~~make recommendations on other improvements that will improve~~
37 ~~accountability and assist in the evaluation of budget requests and~~
38 ~~facility management by the governor and the legislature.~~

1 ~~(4))~~) For the purposes of this section, "facilities" means
2 buildings and other structures with walls and a roof. "Facilities"
3 does not mean roads, bridges, parking areas, utility systems, and
4 other similar improvements to real property.

5 **Sec. 103.** RCW 43.88.160 and 2012 c 230 s 1 are each amended to
6 read as follows:

7 This section sets forth the major fiscal duties and
8 responsibilities of officers and agencies of the executive branch.
9 The regulations issued by the governor pursuant to this chapter shall
10 provide for a comprehensive, orderly basis for fiscal management and
11 control, including efficient accounting and reporting therefor, for
12 the executive branch of the state government and may include, in
13 addition, such requirements as will generally promote more efficient
14 public management in the state.

15 (1) Governor; director of financial management. The governor,
16 through the director of financial management, shall devise and
17 supervise a modern and complete accounting system for each agency to
18 the end that all revenues, expenditures, receipts, disbursements,
19 resources, and obligations of the state shall be properly and
20 systematically accounted for. The accounting system shall include the
21 development of accurate, timely records and reports of all financial
22 affairs of the state. The system shall also provide for central
23 accounts in the office of financial management at the level of detail
24 deemed necessary by the director to perform central financial
25 management. The director of financial management shall adopt and
26 periodically update an accounting procedures manual. Any agency
27 maintaining its own accounting and reporting system shall comply with
28 the updated accounting procedures manual and the rules of the
29 director adopted under this chapter. An agency may receive a waiver
30 from complying with this requirement if the waiver is approved by the
31 director. Waivers expire at the end of the fiscal biennium for which
32 they are granted. The director shall forward notice of waivers
33 granted to the appropriate legislative fiscal committees. The
34 director of financial management may require such financial,
35 statistical, and other reports as the director deems necessary from
36 all agencies covering any period.

37 (2) Except as provided in chapter 43.88C RCW, the director of
38 financial management is responsible for quarterly reporting of
39 primary operating budget drivers such as applicable workloads,

1 caseload estimates, and appropriate unit cost data. These reports
2 shall be transmitted to the legislative fiscal committees or by
3 electronic means to the legislative evaluation and accountability
4 program committee. Quarterly reports shall include actual monthly
5 data and the variance between actual and estimated data to date. The
6 reports shall also include estimates of these items for the remainder
7 of the budget period.

8 (3) The director of financial management shall report at least
9 annually to the appropriate legislative committees regarding the
10 status of all appropriated capital projects, including transportation
11 projects, showing significant cost overruns or underruns. If funds
12 are shifted from one project to another, the office of financial
13 management shall also reflect this in the annual variance report.
14 Once a project is complete, the report shall provide a final summary
15 showing estimated start and completion dates of each project phase
16 compared to actual dates, estimated costs of each project phase
17 compared to actual costs, and whether or not there are any
18 outstanding liabilities or unsettled claims at the time of
19 completion.

20 (4) In addition, the director of financial management, as agent
21 of the governor, shall:

22 (a) Develop and maintain a system of internal controls and
23 internal audits comprising methods and procedures to be adopted by
24 each agency that will safeguard its assets, check the accuracy and
25 reliability of its accounting data, promote operational efficiency,
26 and encourage adherence to prescribed managerial policies for
27 accounting and financial controls. The system developed by the
28 director shall include criteria for determining the scope and
29 comprehensiveness of internal controls required by classes of
30 agencies, depending on the level of resources at risk.

31 Each agency head or authorized designee in an agency that meets
32 risk-based criteria to be developed by the director of financial
33 management shall be assigned the responsibility and authority for
34 establishing and maintaining internal audits following ((the))
35 professional audit standards ((of internal auditing of the institute
36 of internal auditors));

37 (b) Make surveys and analyses of agencies with the object of
38 determining better methods and increased effectiveness in the use of
39 manpower and materials; and the director shall authorize expenditures

1 for employee training to the end that the state may benefit from
2 training facilities made available to state employees;

3 (c) Establish policies for allowing the contracting of child care
4 services;

5 (d) Report to the governor with regard to duplication of effort
6 or lack of coordination among agencies;

7 (e) Review any pay and classification plans, and changes
8 thereunder, developed by any agency for their fiscal impact:
9 PROVIDED, That none of the provisions of this subsection shall affect
10 merit systems of personnel management now existing or hereafter
11 established by statute relating to the fixing of qualifications
12 requirements for recruitment, appointment, or promotion of employees
13 of any agency. The director shall advise and confer with agencies
14 including appropriate standing committees of the legislature as may
15 be designated by the speaker of the house and the president of the
16 senate regarding the fiscal impact of such plans and may amend or
17 alter the plans, except that for the following agencies no amendment
18 or alteration of the plans may be made without the approval of the
19 agency concerned: Agencies headed by elective officials;

20 (f) Fix the number and classes of positions or authorized
21 employee years of employment for each agency and during the fiscal
22 period amend the determinations previously fixed by the director
23 except that the director shall not be empowered to fix the number or
24 the classes for the following: Agencies headed by elective officials;

25 (g) Adopt rules to effectuate provisions contained in (a) through
26 (f) of this subsection.

27 (5) The treasurer shall:

28 (a) Receive, keep, and disburse all public funds of the state not
29 expressly required by law to be received, kept, and disbursed by some
30 other persons: PROVIDED, That this subsection shall not apply to
31 those public funds of the institutions of higher learning which are
32 not subject to appropriation;

33 (b) Receive, disburse, or transfer public funds under the
34 treasurer's supervision or custody;

35 (c) Keep a correct and current account of all moneys received and
36 disbursed by the treasurer, classified by fund or account;

37 (d) Coordinate agencies' acceptance and use of credit cards and
38 other payment methods, if the agencies have received authorization
39 under RCW 43.41.180;

1 (e) Perform such other duties as may be required by law or by
2 regulations issued pursuant to this law.

3 It shall be unlawful for the treasurer to disburse public funds
4 in the treasury except upon forms or by alternative means duly
5 prescribed by the director of financial management. These forms or
6 alternative means shall provide for authentication and certification
7 by the agency head or the agency head's designee that the services
8 have been rendered or the materials have been furnished; or, in the
9 case of loans or grants, that the loans or grants are authorized by
10 law; or, in the case of payments for periodic maintenance services to
11 be performed on state owned equipment, that a written contract for
12 such periodic maintenance services is currently in effect; and the
13 treasurer shall not be liable under the treasurer's surety bond for
14 erroneous or improper payments so made. When services are lawfully
15 paid for in advance of full performance by any private individual or
16 business entity other than equipment maintenance providers or as
17 provided for by RCW 42.24.035, such individual or entity other than
18 central stores rendering such services shall make a cash deposit or
19 furnish surety bond coverage to the state as shall be fixed in an
20 amount by law, or if not fixed by law, then in such amounts as shall
21 be fixed by the director of the department of enterprise services but
22 in no case shall such required cash deposit or surety bond be less
23 than an amount which will fully indemnify the state against any and
24 all losses on account of breach of promise to fully perform such
25 services. No payments shall be made in advance for any equipment
26 maintenance services to be performed more than twelve months after
27 such payment except that institutions of higher education as defined
28 in RCW 28B.10.016 may make payments in advance for equipment
29 maintenance services to be performed up to sixty months after such
30 payment. Any such bond so furnished shall be conditioned that the
31 person, firm or corporation receiving the advance payment will apply
32 it toward performance of the contract. The responsibility for
33 recovery of erroneous or improper payments made under this section
34 shall lie with the agency head or the agency head's designee in
35 accordance with rules issued pursuant to this chapter. Nothing in
36 this section shall be construed to permit a public body to advance
37 funds to a private service provider pursuant to a grant or loan
38 before services have been rendered or material furnished.

39 (6) The state auditor shall:

1 (a) Report to the legislature the results of current post audits
2 that have been made of the financial transactions of each agency; to
3 this end the auditor may, in the auditor's discretion, examine the
4 books and accounts of any agency, official, or employee charged with
5 the receipt, custody, or safekeeping of public funds. Where feasible
6 in conducting examinations, the auditor shall utilize data and
7 findings from the internal control system prescribed by the office of
8 financial management. The current post audit of each agency may
9 include a section on recommendations to the legislature as provided
10 in (c) of this subsection.

11 (b) Give information to the legislature, whenever required, upon
12 any subject relating to the financial affairs of the state.

13 (c) Make the auditor's official report on or before the thirty-
14 first of December which precedes the meeting of the legislature. The
15 report shall be for the last complete fiscal period and shall include
16 determinations as to whether agencies, in making expenditures,
17 complied with the laws of this state. The state auditor is authorized
18 to perform or participate in performance verifications and
19 performance audits as expressly authorized by the legislature in the
20 omnibus biennial appropriations acts or in the performance audit work
21 plan approved by the joint legislative audit and review committee.
22 The state auditor, upon completing an audit for legal and financial
23 compliance under chapter 43.09 RCW or a performance verification, may
24 report to the joint legislative audit and review committee or other
25 appropriate committees of the legislature, in a manner prescribed by
26 the joint legislative audit and review committee, on facts relating
27 to the management or performance of governmental programs where such
28 facts are discovered incidental to the legal and financial audit or
29 performance verification. The auditor may make such a report to a
30 legislative committee only if the auditor has determined that the
31 agency has been given an opportunity and has failed to resolve the
32 management or performance issues raised by the auditor. If the
33 auditor makes a report to a legislative committee, the agency may
34 submit to the committee a response to the report. This subsection (6)
35 shall not be construed to authorize the auditor to allocate other
36 than de minimis resources to performance audits except as expressly
37 authorized in the appropriations acts or in the performance audit
38 work plan. The results of a performance audit conducted by the state
39 auditor that has been requested by the joint legislative audit and

1 review committee must only be transmitted to the joint legislative
2 audit and review committee.

3 (d) Be empowered to take exception to specific expenditures that
4 have been incurred by any agency or to take exception to other
5 practices related in any way to the agency's financial transactions
6 and to cause such exceptions to be made a matter of public record,
7 including disclosure to the agency concerned and to the director of
8 financial management. It shall be the duty of the director of
9 financial management to cause corrective action to be taken within
10 six months, such action to include, as appropriate, the withholding
11 of funds as provided in RCW 43.88.110. The director of financial
12 management shall annually report by December 31st the status of audit
13 resolution to the appropriate committees of the legislature, the
14 state auditor, and the attorney general. The director of financial
15 management shall include in the audit resolution report actions taken
16 as a result of an audit including, but not limited to, types of
17 personnel actions, costs and types of litigation, and value of
18 recouped goods or services.

19 (e) Promptly report any irregularities to the attorney general.

20 (f) Investigate improper governmental activity under chapter
21 42.40 RCW.

22 In addition to the authority given to the state auditor in this
23 subsection (6), the state auditor is authorized to conduct
24 performance audits identified in RCW 43.09.470. Nothing in this
25 subsection (6) shall limit, impede, or restrict the state auditor
26 from conducting performance audits identified in RCW 43.09.470.

27 (7) The joint legislative audit and review committee may:

28 (a) Make post audits of the financial transactions of any agency
29 and management surveys and program reviews as provided for in chapter
30 44.28 RCW as well as performance audits and program evaluations. To
31 this end the joint committee may in its discretion examine the books,
32 accounts, and other records of any agency, official, or employee.

33 (b) Give information to the legislature or any legislative
34 committee whenever required upon any subject relating to the
35 performance and management of state agencies.

36 (c) Make a report to the legislature which shall include at least
37 the following:

38 (i) Determinations as to the extent to which agencies in making
39 expenditures have complied with the will of the legislature and in

1 this connection, may take exception to specific expenditures or
2 financial practices of any agencies; and

3 (ii) Such plans as it deems expedient for the support of the
4 state's credit, for lessening expenditures, for promoting frugality
5 and economy in agency affairs, and generally for an improved level of
6 fiscal management.

7 **Sec. 104.** RCW 47.64.170 and 2013 c 306 s 521 are each amended to
8 read as follows:

9 (1) Any ferry employee organization certified as the bargaining
10 representative shall be the exclusive representative of all ferry
11 employees in the bargaining unit and shall represent all such
12 employees fairly.

13 (2) A ferry employee organization or organizations and the
14 governor may each designate any individual as its representative to
15 engage in collective bargaining negotiations.

16 (3) Negotiating sessions, including strategy meetings of the
17 employer or employee organizations, mediation, and the deliberative
18 process of arbitrators are exempt from the provisions of chapter
19 42.30 RCW. Hearings conducted by arbitrators may be open to the
20 public by mutual consent of the parties.

21 (4) Terms of any collective bargaining agreement may be enforced
22 by civil action in Thurston county superior court upon the initiative
23 of either party.

24 (5) Ferry system employees or any employee organization shall not
25 negotiate or attempt to negotiate directly with anyone other than the
26 person who has been appointed or authorized a bargaining
27 representative for the purpose of bargaining with the ferry employees
28 or their representative.

29 (6)(a) Within ten working days after the first Monday in
30 September of every odd-numbered year, the parties shall attempt to
31 agree on an interest arbitrator to be used if the parties are not
32 successful in negotiating a comprehensive collective bargaining
33 agreement. If the parties cannot agree on an arbitrator within the
34 ten-day period, either party may request a list of seven arbitrators
35 from the federal mediation and conciliation service. The parties
36 shall select an interest arbitrator using the coin toss/alternate
37 strike method within thirty calendar days of receipt of the list.
38 Immediately upon selecting an interest arbitrator, the parties shall
39 cooperate to reserve dates with the arbitrator for potential

1 arbitration between August 1st and September 15th of the following
2 even-numbered year. The parties shall also prepare a schedule of at
3 least five negotiation dates for the following year, absent an
4 agreement to the contrary. The parties shall execute a written
5 agreement before November 1st of each odd-numbered year setting forth
6 the name of the arbitrator and the dates reserved for bargaining and
7 arbitration. This subsection (6)(a) imposes minimum obligations only
8 and is not intended to define or limit a party's full, good faith
9 bargaining obligation under other sections of this chapter.

10 (b) The negotiation of a proposed collective bargaining agreement
11 by representatives of the employer and a ferry employee organization
12 shall commence on or about February 1st of every even-numbered year.

13 (c) For negotiations covering the 2009-2011 biennium and
14 subsequent biennia, the time periods specified in this section, and
15 in RCW 47.64.210 and 47.64.300 through 47.64.320, must ensure
16 conclusion of all agreements on or before October 1st of the even-
17 numbered year next preceding the biennial budget period during which
18 the agreement should take effect. These time periods may only be
19 altered by mutual agreement of the parties in writing. Any such
20 agreement and any impasse procedures agreed to by the parties under
21 RCW 47.64.200 must include an agreement regarding the new time
22 periods that will allow final resolution by negotiations or
23 arbitration by October 1st of each even-numbered year.

24 (7) It is the intent of this section that the collective
25 bargaining agreement or arbitrator's award shall commence on July 1st
26 of each odd-numbered year and shall terminate on June 30th of the
27 next odd-numbered year to coincide with the ensuing biennial budget
28 year, as defined by RCW 43.88.020(7), to the extent practical. It is
29 further the intent of this section that all collective bargaining
30 agreements be concluded by October 1st of the even-numbered year
31 before the commencement of the biennial budget year during which the
32 agreements are to be in effect. After the expiration date of a
33 collective bargaining agreement negotiated under this chapter, except
34 to the extent provided in subsection (11) of this section and RCW
35 47.64.270(4), all of the terms and conditions specified in the
36 collective bargaining agreement remain in effect until the effective
37 date of a subsequently negotiated agreement, not to exceed one year
38 from the expiration date stated in the agreement. Thereafter, the
39 employer may unilaterally implement according to law.

1 (8) The office of financial management shall conduct a salary
2 survey, for use in collective bargaining and arbitration(~~(, which~~
3 ~~must be conducted through a contract with a firm nationally~~
4 ~~recognized in the field of human resources management consulting)~~).

5 (9) Except as provided in subsection (11) of this section:

6 (a) The governor shall submit a request either for funds
7 necessary to implement the collective bargaining agreements
8 including, but not limited to, the compensation and fringe benefit
9 provisions or for legislation necessary to implement the agreement,
10 or both. Requests for funds necessary to implement the collective
11 bargaining agreements shall not be submitted to the legislature by
12 the governor unless such requests:

13 (i) Have been submitted to the director of the office of
14 financial management by October 1st before the legislative session at
15 which the requests are to be considered; and

16 (ii) Have been certified by the director of the office of
17 financial management as being feasible financially for the state.

18 (b) The governor shall submit a request either for funds
19 necessary to implement the arbitration awards or for legislation
20 necessary to implement the arbitration awards, or both. Requests for
21 funds necessary to implement the arbitration awards shall not be
22 submitted to the legislature by the governor unless such requests:

23 (i) Have been submitted to the director of the office of
24 financial management by October 1st before the legislative session at
25 which the requests are to be considered; and

26 (ii) Have been certified by the director of the office of
27 financial management as being feasible financially for the state.

28 (c) The legislature shall approve or reject the submission of the
29 request for funds necessary to implement the collective bargaining
30 agreements or arbitration awards as a whole for each agreement or
31 award. The legislature shall not consider a request for funds to
32 implement a collective bargaining agreement or arbitration award
33 unless the request is transmitted to the legislature as part of the
34 governor's budget document submitted under RCW 43.88.030 and
35 43.88.060. If the legislature rejects or fails to act on the
36 submission, either party may reopen all or part of the agreement and
37 award or the exclusive bargaining representative may seek to
38 implement the procedures provided for in RCW 47.64.210 and 47.64.300.

39 (10) If, after the compensation and fringe benefit provisions of
40 an agreement are approved by the legislature, a significant revenue

1 shortfall occurs resulting in reduced appropriations, as declared by
2 proclamation of the governor or by resolution of the legislature,
3 both parties shall immediately enter into collective bargaining for a
4 mutually agreed upon modification of the agreement.

5 (11)(a) For the collective bargaining agreements negotiated for
6 the 2011-2013 fiscal biennium, the legislature may consider a request
7 for funds to implement a collective bargaining agreement even if the
8 request for funds was not received by the office of financial
9 management by October 1st and was not transmitted to the legislature
10 as part of the governor's budget document submitted under RCW
11 43.88.030 and 43.88.060.

12 (b) For the 2013-2015 fiscal biennium, a collective bargaining
13 agreement related to employee health care benefits negotiated between
14 the employer and coalition pursuant to RCW 41.80.020(3) regarding the
15 dollar amount expended on behalf of each employee must be a separate
16 agreement for which the governor may request funds necessary to
17 implement the agreement. The legislature may act upon a 2013-2015
18 collective bargaining agreement related to employee health care
19 benefits if an agreement is reached and submitted to the office of
20 financial management and legislative budget committees before final
21 legislative action on the biennial or supplemental operating budget
22 by the sitting legislature.

23 (c) For the collective bargaining agreements negotiated for the
24 2013-2015 fiscal biennium, the legislature may consider a request for
25 funds to implement a collective bargaining agreement reached after
26 October 1st after a determination of financial infeasibility by the
27 director of the office of financial management if the request for
28 funds is transmitted to the legislature as part of the governor's
29 budget document submitted under RCW 43.88.030 and 43.88.060.

30 **Sec. 105.** RCW 47.64.360 and 2011 1st sp.s. c 16 s 12 are each
31 amended to read as follows:

32 (1) The (~~office of financial management~~) department of
33 transportation shall complete a government management and
34 accountability performance report that provides a baseline assessment
35 of current performance on the performance measures identified in RCW
36 47.64.355 (~~and section 11 of this act~~) using final 2009-2011 data.
37 This report must be presented to the legislature by November 1, 2011,
38 through the attainment report required in RCW 47.01.071(5) and
39 47.04.280.

1 (2) By December 31, 2012, and each year thereafter, the office of
2 financial management shall complete a performance report for the
3 prior fiscal year. This report must be reviewed by the joint
4 transportation committee.

5 (3) Management shall lead implementation of the performance
6 measures in RCW 47.64.355 (~~and section 11 of this act~~)).

7 **Sec. 106.** RCW 79.44.060 and 2003 c 334 s 508 are each amended to
8 read as follows:

9 When the chief administrative officer of an agency of state
10 government is satisfied that an assessing district has complied with
11 all the conditions precedent to the levy of assessments for district
12 purposes, pursuant to this chapter against lands occupied, used, or
13 under the jurisdiction of the officer's agency, he or she shall pay
14 them, together with any interest thereon from any funds specifically
15 appropriated to the agency therefor or from any funds of the agency
16 which under existing law have been or are required to be expended to
17 pay assessments on a current basis. (~~In all other cases, the chief
18 administrative officer shall certify to the director of financial
19 management that the assessment is one properly chargeable to the
20 state. The director of financial management shall pay such
21 assessments from funds available or appropriated for this purpose.~~)

22 Except as provided in RCW 79.44.190 no lands of the state shall
23 be subject to a lien for unpaid assessments, nor shall the interest
24 of the state in any land be sold for unpaid assessments where
25 assessment liens attached to the lands prior to state ownership.

26 NEW SECTION. **Sec. 107.** RCW 43.41.130, 43.41.140, 43.41.150,
27 43.41.370, and 43.41.380 are each recodified as sections in chapter
28 43.19 RCW.

29 NEW SECTION. **Sec. 108.** The following acts or parts of acts are
30 each repealed:

31 (1) RCW 43.41.190 (Community network programs—Recommended
32 legislation) and 1994 sp.s. c 7 s 318; and

33 (2) RCW 43.41.195 (Community networks—Fund distribution formula)
34 and 1999 c 372 s 8 & 1994 sp.s. c 7 s 319.

35 **PART II**

36 **HUMAN RESOURCES FUNCTIONS**

1 **Sec. 201.** RCW 28A.345.060 and 2011 1st sp.s. c 43 s 467 are each
2 amended to read as follows:

3 The association shall contract with (~~the human resources~~
4 ~~director in~~) the office of financial management to audit in odd-
5 numbered years the association's staff classifications and employees'
6 salaries. The association shall give copies of the audit reports to
7 the office of financial management and the committees of each house
8 of the legislature dealing with common schools.

9 **Sec. 202.** RCW 34.05.030 and 2011 1st sp.s. c 43 s 431 are each
10 amended to read as follows:

11 (1) This chapter shall not apply to:

12 (a) The state militia, or

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

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

17 (2) The provisions of RCW 34.05.410 through 34.05.598 shall not
18 apply:

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

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

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

28 (d) To actions of the Washington personnel resources board, the
29 (~~human resources~~) director(~~, or the office~~) of financial
30 management, and the department of enterprise services when carrying
31 out their duties under chapter 41.06 RCW;

32 (e) To adjustments by the department of revenue of the amount of
33 the surcharge imposed under RCW 82.04.261; or

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

36 (3) Unless a party makes an election for a formal hearing
37 pursuant to RCW 82.03.140 or 82.03.190, RCW 34.05.410 through
38 34.05.598 do not apply to a review hearing conducted by the board of
39 tax appeals.

1 (4) The rule-making provisions of this chapter do not apply to:

2 (a) Reimbursement unit values, fee schedules, arithmetic
3 conversion factors, and similar arithmetic factors used to determine
4 payment rates that apply to goods and services purchased under
5 contract for clients eligible under chapter 74.09 RCW; and

6 (b) Adjustments by the department of revenue of the amount of the
7 surcharge imposed under RCW 82.04.261.

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

11 **Sec. 203.** RCW 34.12.100 and 2011 1st sp.s. c 43 s 469 are each
12 amended to read as follows:

13 The chief administrative law judge shall be paid a salary fixed
14 by the governor after recommendation of the ((human resources))
15 director ((in the office)) of financial management. The salaries of
16 administrative law judges appointed under the terms of this chapter
17 shall be determined by the chief administrative law judge after
18 recommendation of the ((department of personnel)) director of
19 financial management.

20 **Sec. 204.** RCW 41.04.340 and 2011 1st sp.s. c 43 s 432 and 2011
21 1st sp.s. c 39 s 12 are each reenacted and amended to read as
22 follows:

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

36 (2) In January of the year following any year in which a minimum
37 of sixty days of sick leave is accrued, and each January thereafter,
38 any eligible employee may receive remuneration for unused sick leave

1 accumulated in the previous year at a rate equal to one day's
2 monetary compensation of the employee for each four full days of
3 accrued sick leave in excess of sixty days. Sick leave for which
4 compensation has been received shall be deducted from accrued sick
5 leave at the rate of four days for every one day's monetary
6 compensation.

7 From July 1, 2011, through June 29, 2013, the rate of monetary
8 compensation for the purposes of this subsection shall not be reduced
9 by any temporary salary reduction.

10 (3) At the time of separation from state service due to
11 retirement or death, an eligible employee or the employee's estate
12 may elect to receive remuneration at a rate equal to one day's
13 current monetary compensation of the employee for each four full days
14 of accrued sick leave. From July 1, 2011, through June 29, 2013, the
15 rate of monetary compensation for the purposes of this subsection
16 shall not be reduced by any temporary salary reduction.

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

20 (5) Except as provided in subsections (7) through (9) of this
21 section for employees not covered by chapter 41.06 RCW, this section
22 shall be administered, and rules shall be adopted to carry out its
23 purposes, by the (~~human resources~~) director of financial management
24 for persons subject to chapter 41.06 RCW(~~(; PROVIDED, That~~
25 ~~determination of classes of eligible employees shall be subject to~~
26 ~~approval by the office of financial management)~~)).

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

30 (7) In lieu of remuneration for unused sick leave at retirement
31 as provided in subsection (3) of this section, an agency head or
32 designee may with equivalent funds, provide eligible employees with a
33 benefit plan that provides for reimbursement for medical expenses.
34 This plan shall be implemented only after consultation with affected
35 groups of employees. For eligible employees covered by chapter 41.06
36 RCW, procedures for the implementation of these plans shall be
37 adopted by the (~~human resources~~) director of the state health care
38 authority. For eligible employees exempt from chapter 41.06 RCW,
39 (~~and classified employees who have opted out of coverage of chapter~~
40 ~~41.06 RCW as provided in RCW 41.56.201,~~) implementation procedures

1 shall be adopted by an agency head having jurisdiction over the
2 employees.

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

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

38 **Sec. 205.** RCW 41.04.665 and 2011 1st sp.s. c 43 s 435 are each
39 amended to read as follows:

1 (1) An agency head may permit an employee to receive leave under
2 this section if:

3 (a)(i) The employee suffers from, or has a relative or household
4 member suffering from, an illness, injury, impairment, or physical or
5 mental condition which is of an extraordinary or severe nature;

6 (ii) The employee has been called to service in the uniformed
7 services;

8 (iii) A state of emergency has been declared anywhere within the
9 United States by the federal or any state government and the employee
10 has needed skills to assist in responding to the emergency or its
11 aftermath and volunteers his or her services to either a governmental
12 agency or to a nonprofit organization engaged in humanitarian relief
13 in the devastated area, and the governmental agency or nonprofit
14 organization accepts the employee's offer of volunteer services; or

15 (iv) The employee is a victim of domestic violence, sexual
16 assault, or stalking; (~~or~~

17 ~~(v) During the 2009-2011 fiscal biennium only, the employee is~~
18 ~~eligible to use leave in lieu of temporary layoff under section 3(5),~~
19 ~~chapter 32, Laws of 2010 1st sp. sess.;)~~)

20 (b) The illness, injury, impairment, condition, call to service,
21 emergency volunteer service, or consequence of domestic violence,
22 sexual assault, temporary layoff under section 3(5), chapter 32, Laws
23 of 2010 1st sp. sess., or stalking has caused, or is likely to cause,
24 the employee to:

25 (i) Go on leave without pay status; or

26 (ii) Terminate state employment;

27 (c) The employee's absence and the use of shared leave are
28 justified;

29 (d) The employee has depleted or will shortly deplete his or her:

30 (i) Annual leave and sick leave reserves if he or she qualifies
31 under (a)(i) of this subsection;

32 (ii) Annual leave and paid military leave allowed under RCW
33 38.40.060 if he or she qualifies under (a)(ii) of this subsection; or

34 (iii) Annual leave if he or she qualifies under (a)(iii)(~~7~~) or
35 (iv)(~~7~~, ~~or~~ (~~v~~)) of this subsection;

36 (e) The employee has abided by agency rules regarding:

37 (i) Sick leave use if he or she qualifies under (a)(i) or (iv) of
38 this subsection; or

39 (ii) Military leave if he or she qualifies under (a)(ii) of this
40 subsection; and

1 (f) The employee has diligently pursued and been found to be
2 ineligible for benefits under chapter 51.32 RCW if he or she
3 qualifies under (a)(i) of this subsection.

4 (2) The agency head shall determine the amount of leave, if any,
5 which an employee may receive under this section. However, an
6 employee shall not receive a total of more than five hundred twenty-
7 two days of leave, except that, a supervisor may authorize leave in
8 excess of five hundred twenty-two days in extraordinary circumstances
9 for an employee qualifying for the shared leave program because he or
10 she is suffering from an illness, injury, impairment, or physical or
11 mental condition which is of an extraordinary or severe nature.
12 Shared leave received under the uniformed service shared leave pool
13 in RCW 41.04.685 is not included in this total.

14 (3) An employee may transfer annual leave, sick leave, and his or
15 her personal holiday, as follows:

16 (a) An employee who has an accrued annual leave balance of more
17 than ten days may request that the head of the agency for which the
18 employee works transfer a specified amount of annual leave to another
19 employee authorized to receive leave under subsection (1) of this
20 section. In no event may the employee request a transfer of an amount
21 of leave that would result in his or her annual leave account going
22 below ten days. For purposes of this subsection (3)(a), annual leave
23 does not accrue if the employee receives compensation in lieu of
24 accumulating a balance of annual leave.

25 (b) An employee may transfer a specified amount of sick leave to
26 an employee requesting shared leave only when the donating employee
27 retains a minimum of one hundred seventy-six hours of sick leave
28 after the transfer.

29 (c) An employee may transfer, under the provisions of this
30 section relating to the transfer of leave, all or part of his or her
31 personal holiday, as that term is defined under RCW 1.16.050, or as
32 such holidays are provided to employees by agreement with a school
33 district's board of directors if the leave transferred under this
34 subsection does not exceed the amount of time provided for personal
35 holidays under RCW 1.16.050.

36 (4) An employee of an institution of higher education under RCW
37 28B.10.016, school district, or educational service district who does
38 not accrue annual leave but does accrue sick leave and who has an
39 accrued sick leave balance of more than twenty-two days may request
40 that the head of the agency for which the employee works transfer a

1 specified amount of sick leave to another employee authorized to
2 receive leave under subsection (1) of this section. In no event may
3 such an employee request a transfer that would result in his or her
4 sick leave account going below twenty-two days. Transfers of sick
5 leave under this subsection are limited to transfers from employees
6 who do not accrue annual leave. Under this subsection, "sick leave"
7 also includes leave accrued pursuant to RCW 28A.400.300(~~((+2))~~)(1)(b)
8 or 28A.310.240(1) with compensation for illness, injury, and
9 emergencies.

10 (5) Transfers of leave made by an agency head under subsections
11 (3) and (4) of this section shall not exceed the requested amount.

12 (6) Leave transferred under this section may be transferred from
13 employees of one agency to an employee of the same agency or, with
14 the approval of the heads of both agencies, to an employee of another
15 state agency.

16 (7) While an employee is on leave transferred under this section,
17 he or she shall continue to be classified as a state employee and
18 shall receive the same treatment in respect to salary, wages, and
19 employee benefits as the employee would normally receive if using
20 accrued annual leave or sick leave.

21 (a) All salary and wage payments made to employees while on leave
22 transferred under this section shall be made by the agency employing
23 the person receiving the leave. The value of leave transferred shall
24 be based upon the leave value of the person receiving the leave.

25 (b) In the case of leave transferred by an employee of one agency
26 to an employee of another agency, the agencies involved shall arrange
27 for the transfer of funds and credit for the appropriate value of
28 leave.

29 (i) Pursuant to rules adopted by the office of financial
30 management, funds shall not be transferred under this section if the
31 transfer would violate any constitutional or statutory restrictions
32 on the funds being transferred.

33 (ii) The office of financial management may adjust the
34 appropriation authority of an agency receiving funds under this
35 section only if and to the extent that the agency's existing
36 appropriation authority would prevent it from expending the funds
37 received.

38 (iii) Where any questions arise in the transfer of funds or the
39 adjustment of appropriation authority, the director of financial
40 management shall determine the appropriate transfer or adjustment.

1 (8) Leave transferred under this section shall not be used in any
2 calculation to determine an agency's allocation of full time
3 equivalent staff positions.

4 (9) The value of any leave transferred under this section which
5 remains unused shall be returned at its original value to the
6 employee or employees who transferred the leave when the agency head
7 finds that the leave is no longer needed or will not be needed at a
8 future time in connection with the illness or injury for which the
9 leave was transferred or for any other qualifying condition. Before
10 the agency head makes a determination to return unused leave in
11 connection with an illness or injury, or any other qualifying
12 condition, he or she must receive from the affected employee a
13 statement from the employee's doctor verifying that the illness or
14 injury is resolved. To the extent administratively feasible, the
15 value of unused leave which was transferred by more than one employee
16 shall be returned on a pro rata basis.

17 (10) An employee who uses leave that is transferred to him or her
18 under this section may not be required to repay the value of the
19 leave that he or she used.

20 (11) The (~~human resources~~) director of financial management may
21 adopt rules as necessary to implement subsection (2) of this section.

22 **Sec. 206.** RCW 41.04.680 and 2011 1st sp.s. c 43 s 437 are each
23 amended to read as follows:

24 The office of financial management and other personnel
25 authorities shall adopt rules or policies governing the accumulation
26 and use of sick leave for state agency and department employees,
27 expressly for the establishment of a plan allowing participating
28 employees to pool sick leave and allowing any sick leave thus pooled
29 to be used by any participating employee who has used all of the sick
30 leave, annual leave, and compensatory leave that has been personally
31 accrued by him or her. Each department or agency of the state may
32 allow employees to participate in a sick leave pool established by
33 the office of financial management and other personnel authorities.

34 (1) For purposes of calculating maximum sick leave that may be
35 donated or received by any one employee, pooled sick leave:

36 (a) Is counted and converted in the same manner as sick leave
37 under the Washington state leave sharing program as provided in this
38 chapter; and

1 (b) Does not create a right to sick leave in addition to the
2 amount that may be donated or received under the Washington state
3 leave sharing program as provided in this chapter.

4 (2) The office of financial management and other personnel
5 authorities, except the personnel authorities for higher education
6 institutions, shall adopt rules which provide:

7 (a) That employees are eligible to participate in the sick leave
8 pool after one year of employment with the state or agency of the
9 state if the employee has accrued a minimum amount of unused sick
10 leave, to be established by rule;

11 (b) That participation in the sick leave pool shall, at all
12 times, be voluntary on the part of the employees;

13 (c) That any sick leave pooled shall be removed from the
14 personally accumulated sick leave balance of the employee
15 contributing the leave;

16 (d) That any sick leave in the pool that is used by a
17 participating employee may be used only for the employee's personal
18 illness, accident, or injury;

19 (e) That a participating employee is not eligible to use sick
20 leave accumulated in the pool until all of his or her personally
21 accrued sick, annual, and compensatory leave has been used;

22 (f) A maximum number of days of sick leave in the pool that any
23 one employee may use;

24 (g) That a participating employee who uses sick leave from the
25 pool is not required to recontribute such sick leave to the pool,
26 except as otherwise provided in this section;

27 (h) That an employee who cancels his or her membership in the
28 sick leave pool is not eligible to withdraw the days of sick leave
29 contributed by that employee to the pool;

30 (i) That an employee who transfers from one position in state
31 government to another position in state government may transfer from
32 one pool to another if the eligibility criteria of the pools are
33 comparable and the administrators of the pools have agreed on a
34 formula for transfer of credits;

35 (j) That alleged abuse of the use of the sick leave pool shall be
36 investigated, and, on a finding of wrongdoing, the employee shall
37 repay all of the sick leave credits drawn from the sick leave pool
38 and shall be subject to such other disciplinary action as is
39 determined by the agency head;

1 (k) That sick leave credits may be drawn from the sick leave pool
2 by a part-time employee on a pro rata basis; and

3 (1) That each department or agency shall maintain accurate and
4 reliable records showing the amount of sick leave which has been
5 accumulated and is unused by employees, in accordance with guidelines
6 established by the (~~department of personnel~~) office of financial
7 management.

8 (3) Personnel authorities for higher education institutions shall
9 adopt policies consistent with the needs of the employees under their
10 respective jurisdictions.

11 **Sec. 207.** RCW 41.06.020 and 2011 1st sp.s. c 43 s 401 are each
12 reenacted and amended to read as follows:

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

15 (1) "Affirmative action" means a procedure by which racial
16 minorities, women, persons in the protected age category, persons
17 with disabilities, Vietnam-era veterans, and disabled veterans are
18 provided with increased employment opportunities. It shall not mean
19 any sort of quota system.

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

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

31 (4) "Career development" means the progressive development of
32 employee capabilities to facilitate productivity, job satisfaction,
33 and upward mobility through work assignments as well as education and
34 training that are both state-sponsored and are achieved by individual
35 employee efforts, all of which shall be consistent with the needs and
36 obligations of the state and its agencies.

37 (5) "Classified service" means all positions in the state service
38 subject to the provisions of this chapter.

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

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

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

12 (9) "Director" means the (~~human resources~~) director (~~within~~
13 ~~the office~~) of financial management (~~and appointed under RCW~~
14 ~~43.41.113~~) or the director's designee.

15 (10) "Institutions of higher education" means the University of
16 Washington, Washington State University, Central Washington
17 University, Eastern Washington University, Western Washington
18 University, The Evergreen State College, and the various state
19 community colleges.

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

23 (12) "Related boards" means the state board for community and
24 technical colleges; and such other boards, councils, and commissions
25 related to higher education as may be established.

26 (13) "Training" means activities designed to develop job-related
27 knowledge and skills of employees.

28 **Sec. 208.** RCW 41.06.157 and 2011 1st sp.s. c 43 s 411 are each
29 amended to read as follows:

30 (1) To promote the most effective use of the state's workforce
31 and improve the effectiveness and efficiency of the delivery of
32 services to the citizens of the state, the director shall adopt and
33 maintain a comprehensive classification plan for all positions in the
34 classified service. The classification plan must:

35 (a) Be simple and streamlined;

36 (b) Support state agencies in responding to changing
37 technologies, economic and social conditions, and the needs of its
38 citizens;

39 (c) Value workplace diversity;

1 (d) Facilitate the reorganization and decentralization of
2 governmental services;

3 (e) Enhance mobility and career advancement opportunities; and

4 (f) Consider rates in other public employment and private
5 employment in the state.

6 (2) An appointing authority and an employee organization
7 representing classified employees of the appointing authority for
8 collective bargaining purposes may jointly request the (~~human~~
9 ~~resources~~) director of financial management to initiate a
10 classification study.

11 (3) For institutions of higher education and related boards, the
12 director may adopt special salary ranges to be competitive with
13 positions of a similar nature in the state or the locality in which
14 the institution of higher education or related board is located.

15 (4) The director may undertake salary surveys of positions in
16 other public and private employment to establish market rates. Any
17 salary survey information collected from private employers which
18 identifies a specific employer with salary rates which the employer
19 pays to its employees shall not be subject to public disclosure under
20 chapter 42.56 RCW.

21 **Sec. 209.** RCW 41.06.167 and 2011 1st sp.s. c 43 s 413 are each
22 amended to read as follows:

23 The (~~human—resources~~) director of financial management shall
24 undertake comprehensive compensation surveys for officers and entry-
25 level officer candidates of the Washington state patrol, with such
26 surveys to be conducted in the year prior to the convening of every
27 other one hundred five day regular session of the state legislature.
28 Salary and fringe benefit survey information collected from private
29 employers which identifies a specific employer with the salary and
30 fringe benefit rates which that employer pays to its employees shall
31 not be subject to public disclosure under chapter 42.56 RCW.

32 **Sec. 210.** RCW 42.17A.705 and 2012 c 229 s 582 are each amended
33 to read as follows:

34 For the purposes of RCW 42.17A.700, "executive state officer"
35 includes:

36 (1) The chief administrative law judge, the director of
37 agriculture, the director of the department of services for the
38 blind, the chief information officer of the office of chief

1 information officer, the director of the state system of community
2 and technical colleges, the director of commerce, the director of the
3 consolidated technology services agency, the secretary of
4 corrections, the director of early learning, the director of ecology,
5 the commissioner of employment security, the chair of the energy
6 facility site evaluation council, the director of enterprise
7 services, the secretary of the state finance committee, the director
8 of financial management, the director of fish and wildlife, the
9 executive secretary of the forest practices appeals board, the
10 director of the gambling commission, the secretary of health, the
11 administrator of the Washington state health care authority, the
12 executive secretary of the health care facilities authority, the
13 executive secretary of the higher education facilities authority, the
14 executive secretary of the horse racing commission, ((~~the human~~
15 ~~resources director,~~) the executive secretary of the human rights
16 commission, the executive secretary of the indeterminate sentence
17 review board, the executive director of the state investment board,
18 the director of labor and industries, the director of licensing, the
19 director of the lottery commission, the director of the office of
20 minority and women's business enterprises, the director of parks and
21 recreation, the executive director of the public disclosure
22 commission, the executive director of the Puget Sound partnership,
23 the director of the recreation and conservation office, the director
24 of retirement systems, the director of revenue, the secretary of
25 social and health services, the chief of the Washington state patrol,
26 the executive secretary of the board of tax appeals, the secretary of
27 transportation, the secretary of the utilities and transportation
28 commission, the director of veterans affairs, the president of each
29 of the regional and state universities and the president of The
30 Evergreen State College, and each district and each campus president
31 of each state community college;

32 (2) Each professional staff member of the office of the governor;

33 (3) Each professional staff member of the legislature; and

34 (4) Central Washington University board of trustees, the boards
35 of trustees of each community college and each technical college,
36 each member of the state board for community and technical colleges,
37 state convention and trade center board of directors, Eastern
38 Washington University board of trustees, Washington economic
39 development finance authority, Washington energy northwest executive
40 board, The Evergreen State College board of trustees, executive

1 ethics board, fish and wildlife commission, forest practices appeals
2 board, forest practices board, gambling commission, Washington health
3 care facilities authority, student achievement council, higher
4 education facilities authority, horse racing commission, state
5 housing finance commission, human rights commission, indeterminate
6 sentence review board, board of industrial insurance appeals, state
7 investment board, commission on judicial conduct, legislative ethics
8 board, life sciences discovery fund authority board of trustees,
9 liquor control board, lottery commission, Pacific Northwest electric
10 power and conservation planning council, parks and recreation
11 commission, Washington personnel resources board, board of pilotage
12 commissioners, pollution control hearings board, public disclosure
13 commission, public employees' benefits board, recreation and
14 conservation funding board, salmon recovery funding board, shorelines
15 hearings board, board of tax appeals, transportation commission,
16 University of Washington board of regents, utilities and
17 transportation commission, Washington State University board of
18 regents, and Western Washington University board of trustees.

19 **Sec. 211.** RCW 41.80.020 and 2013 2nd sp.s. c 4 s 972 are each
20 amended to read as follows:

21 (1) Except as otherwise provided in this chapter, the matters
22 subject to bargaining include wages, hours, and other terms and
23 conditions of employment, and the negotiation of any question arising
24 under a collective bargaining agreement.

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

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

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

30 (c) Rules of the (~~human resources~~) director of financial
31 management, the director of enterprise services, or the Washington
32 personnel resources board adopted under RCW 41.06.157.

33 (3) Matters subject to bargaining include the number of names to
34 be certified for vacancies, promotional preferences, and the dollar
35 amount expended on behalf of each employee for health care benefits.
36 However, except as provided otherwise in this subsection for
37 institutions of higher education, negotiations regarding the number
38 of names to be certified for vacancies, promotional preferences, and
39 the dollar amount expended on behalf of each employee for health care

1 benefits shall be conducted between the employer and one coalition of
2 all the exclusive bargaining representatives subject to this chapter.
3 The exclusive bargaining representatives for employees that are
4 subject to chapter 47.64 RCW shall bargain the dollar amount expended
5 on behalf of each employee for health care benefits with the employer
6 as part of the coalition under this subsection. Any such provision
7 agreed to by the employer and the coalition shall be included in all
8 master collective bargaining agreements negotiated by the parties.
9 For institutions of higher education, promotional preferences and the
10 number of names to be certified for vacancies shall be bargained
11 under the provisions of RCW 41.80.010(4). For agreements covering the
12 2013-2015 fiscal biennium, any agreement between the employer and the
13 coalition regarding the dollar amount expended on behalf of each
14 employee for health care benefits is a separate agreement and shall
15 not be included in the master collective bargaining agreements
16 negotiated by the parties.

17 (4) The employer and the exclusive bargaining representative
18 shall not agree to any proposal that would prevent the implementation
19 of approved affirmative action plans or that would be inconsistent
20 with the comparable worth agreement that provided the basis for the
21 salary changes implemented beginning with the 1983-1985 biennium to
22 achieve comparable worth.

23 (5) The employer and the exclusive bargaining representative
24 shall not bargain over matters pertaining to management rights
25 established in RCW 41.80.040.

26 (6) Except as otherwise provided in this chapter, if a conflict
27 exists between an executive order, administrative rule, or agency
28 policy relating to wages, hours, and terms and conditions of
29 employment and a collective bargaining agreement negotiated under
30 this chapter, the collective bargaining agreement shall prevail. A
31 provision of a collective bargaining agreement that conflicts with
32 the terms of a statute is invalid and unenforceable.

33 (7) This section does not prohibit bargaining that affects
34 contracts authorized by RCW 41.06.142.

35 **Sec. 212.** RCW 43.03.040 and 2011 1st sp.s. c 39 s 8 are each
36 amended to read as follows:

37 Subject to RCW 41.04.820, the directors of the several
38 departments and members of the several boards and commissions, whose
39 salaries are fixed by the governor and the chief executive officers

1 of the agencies named in RCW 43.03.028(1) as now or hereafter amended
2 shall each severally receive such salaries, payable in monthly
3 installments, as shall be fixed by the governor or the appropriate
4 salary fixing authority, in an amount not to exceed the
5 recommendations of the (~~department of personnel~~) office of
6 financial management. From February 18, 2009, through June 30, 2013,
7 a salary or wage increase shall not be granted to any position under
8 this section, except that increases may be granted for positions for
9 which the employer has demonstrated difficulty retaining qualified
10 employees if the following conditions are met:

- 11 (1) The salary increase can be paid within existing resources;
- 12 (2) The salary increase will not adversely impact the provision
13 of client services; and
- 14 (3) For any state agency of the executive branch, not including
15 institutions of higher education, the salary increase is approved by
16 the director of the office of financial management.

17 Any agency granting a salary increase from February 15, 2010,
18 through June 30, 2011, to a position under this section shall submit
19 a report to the fiscal committees of the legislature no later than
20 July 31, 2011, detailing the positions for which salary increases
21 were granted, the size of the increases, and the reasons for giving
22 the increases.

23 Any agency granting a salary increase from July 1, 2011, through
24 June 30, 2013, to a position under this section shall submit a report
25 to the fiscal committees of the legislature by July 31, 2012, and
26 July 31, 2013, detailing the positions for which salary increases
27 were granted during the preceding fiscal year, the size of the
28 increases, and the reasons for giving the increases.

29 **Sec. 213.** RCW 43.06.013 and 2011 1st sp.s. c 43 s 454 are each
30 amended to read as follows:

31 When requested by the governor or the director of the department
32 of enterprise services, nonconviction criminal history fingerprint
33 record checks shall be conducted through the Washington state patrol
34 identification and criminal history section and the federal bureau of
35 investigation on applicants for agency head positions appointed by
36 the governor. Information received pursuant to this section shall be
37 confidential and made available only to the governor or director of
38 (~~the department of personnel~~) financial management or their
39 employees directly involved in the selection, hiring, or background

1 investigation of the subject of the record check. When necessary,
2 applicants may be employed on a conditional basis pending completion
3 of the criminal history record check. "Agency head" as used in this
4 section has the same definition as provided in RCW 34.05.010.

5 **Sec. 214.** RCW 43.41.113 and 2011 1st sp.s. c 43 s 430 are each
6 amended to read as follows:

7 (1) The office of financial management shall direct and supervise
8 the personnel policy and application of the civil service laws,
9 chapter 41.06 RCW.

10 ~~(2) ((The human resources director is created in the office of
11 financial management. The human resources director shall be appointed
12 by the governor, and shall serve at the pleasure of the governor. The
13 director shall receive a salary in an amount fixed by the governor.~~

14 ~~(3))~~ (3)) The ~~((human resources))~~ director or the director's designee
15 has the authority and shall perform the functions as prescribed in
16 chapter 41.06 RCW, or as otherwise prescribed by law.

17 ~~((4))~~ (3) The ~~((human resources))~~ director may delegate to any
18 agency the authority to perform administrative and technical
19 personnel activities if the agency requests such authority and the
20 ~~((human resources))~~ director is satisfied that the agency has the
21 personnel management capabilities to effectively perform the
22 delegated activities. The ~~((human resources))~~ director shall
23 prescribe standards and guidelines for the performance of delegated
24 activities. If the ~~((human resources))~~ director determines that an
25 agency is not performing delegated activities within the prescribed
26 standards and guidelines, the director shall withdraw the authority
27 from the agency to perform such activities.

28 **Sec. 215.** RCW 43.131.090 and 2011 1st sp.s. c 43 s 459 are each
29 amended to read as follows:

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

36 (1) All employees of terminated entities classified under chapter
37 41.06 RCW, the state civil service law, shall be transferred as
38 appropriate or as otherwise provided in the procedures adopted by the

1 ((human resources)) director of financial management pursuant to RCW
2 41.06.150;

3 (2) All documents and papers, equipment, or other tangible
4 property in the possession of the terminated entity shall be
5 delivered to the custody of the entity assuming the responsibilities
6 of the terminated entity or if such responsibilities have been
7 eliminated, documents and papers shall be delivered to the state
8 archivist and equipment or other tangible property to the department
9 of enterprise services;

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

13 (4) Notwithstanding the provisions of RCW 34.05.020, all rules
14 made by a terminated entity shall be repealed, without further action
15 by the entity, at the end of the period provided in this section,
16 unless assumed and reaffirmed by the entity assuming the related
17 legal responsibilities of the terminated entity;

18 (5) All contractual rights and duties of an entity shall be
19 assigned or delegated to the entity assuming the responsibilities of
20 the terminated entity, or if there is none to such entity as the
21 governor shall direct.

22 **Sec. 216.** RCW 48.37.060 and 2011 1st sp.s. c 43 s 460 are each
23 amended to read as follows:

24 (1) When the commissioner determines that other market conduct
25 actions identified in RCW 48.37.040(4)(a) have not sufficiently
26 addressed issues raised concerning company activities in Washington
27 state, the commissioner has the discretion to conduct market conduct
28 examinations in accordance with the NAIC market conduct uniform
29 examination procedures and the NAIC market regulation handbook.

30 (2)(a) In lieu of an examination of an insurer licensed in this
31 state, the commissioner shall accept an examination report of another
32 state, unless the commissioner determines that the other state does
33 not have laws substantially similar to those of this state, or does
34 not have a market oversight system that is comparable to the market
35 conduct oversight system set forth in this law.

36 (b) The commissioner's determination under (a) of this subsection
37 is discretionary with the commissioner and is not subject to appeal.

38 (c) If the insurer to be examined is part of an insurance holding
39 company system, the commissioner may also seek to simultaneously

1 examine any affiliates of the insurer under common control and
2 management which are licensed to write the same lines of business in
3 this state.

4 (3) Before commencement of a market conduct examination, market
5 conduct oversight personnel shall prepare a work plan consisting of
6 the following:

- 7 (a) The name and address of the insurer being examined;
- 8 (b) The name and contact information of the examiner-in-charge;
- 9 (c) The name of all market conduct oversight personnel initially
10 assigned to the market conduct examination;
- 11 (d) The justification for the examination;
- 12 (e) The scope of the examination;
- 13 (f) The date the examination is scheduled to begin;
- 14 (g) Notice of any noninsurance department personnel who will
15 assist in the examination;
- 16 (h) A time estimate for the examination;
- 17 (i) A budget for the examination if the cost of the examination
18 is billed to the insurer; and
- 19 (j) An identification of factors that will be included in the
20 billing if the cost of the examination is billed to the insurer.

21 (4)(a) Within ten days of the receipt of the information
22 contained in subsection (3) of this section, insurers may request the
23 commissioner's discretionary review of any alleged conflict of
24 interest, pursuant to RCW 48.37.090(2), of market conduct oversight
25 personnel and noninsurance department personnel assigned to a market
26 conduct examination. The request for review shall specifically
27 describe the alleged conflict of interest in the proposed assignment
28 of any person to the examination.

29 (b) Within five business days of receiving a request for
30 discretionary review of any alleged conflict of interest in the
31 proposed assignment of any person to a market conduct examination,
32 the commissioner or designee shall notify the insurer of any action
33 regarding the assignment of personnel to a market conduct examination
34 based on the insurer's allegation of conflict of interest.

35 (5) Market conduct examinations shall, to the extent feasible,
36 use desk examinations and data requests before an on-site
37 examination.

38 (6) Market conduct examinations shall be conducted in accordance
39 with the provisions set forth in the NAIC market regulation handbook

1 and the NAIC market conduct uniform examinations procedures, subject
2 to the precedence of the provisions of chapter 82, Laws of 2007.

3 (7) The commissioner shall use the NAIC standard data request.

4 (8) Announcement of the examination shall be sent to the insurer
5 and posted on the NAIC's examination tracking system as soon as
6 possible but in no case later than sixty days before the estimated
7 commencement of the examination, except where the examination is
8 conducted in response to extraordinary circumstances as described in
9 RCW 48.37.050(2)(a). The announcement sent to the insurer shall
10 contain the examination work plan and a request for the insurer to
11 name its examination coordinator.

12 (9) If an examination is expanded significantly beyond the
13 original reasons provided to the insurer in the notice of the
14 examination required by subsection (3) of this section, the
15 commissioner shall provide written notice to the insurer, explaining
16 the expansion and reasons for the expansion. The commissioner shall
17 provide a revised work plan if the expansion results in significant
18 changes to the items presented in the original work plan required by
19 subsection (3) of this section.

20 (10) The commissioner shall conduct a preexamination conference
21 with the insurer examination coordinator and key personnel to clarify
22 expectations at least thirty days before commencement of the
23 examination, unless otherwise agreed by the insurer and the
24 commissioner.

25 (11) Before the conclusion of the field work for market conduct
26 examination, the examiner-in-charge shall review examination findings
27 to date with insurer personnel and schedule an exit conference with
28 the insurer, in accordance with procedures in the NAIC market
29 regulation handbook.

30 (12)(a) No later than sixty days after completion of each market
31 conduct examination, the commissioner shall make a full written
32 report of each market conduct examination containing only facts
33 ascertained from the accounts, records, and documents examined and
34 from the sworn testimony of individuals, and such conclusions and
35 recommendations as may reasonably be warranted from such facts.

36 (b) The report shall be certified by the commissioner or by the
37 examiner-in-charge of the examination, and shall be filed in the
38 commissioner's office subject to (c) of this subsection.

39 (c) The commissioner shall furnish a copy of the market conduct
40 examination report to the person examined not less than ten days and,

1 unless the time is extended by the commissioner, not more than thirty
2 days prior to the filing of the report for public inspection in the
3 commissioner's office. If the person so requests in writing within
4 such period, the commissioner shall hold a hearing to consider
5 objections of such person to the report as proposed, and shall not so
6 file the report until after such hearing and until after any
7 modifications in the report deemed necessary by the commissioner have
8 been made.

9 (d) Within thirty days of the end of the period described in (c)
10 of this subsection, unless extended by order of the commissioner, the
11 commissioner shall consider the report, together with any written
12 submissions or rebuttals and any relevant portions of the examiner's
13 work papers and enter an order:

14 (i) Adopting the market conduct examination report as filed or
15 with modification or corrections. If the market conduct examination
16 report reveals that the company is operating in violation of any law,
17 rule, or order of the commissioner, the commissioner may order the
18 company to take any action the commissioner considers necessary and
19 appropriate to cure that violation;

20 (ii) Rejecting the market conduct examination report with
21 directions to the examiners to reopen the examination for purposes of
22 obtaining additional data, documentation, or information, and
23 refiling under this subsection; or

24 (iii) Calling for an investigatory hearing with no less than
25 twenty days' notice to the company for purposes of obtaining
26 additional documentation, data, information, and testimony.

27 (e) All orders entered under (d) of this subsection must be
28 accompanied by findings and conclusions resulting from the
29 commissioner's consideration and review of the market conduct
30 examination report, relevant examiner work papers, and any written
31 submissions or rebuttals. The order is considered a final
32 administrative decision and may be appealed under the administrative
33 procedure act, chapter 34.05 RCW, and must be served upon the company
34 by certified mail or certifiable electronic means, together with a
35 copy of the adopted examination report. A copy of the adopted
36 examination report must be sent by certified mail or certifiable
37 electronic means to each director at the director's residential
38 address or to a personal e-mail account.

39 (f)(i) Upon the adoption of the market conduct examination report
40 under (d) of this subsection, the commissioner shall continue to hold

1 the content of the examination report as private and confidential
2 information for a period of five days except that the order may be
3 disclosed to the person examined. Thereafter, the commissioner may
4 open the report for public inspection so long as no court of
5 competent jurisdiction has stayed its publication.

6 (ii) If the commissioner determines that regulatory action is
7 appropriate as a result of any market conduct examination, he or she
8 may initiate any proceedings or actions as provided by law.

9 (iii) Nothing contained in this subsection requires the
10 commissioner to disclose any information or records that would
11 indicate or show the existence or content of any investigation or
12 activity of a criminal justice agency.

13 (g) The insurer's response shall be included in the
14 commissioner's order adopting the final report as an exhibit to the
15 order. The insurer is not obligated to submit a response.

16 (13) The commissioner may withhold from public inspection any
17 examination or investigation report for so long as he or she deems it
18 advisable.

19 (14)(a) Market conduct examinations within this state of any
20 insurer domiciled or having its home offices in this state, other
21 than a title insurer, made by the commissioner or the commissioner's
22 examiners and employees shall, except as to fees, mileage, and
23 expense incurred as to witnesses, be at the expense of the state.

24 (b) Every other examination, whatsoever, or any part of the
25 market conduct examination of any person domiciled or having its home
26 offices in this state requiring travel and services outside this
27 state, shall be made by the commissioner or by examiners designated
28 by the commissioner and shall be at the expense of the person
29 examined; but a domestic insurer shall not be liable for the
30 compensation of examiners employed by the commissioner for such
31 services outside this state.

32 (c) When making a market conduct examination under this chapter,
33 the commissioner may contract, in accordance with applicable state
34 contracting procedures, for qualified attorneys, appraisers,
35 independent certified public accountants, contract actuaries, and
36 other similar individuals who are independently practicing their
37 professions, even though those persons may from time to time be
38 similarly employed or retained by persons subject to examination
39 under this chapter, as examiners as the commissioner deems necessary
40 for the efficient conduct of a particular examination. The

1 compensation and per diem allowances paid to such contract persons
2 shall be reasonable in the market and time incurred, shall not exceed
3 one hundred twenty-five percent of the compensation and per diem
4 allowances for examiners set forth in the guidelines adopted by the
5 national association of insurance commissioners, unless the
6 commissioner demonstrates that one hundred twenty-five percent is
7 inadequate under the circumstances of the examination, and subject to
8 the provisions of (a) of this subsection.

9 (d)(i) The person examined and liable shall reimburse the state
10 upon presentation of an itemized statement thereof, for the actual
11 travel expenses of the commissioner's examiners, their reasonable
12 living expenses allowance, and their per diem compensation, including
13 salary and the employer's cost of employee benefits, at a reasonable
14 rate approved by the commissioner, incurred on account of the
15 examination. Per diem, salary, and expenses for employees examining
16 insurers domiciled outside the state of Washington shall be
17 established by the commissioner on the basis of the national
18 association of insurance commissioner's recommended salary and
19 expense schedule for zone examiners, or the salary schedule
20 (~~established by the human resources director~~) and the expense
21 schedule established by the office of financial management, whichever
22 is higher. A domestic title insurer shall pay the examination expense
23 and costs to the commissioner as itemized and billed by the
24 commissioner.

25 (ii) The commissioner or the commissioner's examiners shall not
26 receive or accept any additional emolument on account of any
27 examination.

28 (iii) Market conduct examination fees subject to being reimbursed
29 by an insurer shall be itemized and bills shall be provided to the
30 insurer on a monthly basis for review prior to submission for
31 payment, or as otherwise provided by state law.

32 (e) Nothing contained in this chapter limits the commissioner's
33 authority to terminate or suspend any examination in order to pursue
34 other legal or regulatory action under the insurance laws of this
35 state. Findings of fact and conclusions made pursuant to any
36 examination are prima facie evidence in any legal or regulatory
37 action.

38 (f) The commissioner shall maintain active management and
39 oversight of market conduct examination costs, including costs
40 associated with the commissioner's own examiners, and with retaining

1 qualified contract examiners necessary to perform an examination. Any
2 agreement with a contract examiner shall:

3 (i) Clearly identify the types of functions to be subject to
4 outsourcing;

5 (ii) Provide specific timelines for completion of the outsourced
6 review;

7 (iii) Require disclosure to the insurer of contract examiners'
8 recommendations;

9 (iv) Establish and use a dispute resolution or arbitration
10 mechanism to resolve conflicts with insurers regarding examination
11 fees; and

12 (v) Require disclosure of the terms of the contracts with the
13 outside consultants that will be used, specifically the fees and/or
14 hourly rates that can be charged.

15 (g) The commissioner, or the commissioner's designee, shall
16 review and affirmatively endorse detailed billings from the qualified
17 contract examiner before the detailed billings are sent to the
18 insurer.

19 **Sec. 217.** RCW 49.74.020 and 2011 1st sp.s. c 43 s 463 are each
20 amended to read as follows:

21 If the commission reasonably believes that a state agency, an
22 institution of higher education, or the state patrol has failed to
23 comply with an affirmative action rule adopted under RCW 41.06.150 or
24 43.43.340, the commission shall notify the director of the state
25 agency, president of the institution of higher education, or chief of
26 the Washington state patrol of the noncompliance, as well as the
27 (~~human resources~~) director of financial management. The commission
28 shall give the director of the state agency, president of the
29 institution of higher education, or chief of the Washington state
30 patrol an opportunity to be heard on the failure to comply.

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