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HOUSE BILL 1655

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State of Washington                      52nd Legislature                      1991 Regular Session

By Representatives Heavey, Winsley, D. Sommers, Orr, Moyer, Cole, Wood, Jones, Tate, Kremen, Miller, Riley, Phillips, Belcher, R. Johnson, Sheldon, Dellwo, Zellinsky, Cooper, H. Myers, O'Brien, Morris, Prentice, Basich, Anderson, Spanel, Day, Franklin, Peery, Leonard, Cantwell, Ogden, G. Fisher, Grant, Dorn, Hargrove, Rayburn, Ludwig, R. Fisher, Nelson, Holland, P. Johnson, Rasmussen, Van Luven, Fraser, Bowman and Pruitt.

Read first time February 5, 1991. Referred to Committee on Commerce & Labor\Appropriations.

1            AN ACT Relating to state employees; amending RCW 34.05.030,  
2 41.04.230, 41.06.070, 41.06.110, 41.06.150, 41.06.170, 4.24.490,  
3 28B.10.824, 28B.10.650, 28B.12.060, 28B.15.558, 28B.50.060, 28B.80.350,  
4 28B.80.430, 28C.15.020, 34.12.020, 41.04.340, 41.04.670, 41.06.079,  
5 41.06.155, 41.06.160, 41.06.163, 41.48.140, 41.60.015, 42.17.2401,  
6 41.60.160, 42.40.020, 43.06.410, 43.06.425, 43.23.010, 43.88.280,  
7 43.105.052, 49.46.010, 49.74.020, 49.74.030, 49.74.040, 50.13.060,  
8 51.32.300, and 70.24.300; reenacting and amending RCW 41.06.020; adding  
9 new sections to chapter 41.06 RCW; adding a new section to chapter  
10 41.05 RCW; adding a new chapter to Title 41 RCW; creating new sections;  
11 repealing RCW 28B.16.010, 28B.16.020, 28B.16.030, 28B.16.040,  
12 28B.16.041, 28B.16.042, 28B.16.060, 28B.16.070, 28B.16.080, 28B.16.090,  
13 28B.16.100, 28B.16.101, 28B.16.105, 28B.16.110, 28B.16.112, 28B.16.113,  
14 28B.16.116, 28B.16.120, 28B.16.130, 28B.16.140, 28B.16.150, 28B.16.160,  
15 28B.16.170, 28B.16.180, 28B.16.190, 28B.16.200, 28B.16.210, 28B.16.220,  
16 28B.16.230, 28B.16.240, 28B.16.255, 28B.16.265, 28B.16.275, 28B.16.900,  
17 28B.16.910, 28B.16.920, 28B.16.930, 41.64.010, 41.64.020, 41.64.030,

1 41.64.040, 41.64.050, 41.64.060, 41.64.070, 41.64.080, 41.64.090,  
2 41.64.100, 41.64.110, 41.64.120, 41.64.130, 41.64.140, 41.64.900,  
3 41.64.910, 41.06.230, 41.06.310, and 41.06.340; and providing effective  
4 dates.

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

6 NEW SECTION. **Sec. 1.** POLICY STATEMENT. It is the purpose of this  
7 chapter to promote orderly and constructive relationships between the  
8 state of Washington and its employees, and to assure the effective and  
9 orderly operations of state government.

10 Such a public policy is best effectuated by recognizing the  
11 principles of collective bargaining, and by granting state employees  
12 the right to organize for the purpose of negotiating wages, hours, and  
13 other terms and conditions of employment.

14 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly  
15 requires otherwise, the definitions in this section apply throughout  
16 this chapter.

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

19 (2) "Arbitration" means the procedure whereby parties involved in  
20 an impasse mutually agree to submit their differences to a third party  
21 for a final and binding determination.

22 (3) "Collective bargaining" means the performance of the mutual  
23 obligation of the representatives of the employer and the exclusive  
24 bargaining representative to meet at reasonable times and to bargain in  
25 good faith in an effort to reach agreement with respect to the subjects  
26 of bargaining specified under section 9 of this act.

27 (4) "Commission" means the state employees' relations commission.

1 (5) "Confidential employee" means an employee who, in the regular  
2 course of his or her duties, assists in a confidential capacity to  
3 persons who formulate, determine, and effectuate management policies  
4 with regard to labor relations or who, in the regular course of his or  
5 her duties, has authorized access to information relating to the  
6 effectuation or review of the employer's collective bargaining  
7 policies.

8 (6) "Director" means the director of the state employees' relations  
9 commission.

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

14 (8) "Employee organization" means any organization, union, or  
15 association which exists for the purpose, in whole or in part, of  
16 collective bargaining with employers.

17 (9) "Employer" means the state of Washington.

18 (10) "Essential employee" means any employee performing functions  
19 so essential that the interruption or termination of the function will  
20 constitute a clear and present danger to the health and safety of the  
21 state.

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

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

1 (13) "Labor dispute" means any controversy concerning terms or  
2 conditions of employment, or concerning the association or  
3 representation of persons in negotiating, fixing, maintaining,  
4 changing, or seeking to arrange terms or conditions of employment,  
5 regardless of whether the disputants stand in the proximate relation of  
6 employer and employee.

7 (14) "Supervisor" means any employee having authority in the  
8 interest of the employer to hire, transfer, suspend, lay off, recall,  
9 promote, discharge, assign, reward, or discipline other employees, or  
10 to adjust their grievances, or effectively to recommend such action,  
11 if, in connection with the foregoing, the exercise of such authority is  
12 not of a merely routine or clerical nature, but requires the use of  
13 independent judgment.

14 (15) "Unfair labor practice" means any unfair labor practice listed  
15 in section 17 of this act.

16 NEW SECTION. **Sec. 3.** STATE EMPLOYEES' RELATIONS COMMISSION. (1)  
17 There is created the state employees' relations commission to  
18 administer the provisions of this chapter. The commission shall  
19 consist of three members who shall be appointed by the governor. One of  
20 the original members shall be appointed for a term of two years, one  
21 for a term of three years, and one for a term of four years. Their  
22 successors shall be appointed for terms of four years each, except that  
23 any person chosen to fill a vacancy shall be appointed only for the  
24 unexpired term of the member whom he or she succeeds. Commission  
25 members shall be eligible for reappointment. Persons so appointed  
26 shall not hold any other employment with the state, shall not have been  
27 an officer of a political party for a period of one year immediately  
28 prior to the appointment, and shall not be or become a candidate for  
29 partisan elective public office during the term to which they are

1 appointed. Any member of the commission may be removed by the  
2 governor, upon notice and hearing, for neglect of duty or malfeasance  
3 in office, but for no other cause. Commission members shall not be  
4 eligible for state retirement under chapter 41.40 RCW by virtue of  
5 their service on the commission.

6 (2) In making member appointments initially, and subsequently  
7 thereafter, the governor shall appoint persons knowledgeable in the  
8 area of labor relations and personnel practices. One member shall be  
9 a representative of management, one member shall be a representative of  
10 labor, and one member shall be a representative of the public.

11 (3) A vacancy in the commission shall not impair the right of the  
12 remaining members to exercise all of the powers of the commission, and  
13 two members of the commission shall, at all times, constitute a quorum  
14 of the commission.

15 (4) At its first meeting following the appointment of all of its  
16 members, and annually thereafter, the commission shall elect a chair  
17 and vice-chair from among its members to serve one year.

18 NEW SECTION. **Sec. 4.** COMMISSION COMPENSATION. (1) Each member of  
19 the commission shall be compensated in accordance with RCW 43.03.250.  
20 Members of the commission shall also be reimbursed for travel expenses  
21 incurred in the discharge of their official duties on the same basis as  
22 is provided in RCW 43.03.050 and 43.03.060.

23 (2) The commission shall appoint a director whose annual salary  
24 shall be determined under the provisions of RCW 43.03.028. The  
25 director shall perform such duties and have such powers as the  
26 commission shall prescribe in order to implement and enforce the  
27 provisions of this chapter. In addition to the performance of  
28 administrative duties, the commission may delegate to the director  
29 authority with respect to, but not limited to, representation

1 proceedings, unfair labor practice proceedings, mediation of labor  
2 disputes, arbitration of disputes concerning the interpretation or  
3 application of a collective bargaining agreement, and, in certain  
4 cases, fact-finding or arbitration of disputes concerning the terms of  
5 a collective bargaining agreement. Such delegation shall not eliminate  
6 a party's right of appeal to the commission. The director, with such  
7 assistance as may be provided by the attorney general and such  
8 additional legal assistance consistent with chapter 43.10 RCW, shall  
9 have authority on behalf of the commission, when necessary to carry out  
10 or enforce any action or decision of the commission, to petition any  
11 court of competent jurisdiction for an order requiring compliance with  
12 the action or decision.

13 (3) The commission shall employ such employees as it may from time  
14 to time find necessary for the proper performance of its duties,  
15 consistent with the provisions of this chapter.

16 (4) The payment of all of the expenses of the commission, including  
17 travel expenses incurred by the members or employees of the commission  
18 under its orders, shall be subject to the provisions of RCW 43.03.050  
19 and 43.03.060.

20 NEW SECTION. **Sec. 5.** COMMISSION DUTIES. (1) It shall be the duty  
21 of the commission, in order to prevent or minimize interruptions  
22 growing out of labor disputes, to assist employers and employees to  
23 settle such disputes through mediation.

24 (2) The commission, through the director, may provide its services  
25 in any state employee labor dispute upon the request of one or more of  
26 the parties to the dispute.

27 NEW SECTION. **Sec. 6.** COMMISSION AUTHORITY. (1) The commission  
28 shall have authority to adopt rules in accordance with chapter 34.05

1 RCW as necessary to carry out the provisions of this chapter,  
2 consistent with the best standards of labor management relations.

3 (2) The commission shall adopt rules providing for employee  
4 participation in the development and administration of this chapter.  
5 To assure this right, the commission shall act on rules or rule changes  
6 only after the commission has given thirty days notice to, and  
7 considered proposals from, employee representatives and affected  
8 agencies. Complete and current compilations of all rules of the  
9 commission in printed form shall be available to the public free of  
10 charge.

11 NEW SECTION. **Sec. 7.** RIGHTS OF EMPLOYEES. Employees shall have  
12 the right to self-organization, to form, join, or assist employee  
13 organizations, to bargain collectively through representatives of their  
14 own choosing, and to engage in other lawful concerted activities for  
15 the purpose of collective bargaining or other mutual aid or protection,  
16 free from interference, restraint, or coercion, and shall also have the  
17 right to refrain from any or all such activities except to the extent  
18 that employees may be required to pay a fee to an exclusive bargaining  
19 representative under a union security provision authorized by this  
20 chapter.

21 NEW SECTION. **Sec. 8.** MANAGEMENT RIGHTS. Nothing in this chapter  
22 shall interfere with the right of the employer to carry out the  
23 statutory mandate and goals assigned to the agency using personnel,  
24 methods, and means in the most appropriate and efficient manner  
25 possible. The employer shall not be required to bargain over matters  
26 of inherent managerial policy, which shall include such areas of  
27 discretion or policy as the functions of the employer, standards of  
28 services, its overall budget, the organizational structure, and

1 selection of new employees and direction of employees. Employers,  
2 however, shall be required to bargain on policy matters affecting  
3 wages, hours, insurances, and terms and conditions of employment as  
4 well as the impact thereon upon request by employee representatives.

5 NEW SECTION. **Sec. 9.** SCOPE OF BARGAINING. (1) Except as  
6 otherwise provided in this section, the subjects of bargaining shall  
7 include wages, hours, insurances, and other terms and conditions of  
8 employment, and the negotiation of any question arising under a  
9 collective bargaining agreement.

10 (2) The scope of bargaining shall not include matters pertaining  
11 to:

12 (a) Recruitment of employment candidates, conduct and grading of  
13 examinations, and rating of candidates; and

14 (b) Retirement benefits.

15 (3) The employer and the exclusive bargaining representative shall  
16 not agree to any proposal that would be inconsistent with the principle  
17 of comparable worth embodied in RCW 41.06.155.

18 (4) In case of any conflict between the provisions of this chapter  
19 and any other law, executive order, administrative rule, or agency  
20 policy relating to wages, hours, and conditions of employment or  
21 personnel relations, the provisions of this chapter or any collective  
22 bargaining agreement negotiated under this chapter shall prevail.

23 NEW SECTION. **Sec. 10.** CONTENTS OF COLLECTIVE BARGAINING  
24 AGREEMENTS. (1) A collective bargaining agreement shall contain  
25 provisions that:

26 (a) Provide for mandatory arbitration of grievances arising under  
27 the collective bargaining agreement, in accordance with section 11 of  
28 this act;

1 (b) Require layoffs and subsequent reemployment to be implemented  
2 according to seniority;

3 (c) Provide for reopening of the agreement during its term in  
4 accordance with section 16(5) of this act, if a reduction of allotments  
5 is ordered by the governor pursuant to RCW 43.88.110(2); and

6 (d) Make the agreement effective for periods coinciding with the  
7 fiscal biennium of the state.

8 (2) Where an employee covered by this chapter has a right to  
9 contest a disciplinary action or termination of employment under the  
10 provisions of any statute or administrative rule, any collective  
11 bargaining agreement provision permitting the employee to contest the  
12 disciplinary action or termination of employment through the grievance  
13 procedure and arbitration shall specify an election of remedies by the  
14 employee such that the matter be resolved entirely under the procedures  
15 of the collective bargaining agreement or entirely under the procedures  
16 of the applicable statute or rule. Any employee, when fully reinstated  
17 after appeal under either remedy, shall be guaranteed all employee  
18 rights and benefits, including back pay, sick leave, vacation accrual,  
19 retirement, and OASDI credits.

20 (3) Whenever a collective bargaining agreement between an employer  
21 and an exclusive bargaining representative is concluded after the  
22 termination date of the previous collective bargaining agreement  
23 between the employer and an employee organization representing the same  
24 or a substantially similar bargaining unit, the effective date of the  
25 collective bargaining agreement shall be the day after the termination  
26 of the previous collective bargaining agreement, and all benefits  
27 included in the new collective bargaining agreement, including wage or  
28 salary increases, shall accrue beginning with such effective date.

1        NEW SECTION.        **Sec. 11.**        ENFORCEMENT OF COLLECTIVE BARGAINING

2 AGREEMENTS.        (1) Every collective bargaining agreement negotiated  
3 pursuant to the provisions of this chapter shall contain provisions for  
4 the final and binding arbitration of grievances.

5        (2) The parties to a collective bargaining agreement may agree on  
6 one or more permanent umpires to serve as arbitrator, or may agree on  
7 any impartial person to serve as arbitrator, or may agree to select  
8 arbitrators from any source available to them, including federal and  
9 private agencies, in addition to the staff and dispute resolution panel  
10 maintained by the commission.

11        (3) An arbitrator may require any person to attend as a witness and  
12 to bring with him or her any book, record, document, or other evidence.  
13 The fees for such attendance shall be paid by the party requesting  
14 issuance of the subpoena and shall be the same as the fees of witnesses  
15 in the superior court. Arbitrators shall have the power to administer  
16 oaths. Subpoenas shall issue and be signed by the arbitrator or the  
17 director and shall be served in the same manner as subpoenas to testify  
18 before a court of record in this state. If any person so summoned to  
19 testify shall refuse or neglect to obey such subpoena, upon petition  
20 authorized by the arbitrator or director, the superior court may compel  
21 the attendance of such person before the arbitrator or punish said  
22 person for contempt in the same manner provided for the attendance of  
23 witnesses or the punishment of them in the courts of this state.

24        (4) The arbitrator shall appoint a time and place for the hearing  
25 and notify the parties thereof, and may adjourn the hearing from time  
26 to time as may be necessary, and, on application of either party and  
27 for good cause, may postpone the hearing to a time not extending beyond  
28 the date fixed by the collective bargaining agreement for making the  
29 award. The arbitration award shall be in writing and signed by the  
30 arbitrator or a majority of the members of the arbitration panel. The

1 arbitrator shall, promptly upon its rendition, serve a true copy of the  
2 award on each of the parties or their attorneys.

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

14 (6) If a party to a collective bargaining agreement negotiated  
15 pursuant to the provisions of this chapter refuses to comply with the  
16 award of an arbitrator determining a grievance arising under such  
17 collective bargaining agreement, the other party to the collective  
18 bargaining agreement, or any affected employee may invoke the  
19 jurisdiction of the superior court for Thurston county or any county in  
20 which the labor dispute exists and such court shall have jurisdiction  
21 to issue an order enforcing the arbitration award. The court shall not  
22 substitute its judgment for that of the arbitrator and shall enforce  
23 any arbitration award which is based on the collective bargaining  
24 agreement, except that an arbitration award shall not be enforced and  
25 a new arbitration proceeding may be ordered if:

26 (a) The award was procured by corruption, fraud, or undue means;

27 (b) The arbitrator or arbitrators were guilty of misconduct, in  
28 refusing to postpone a hearing upon sufficient cause shown, or in  
29 refusing to hear evidence pertinent and material to the controversy, or

1 of any other misbehavior by which the rights of any party have been  
2 prejudiced; or

3 (c) The arbitrator or arbitrators have exceeded their powers, or so  
4 imperfectly executed them that a final and definite award on the  
5 subject matter was not made, in which event the court shall also have  
6 discretion to remand the matter to the arbitrator or arbitrators who  
7 issued the defective award.

8 NEW SECTION. **Sec. 12.** REPRESENTATION. (1) The commission shall  
9 certify an employee organization as the exclusive bargaining  
10 representative of the employees of a bargaining unit when the  
11 organization shows proof that it represents a majority of the employees  
12 at the close of the last preceding payroll period and such proof is not  
13 contested by the agency that is the appointing authority, the director,  
14 or any other interested party. Prior to certification, the commission  
15 shall give ten calendar days' notice that an employee representative  
16 has petitioned to be named the exclusive bargaining representative of  
17 a bargaining unit. The notice shall inform all other interested  
18 parties that an election may be requested as provided in this section  
19 and that the proof of representation may be contested. If proof of  
20 representation is not satisfactory to the commission, the commission  
21 may require an election to be held.

22 (2) The commission shall conduct a secret vote for selection of an  
23 exclusive bargaining representative of the employees of a bargaining  
24 unit upon request from an employee organization showing satisfactory  
25 proof of at least thirty percent representation within the unit at the  
26 close of the last preceding payroll period. Upon granting a request  
27 for an election, the commission shall give notice of the election and  
28 allow ten calendar days for other employee organizations desiring their  
29 names placed on the ballot to show satisfactory proof of at least ten

1 percent representation within the unit at the close of the last  
2 preceding payroll period.

3 (3) The commission, after consultation with interested employee  
4 organizations and the appointing authority, shall set forth procedures  
5 for the conduct of the election and shall distribute sample ballots.  
6 The ballot shall contain the name of the requesting employee  
7 organization and the name of any other employee organization showing  
8 satisfactory proof of at least ten percent representation within the  
9 unit and shall provide a choice for any employee within the unit to  
10 designate that he or she does not desire any representation. Where  
11 more than one organization is on the ballot and none of the choices  
12 receives a majority of all votes cast in such election, a run-off  
13 election shall be held. The run-off ballot shall contain the two  
14 choices which received the largest and the second largest number of  
15 votes.

16 (4) An employee organization receiving a majority of all votes cast  
17 in such an election, or run-off election, shall be certified by the  
18 commission as the exclusive bargaining representative of the employees  
19 of the bargaining unit. If no employee organization receives a  
20 majority of votes cast, the commission shall issue notification to that  
21 effect.

22 (5) When an employee organization has been certified as the  
23 exclusive bargaining representative of the employees of a bargaining  
24 unit, the employee organization shall be entitled to act for and to  
25 negotiate collective bargaining agreements covering all employees in  
26 the bargaining unit. The certified exclusive bargaining representative  
27 shall be responsible for representing the interests of all the  
28 employees in the bargaining unit.

29 (6)(a) Upon petition to the commission by no less than thirty  
30 percent of the employees of a bargaining unit, decertification or a new

1 certification shall be determined by an election as prescribed in  
2 subsection (8) of this section. However, no question concerning  
3 representation may be raised if:

4 (i) Less than twelve months have elapsed since the last  
5 certification or election; or

6 (ii) A valid collective bargaining agreement exists for the unit,  
7 except for that period of no more than ninety calendar days nor less  
8 than sixty calendar days prior to the expiration of the contract.

9 (b) The election shall be conducted at the close of the contract  
10 term, or at an appropriate time, if no contract exists for the unit.

11 (c) To provide that certification and decertification elections are  
12 truly representative of the desires of the employees and that all  
13 employees eligible to vote have every opportunity to do so, employee  
14 participation in these elections shall be encouraged to the greatest  
15 extent possible.

16 (7) The commission shall administer all elections and be  
17 responsible for the processing and adjudication of all disputes that  
18 arise as a consequence of elections.

19 (8) The commission shall conduct decertification or new  
20 certification elections in accordance with the requirements of this  
21 subsection.

22 (a) Upon being notified by the commission that a valid petition for  
23 an election has been received, the affected appointing authority shall  
24 submit to the commission, the petitioning party, and exclusive  
25 bargaining representative, if any, a list of all employees included in  
26 the bargaining unit as of the preceding payroll period. This list  
27 shall contain the employees' names, job classifications, work  
28 locations, and home mailing addresses. For purposes of an election, the  
29 commission shall also provide such listing to an affected employee

1 organization that has submitted proof that it represents at least ten  
2 percent of the employees in the bargaining unit.

3 (b) Upon receipt of a valid petition for an election, the  
4 commission shall conduct a preelection conference that shall include  
5 representatives of the appointing authority, the employee organization,  
6 and the petitioning party. At the preelection conference,  
7 determinations shall be made on such matters as method of balloting,  
8 date of election, absentee voting, eligibility of voters, locations,  
9 personnel at each election site, campaign activities, and any other  
10 matter that should be resolved concerning that election. Following the  
11 preelection conference, the commission shall establish rules and  
12 procedures for holding the election.

13 (c) At least ten days prior to the scheduled date, the commission  
14 shall distribute a notice of election for posting in the work areas of  
15 affected employees. The notice shall contain information regarding the  
16 date, time, and location of balloting, the rules and procedures  
17 established for the election, and a sample ballot.

18 (d) To the extent feasible, as determined by the commission, on-  
19 site voting shall take place during the employees' regular work  
20 schedules. Eligible voters shall be given ample opportunity to vote  
21 during work time while the polls are open.

22 (e) An employee who cannot appear at the voting site on the date of  
23 the vote may vote by absentee ballot. A request for an absentee ballot  
24 shall be submitted to the commission prior to the close of voting at  
25 the employee's voting site. To be counted, absentee ballots shall be  
26 postmarked within five calendar days of the close of the polls and  
27 shall be received by the commission within ten calendar days of the  
28 close of the polls.

1 (f) Employees on leave of absence without pay for the entire  
2 calendar month preceding the start of the balloting shall not be  
3 eligible to vote.

4 (g) Rules governing campaign activities shall be determined at the  
5 preelection conference. Employees included in the affected bargaining  
6 unit and representatives of the petitioning party and the affected  
7 employee organization shall have the right to conduct such activities  
8 on the employer's grounds during work hours so long as the work of the  
9 employee and the operation of the employer are not disturbed.

10 (h) Each party to an election may have one observer present during  
11 on-site voting to assist the election agent in identifying eligible  
12 voters. An employee who serves as such an observer shall be released  
13 with pay from duties normally performed during his or her work hours.

14 (i) The commission shall maintain the official voter eligibility  
15 list and shall provide a copy of that list to each party. The official  
16 observer for either party may bring a copy of that list to the on-site  
17 polling place for his or her own use, provided such use does not  
18 interfere with the conduct of the election.

19 (j) Within five working days of the date of the tally of the  
20 ballots, the petitioning party, the affected employee organization, or  
21 an employee in the bargaining unit may file objections to the election.  
22 The objections shall be in writing and shall be received by the  
23 commission within the five working day period. The commission shall  
24 investigate and determine an appropriate remedy if the objection is  
25 found to be meritorious.

26 (9) Any violation of these rules should be immediately reported to  
27 the commission. Upon receiving a complaint, the commission shall  
28 immediately investigate and, if necessary, take steps to stop the  
29 violation. If the commission finds that violations of these rules or  
30 the preelection agreements have affected the outcome of the election,

1 the commission may invalidate the election, order a new election, or  
2 take other appropriate remedial action.

3 NEW SECTION. **Sec. 13.** BARGAINING UNITS. In any dispute  
4 concerning the unit appropriate for collective bargaining or the  
5 allocation of employees or positions to bargaining units, the  
6 commission, after hearing, shall determine the dispute, taking into  
7 consideration the duties, skills, and working conditions of the  
8 employees; the history of collective bargaining; the extent of  
9 organization among the employees; and the desires of the employees,  
10 except that a unit shall not be considered appropriate if it includes:

11 (1) Both supervisors and nonsupervisory employees. A unit that  
12 includes only supervisors may be considered appropriate if a majority  
13 of the supervisory employees indicate by vote that they desire to be  
14 included in such unit; or

15 (2) More than one institution of higher education. For the  
16 purposes of this section, any branch or regional campus of an  
17 institution of higher education is part of that institution of higher  
18 education.

19 In any case in which the commission includes as part of a  
20 bargaining unit employees that were in a unit existing prior to the  
21 effective date of this act, the commission shall notify the affected  
22 employees. The commission shall not include the affected employees in  
23 the bargaining unit created by the commission unless a majority of the  
24 affected employees vote to be included.

25 NEW SECTION. **Sec. 14.** UNION SECURITY. (1) The employer shall  
26 require as a condition of employment the payment, no later than the  
27 thirtieth day following the beginning of employment or the effective  
28 date of this act, of a union shop fee to the employee organization

1 that, in accordance with the provisions of this chapter, is duly  
2 recognized by the employer or designated by the commission as the  
3 exclusive bargaining representative for the bargaining unit in which  
4 the employee is employed. The amount of the fee shall be equal to the  
5 amount required to become a member in good standing of the employee  
6 organization. Each employee organization shall establish a procedure  
7 by which any employee so requesting may obtain a rebate of that part of  
8 the union shop fee, if any, that represents a pro rata share of  
9 expenditures for purposes not germane to the collective bargaining  
10 process, to contract administration, or to pursuing matters affecting  
11 wages, hours, and other conditions of employment.

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

22 (3) To safeguard the right of nonassociation of employees, based on  
23 bona fide religious tenets or teachings of a church or religious body  
24 of which the employee is a member, such employee shall pay to the  
25 employee organization, for purposes within the program of the employee  
26 organization as designated by the employee that would be in harmony  
27 with his or her individual conscience, an amount of money equivalent to  
28 the union shop fee minus any included monthly premiums for insurance  
29 programs sponsored by the employee organization. The employee shall not

1 be a member of the employee organization but is entitled to all the  
2 representation rights of a member of the employee organization.

3 NEW SECTION. **Sec. 15.** TRANSITION OF EXISTING EXCLUSIVE BARGAINING  
4 REPRESENTATIVES AND BARGAINING UNITS. The transition of exclusive  
5 bargaining representatives and bargaining units existing prior to the  
6 effective date of this act to the units prescribed in section 13 of  
7 this act and to exclusive bargaining representatives under this chapter  
8 shall be implemented as follows:

9 (1)(a) When the employees in a bargaining unit or units existing  
10 prior to the effective date of this act and represented by a single  
11 certified exclusive bargaining representative comprise a majority of  
12 the employees to be included in a bargaining unit prescribed in section  
13 13 of this act, then the certified exclusive bargaining representative  
14 for the existing unit or units shall be entitled to a certification by  
15 the commission for the new bargaining unit without the necessity of a  
16 representation election.

17 (b) When the employees in two or more bargaining units existing  
18 prior to the effective date of this act are represented by two or more  
19 certified exclusive bargaining representatives that together comprise  
20 at least eighty percent of the employees to be included in a bargaining  
21 unit prescribed in section 13 of this act, an election shall be held  
22 between the certified exclusive bargaining representatives for the  
23 existing units to determine which should be certified by the commission  
24 as the exclusive bargaining representative for the new bargaining unit.  
25 The competing bargaining representatives shall be the only choices on  
26 the ballot. If either of the competing bargaining representatives  
27 disclaims an interest in certification for the new bargaining unit, the  
28 remaining bargaining representative, if it represents a majority of the  
29 employees to be included in the new bargaining unit, shall be entitled

1 to a certification by the commission for the new bargaining unit  
2 without the necessity of a representation election. The disclaimer  
3 shall be in writing and submitted to the competing bargaining  
4 representative and the commission.

5 (c) When, on the effective date of this act, less than a majority  
6 of the employees to be included in a bargaining unit prescribed in  
7 section 13 of this act are represented by existing certified bargaining  
8 representatives, representation of employees in the new bargaining unit  
9 shall be determined pursuant to section 12 of this act.

10 (2) Any employee organization that prior to the effective date of  
11 this act has been the exclusive bargaining representative of any  
12 employees may disclaim any interest in representation of the employees.  
13 The disclaimer shall be in writing and submitted to the competing  
14 exclusive bargaining representative and the commission.

15 NEW SECTION. **Sec. 16.** NEGOTIATION AND RATIFICATION OF COLLECTIVE  
16 BARGAINING AGREEMENTS. (1) Collective bargaining agreement  
17 negotiations under this chapter shall commence on July 1, 1992, and,  
18 thereafter, on July 1 of each even-numbered year. For the purpose of  
19 negotiating collective bargaining agreements other than supplemental  
20 agreements, the employer shall be represented by the governor's office.  
21 Supplementary bargaining with agencies is authorized on behalf of  
22 employees in part of a bargaining unit concerning matters uniquely  
23 affecting the employees. Nothing in this chapter shall prohibit  
24 cooperation and coordination of bargaining between two or more  
25 bargaining units.

26 (2) Any collective bargaining agreement reached between the  
27 employer and the exclusive representative shall be subject to  
28 ratification by the employees concerned. The agreement shall be  
29 reduced to writing and executed by both parties. Except as provided in

1 subsection (3) of this section, agreements shall be effective for two  
2 years from July 1 of the odd-numbered year through and including June  
3 30 of the next odd-numbered year, to correspond with the state's fiscal  
4 biennium.

5 (3) Agreements may provide that compensation and fringe benefit  
6 provisions are effective for the first year of the contract only. In  
7 such a case, negotiations on compensation and fringe benefit provisions  
8 for the second year of the contract shall commence on July 1 of the  
9 first odd-numbered year preceding the year of the contract expiration.

10 (4) The governor's office shall submit a request for funds  
11 necessary to implement the compensation and fringe benefit provisions  
12 in an agreement and for approval by the legislature of these funds  
13 within ten days of the date on which the parties ratify the agreement  
14 or, if the legislature is not in session, within ten days after the  
15 legislature convenes. The legislature shall approve or reject the  
16 submission of the request for funds as a whole and the submission shall  
17 be deemed approved if the legislature fails to act by March 31 of the  
18 odd-numbered year in which the contract will become effective. If the  
19 legislature rejects the submission, either party may reopen all or part  
20 of the agreement.

21 (5) If, after the compensation and fringe benefit provisions are  
22 approved by a the legislature, a significant revenue shortfall occurs  
23 resulting in reduction of allotments by the governor pursuant to RCW  
24 43.88.110(2), the parties may reopen the contract and renegotiate all  
25 or part of the agreement to ensure continuation of an adequate level of  
26 service to meet the state's needs.

27 NEW SECTION. **Sec. 17.** UNFAIR LABOR PRACTICES ENUMERATED. (1) It  
28 shall be an unfair labor practice for an employer to:

1 (a) Interfere with, restrain, or coerce employees in the exercise  
2 of their rights guaranteed by this chapter;

3 (b) Control, dominate, or interfere with an exclusive bargaining  
4 representative;

5 (c) Discriminate against an employee who has filed an unfair labor  
6 practice charge; or

7 (d) Refuse to engage in collective bargaining.

8 (2) It shall be an unfair labor practice for an exclusive  
9 bargaining representative to:

10 (a) Interfere with, restrain, or coerce employees in the exercise  
11 of their rights guaranteed by this chapter;

12 (b) Induce the employer to commit an unfair labor practice;

13 (c) Discriminate against an employee who has filed an unfair labor  
14 practice charge; or

15 (d) Refuse to engage in collective bargaining.

16 NEW SECTION. **Sec. 18.** UNFAIR LABOR PRACTICE PROCEDURES. (1) The  
17 commission is empowered and directed to prevent any unfair labor  
18 practice and to issue appropriate remedial orders. A complaint shall  
19 not be processed for any unfair labor practice occurring more than six  
20 months before the filing of the complaint with the commission. This  
21 power shall not be affected or impaired by any means of adjustment,  
22 mediation, or conciliation in labor disputes that have been or may  
23 hereafter be established by law.

24 (2) Whenever a complaint is filed concerning any unfair labor  
25 practice, the commission shall have power to issue and cause to be  
26 served a notice of hearing before the commission at a place therein  
27 fixed to be held not less than seven days after the serving of the  
28 complaint. Any such complaint may be amended by the commission any  
29 time prior to the issuance of an order based thereon. The person so

1 complained of shall have the right to file an answer to the original or  
2 amended complaint and to appear in person or otherwise to give  
3 testimony at the place and time set in the complaint. In the discretion  
4 of the commission, any other person may be allowed to intervene in the  
5 proceedings and to present testimony. In any such proceeding the  
6 commission shall not be bound by technical rules of evidence prevailing  
7 in the courts of law or equity.

8 (3) For the purpose of all hearings and investigations, which, in  
9 the opinion of the commission, are necessary and proper for the  
10 exercise of the powers vested in it by this section, the commission  
11 shall at all reasonable times have access to, for the purposes of  
12 examination, and the right to examine, copy, or photograph any  
13 evidence, including payrolls or lists of employees, of any person being  
14 investigated or proceeded against that relates to any matter under  
15 investigation or in question. The commission shall have power to issue  
16 subpoenas requiring the attendance and testimony of witnesses and the  
17 production of any evidence that relates to any matter under  
18 investigation or in question before the commission. The commission, or  
19 any agent or agency designated by the commission for such purposes, may  
20 administer oaths and affirmations, examine witnesses, and receive  
21 evidence.

22 (4) The commission, or any party to the commission proceedings,  
23 thirty days after the commission has entered its findings of fact,  
24 shall have power to petition the superior court of Thurston county or  
25 the superior court within the county where the unfair labor practice in  
26 question occurred or where any person charged with the unfair labor  
27 practice resides or transacts business, or if such court be on vacation  
28 or in recess, then to the superior court of any county adjoining the  
29 county where the unfair labor practice in question occurred or where  
30 any person charged with the unfair labor practice resides or transacts

1 business, for the enforcement of such order and for appropriate  
2 temporary relief or restraining order, and shall certify and file in  
3 the court a transcript of the entire record in the proceeding,  
4 including the pleadings and testimony upon which such order was made  
5 and the findings and order of the commission. Upon filing the record,  
6 the court shall cause notice thereof to be served upon such person, and  
7 thereupon shall have jurisdiction of the proceeding and of the question  
8 determined therein, and shall have power to grant such temporary relief  
9 or restraining order as it deems just and proper, and to make and enter  
10 upon the pleadings, testimony, and proceedings set forth in such  
11 transcript a decree enforcing, modifying, and enforcing as so modified,  
12 or setting aside in whole or in part the order of the commission.

13 NEW SECTION. **Sec. 19.** RIGHT TO STRIKE. It is lawful for an  
14 employee, except an essential employee covered by section 20 of this  
15 act, to participate in a strike if:

16 (1) The employee is included in a bargaining unit for which an  
17 exclusive bargaining representative has been certified by the  
18 commission;

19 (2) The employer and the exclusive bargaining representative have  
20 not mutually agreed to submit the dispute to final and binding  
21 arbitration;

22 (3) The exclusive bargaining representative has requested a  
23 mediator for the purpose of mediation or conciliation of the dispute  
24 and the parties have participated in good faith mediation; and

25 (4) The exclusive bargaining representative has given ten days'  
26 notice of its intent to strike to the commission and the public  
27 employer.

28 A strike or other concerted activity permitted under this section  
29 shall not restrict access to the workplace through a separate entrance

1 marked and set apart for essential employees who are not authorized to  
2 strike under section 20 of this act.

3 NEW SECTION. **Sec. 20.** INTEREST ARBITRATION IN CERTAIN DISPUTES.

4 (1) The uninterrupted and dedicated service of certain classes of state  
5 employees is so vital to the welfare and public safety of the citizens  
6 of the state of Washington that the usual procedures of collective  
7 bargaining shall be suspended under certain circumstances and an  
8 alternative means of settling such disputes be substituted, as provided  
9 in this section. Employee strikes arising from disputes regulated by  
10 this section are hereby expressly prohibited.

11 (2) The procedures of this section are applicable only to essential  
12 employees.

13 (3) If no agreement has been reached sixty days after the  
14 commencement of negotiations between an employer and the exclusive  
15 bargaining representative of a bargaining unit of employees covered by  
16 this section, then, at any time thereafter, either party may declare  
17 that an impasse exists and may submit the dispute to the commission for  
18 mediation, with or without the concurrence of the other party.

19 (4) If an agreement has not been reached following a reasonable  
20 period of negotiations and mediation, and the parties remain at  
21 impasse, then either party may request an interest arbitrator to  
22 resolve the dispute. The issues for determination by the interest  
23 arbitrator shall be limited to the issues at impasse in the mediation  
24 proceedings.

25 (5) Within seven days of either party's request for arbitration,  
26 the commission shall submit three arbitrators' names to the parties.  
27 Each party shall strike one name from the list. The remaining  
28 arbitrator shall be appointed as the arbitrator. Each party shall  
29 share equally in paying the fees and expenses of the arbitrator.

1           (6) Within seven days following the designation of the arbitrator,  
2 each party shall file with the arbitrator and the commission and serve  
3 on the opposite party, the complete written proposals it intends to  
4 submit to interest arbitration.

5           (7) The arbitrator shall promptly establish a date, time, and place  
6 for hearing and shall provide reasonable notice thereof to the parties  
7 to the dispute. A hearing, which shall be informal, shall be held, and  
8 each party shall have the opportunity to present evidence and make  
9 argument. The arbitrator may not act as a witness or present the case  
10 for a party to the proceedings. The rules of evidence prevailing in  
11 judicial proceedings may be considered, but are not binding. Any oral  
12 testimony or documentary evidence or other data deemed relevant by the  
13 arbitrator may be received in evidence. A recording of the proceedings  
14 shall be taken. The arbitrator shall have the power to administer  
15 oaths, require the attendance of witnesses, and require the production  
16 of books, papers, contracts, agreements, and documents deemed to be  
17 material to a just determination of the issues in dispute. If any  
18 person refuses to obey a subpoena issued by the arbitrator or refuses  
19 to be sworn or to make an affirmation to testify, or any witness,  
20 party, or attorney for a party is guilty of any contempt while in  
21 attendance at any hearing held hereunder, the arbitrator or any party  
22 may invoke the jurisdiction of the superior court of Thurston county,  
23 and the court shall have jurisdiction to issue an appropriate order.  
24 Any failure to obey such order may be punished by the court as a  
25 contempt thereof. The hearing conducted by the arbitrator shall be  
26 concluded within twenty-five days following the designation of the  
27 arbitrator unless the parties agree to a longer period.

28           (8) The arbitrator shall, within thirty days following the  
29 conclusion of the hearing, make written findings of fact and a written  
30 determination of the issues in dispute, based on the evidence

1 presented. The parties may agree, prior to the close of the hearing  
2 before the arbitrator, to limit the arbitrator to selecting: (a)  
3 Between the entire final offer of the employer presented by the  
4 employer to the mediator and to the exclusive bargaining representative  
5 at the close of the mediation proceedings or the entire final offer of  
6 the exclusive bargaining representative as presented by the  
7 exclusive bargaining representative to the mediator and to the employer  
8 at the close of the mediation proceedings; or (b) on each impasse item,  
9 between the final offers of the parties as presented to the mediator  
10 and the other party at the close of the mediation proceedings. A copy  
11 of the interest arbitration award shall be served on the commission and  
12 on each of the parties to the dispute. The determination shall be  
13 final and binding upon both parties.

14 (9) In making the determination, the arbitrator shall be mindful of  
15 the legislative purpose enumerated in this section and, as additional  
16 standards or guidelines to aid it in reaching a decision, shall take  
17 into consideration the following factors:

18 (a) The constitutional and statutory authority of the employer;

19 (b) Stipulations of the parties;

20 (c) Comparison of the wages, hours, and conditions of employment of  
21 the employees involved in the proceedings with the wages, hours, and  
22 conditions of employment of like personnel of like employers;

23 (d) The average consumer prices for goods and services, commonly  
24 known as the cost of living;

25 (e) Changes in any of the foregoing circumstances during the  
26 pendency of such proceedings; and

27 (f) Such other factors, not confined to the foregoing, which are  
28 normally or traditionally taken into consideration in the determination  
29 of wages, hours, and conditions of employment.

1 (10) In the performance of his or her duties under this chapter,  
2 the arbitrator exercises a state function and is, for the purposes of  
3 this chapter, a state agency. The provisions of chapter 34.05 RCW do  
4 not apply to proceedings before an interest arbitrator.

5 (11) Except as ordered through proceedings before an interest  
6 arbitrator, existing wages, hours, and other terms and conditions of  
7 employment shall not be changed by action of either party without the  
8 consent of the other, but a party may so consent without prejudice to  
9 its rights or position under this section.

10 (12) If a party to negotiations subject to this section refuses to  
11 submit to the procedures set forth in this section, the other party or  
12 the commission, on its own motion, may invoke the jurisdiction of the  
13 superior court for Thurston county and the court shall have  
14 jurisdiction to issue an appropriate order. A failure to obey such  
15 order may be punished by the court as a contempt thereof.

16 NEW SECTION. **Sec. 21.** COURT JURISDICTION. Unless specifically  
17 provided otherwise, nothing in this chapter shall prohibit any party to  
18 a collective bargaining agreement from seeking enforcement of the  
19 rights granted under this chapter in a court of competent jurisdiction.

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

22 (1) In addition to the exemptions set forth in RCW 41.06.070, the  
23 following classifications, positions, and employees of institutions of  
24 higher education and related boards are hereby exempted from coverage  
25 of this chapter:

26 (a) Members of the governing board of each institution and related  
27 boards, all presidents, vice-presidents, and their confidential  
28 secretaries, administrative, and personal assistants; deans, directors,

1 and chairpersons; academic personnel; executive heads of major  
2 administrative or academic divisions employed by institutions of higher  
3 education; and any employee of a community college district whose place  
4 of work is one which is physically located outside the state of  
5 Washington and who is employed pursuant to RCW 28B.50.092 and assigned  
6 to an educational program operating outside of the state of Washington.

7 (b) The director, the director's confidential secretary, assistant  
8 directors, and professional education employees of the state board for  
9 community college education.

10 (c) The governing board of each institution, and related boards,  
11 may also exempt from this chapter, subject to the employees' right of  
12 appeal to the state personnel board, classifications involving research  
13 activities, counseling of students, extension or continuing education  
14 activities, graphic arts or publications activities requiring  
15 prescribed academic preparation or special training, and principal  
16 assistants to executive heads of major administrative or academic  
17 divisions, as determined by the higher education personnel board:  
18 PROVIDED, That no nonacademic employee engaged in office clerical,  
19 maintenance, or food and trade services may be exempted by the state  
20 personnel board under this provision.

21 (2) For the purposes of this section, "related boards" means the  
22 state board for community college education and such other boards,  
23 councils, and commissions related to higher education as may be  
24 established.

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

27 In addition to the exemptions set forth in RCW 41.06.070, the  
28 provisions of this chapter do not apply to printing craft employees in  
29 the department of printing of the University of Washington.

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

3        In case of any conflict between the provisions of this chapter or  
4 administrative rules adopted under this chapter and the provisions of  
5 chapter 41.-- RCW (sections 1 through 21 of this act) or a collective  
6 bargaining agreement negotiated under chapter 41.-- RCW (sections 1  
7 through 21 of this act), the provisions of chapter 41.-- RCW (sections  
8 1 through 21 of this act) or the collective bargaining agreement shall  
9 prevail.

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

12       The board may appoint one or more hearings examiners to preside  
13 over, conduct, and make recommended decisions, including findings of  
14 fact and conclusions of law in all cases of employee appeals to the  
15 board. The hearings examiner shall conduct hearings in the same manner  
16 and shall have the same authority as provided in hearings by the board.  
17 The recommended decisions shall be forthwith served upon the parties  
18 and transmitted to the board together with the record of the evidence.  
19 Within thirty days of service of the recommended decision, any party  
20 adversely affected may file exceptions, and thereafter all parties may  
21 present written and oral argument to the board, which shall consider  
22 the whole record or such portions of the record as may be cited by the  
23 parties.

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

26       (1) In all appeals over which the board has jurisdiction involving  
27 reduction, dismissal, suspension, or demotion, the board shall set the  
28 case for hearing, and the final decision, including an appeal to the

1 board from the hearing examiner, if any, shall be rendered within  
2 ninety days from the date the appeal was first received. An extension  
3 may be permitted if agreed to by the employee and the employing agency.  
4 The board shall furnish the agency with a copy of the appeal in advance  
5 of the hearing.

6 (2) In all appeals made pursuant to RCW 41.06.170(3), the decision  
7 of the board is final and not appealable to court.

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

10 (1) Hearings on appeals shall be open to the public, except for  
11 cases in which the board determines there is substantial reason for not  
12 having an open hearing or in cases where the employee so requests, and  
13 shall be informal with technical rules of evidence not applying to the  
14 proceedings except the rules of privilege recognized by law. Both the  
15 employee and his or her appointing agency shall be notified reasonably  
16 in advance of the hearing and may select representatives of their  
17 choosing, present and cross-examine witnesses, and give evidence before  
18 the board.

19 (2) Members of the board or the director may, and shall at the  
20 request of either party, issue subpoenas and subpoenas duces tecum.  
21 All testimony shall be on oath administered by a member of the board.  
22 The board shall certify to the superior court the facts of any refusals  
23 to obey a subpoena, take the oath, or testify. The court shall  
24 summarily hear the evidence on such refusal and, if the evidence  
25 warrants, punish such refusal in the same manner and to the same extent  
26 as for contempt committed before, or in connection with the proceedings  
27 of, the court.

28 (3) The board shall prepare an official record of the hearing,  
29 including all testimony, recorded manually or by mechanical device, and

1 exhibits; but it may not be required to transcribe such record unless  
2 requested by the employee, who shall be furnished with a complete  
3 transcript upon payment of a reasonable charge. However, payment of the  
4 cost of a transcript used on appeal shall await determination of the  
5 appeal and shall be made by the employing agency if the employee  
6 prevails.

7 (4) Within thirty days after the conclusion of the hearing, the  
8 board shall make and fully record in its permanent records the  
9 following: (a) Findings of fact; (b) conclusions of law when the  
10 construction of a rule or statute is in question; (c) reasons for the  
11 action taken; and (d) the board's order based thereon. The order is  
12 final, subject to action by the court on appeal as provided in this  
13 chapter.

14 (5) The board shall simultaneously send a copy of the findings,  
15 conclusions, and order by certified mail to the employing agency and to  
16 the employee or the employee's designated representative.

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

19 (1) Within thirty days after the recording of the order and the  
20 mailing thereof, the employee may appeal the decision and order of the  
21 board on appeals made pursuant to RCW 41.06.170(2) to the superior  
22 court of Thurston county on one or more of the grounds that the order  
23 was:

24 (a) Founded on or contained an error of law, which shall  
25 specifically include error in construction or application of any  
26 pertinent rules;

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

- 1 (c) Materially affected by unlawful procedure;
- 2 (d) Based on violation of any constitutional provision; or
- 3 (e) Arbitrary or capricious.

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

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

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

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

27 **Sec. 29.** RCW 34.05.030 and 1989 c 175 s 2 are each amended to read  
28 as follows:

29 (1) This chapter shall not apply to:

1 (a) The state militia, or  
2 (b) The board of clemency and pardons, or  
3 (c) The department of corrections or the indeterminate sentencing  
4 review board with respect to persons who are in their custody or are  
5 subject to the jurisdiction of those agencies.

6 (2) The provisions of RCW 34.05.410 through 34.05.598 shall not  
7 apply:

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

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

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

17 (d) To actions of the state personnel board(~~(, the higher education~~  
18 ~~personnel board, or the personnel appeals board)) or the state  
19 employees' relations commission; or~~

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

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

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

28 **Sec. 30.** RCW 41.04.230 and 1988 c 107 s 19 are each amended to  
29 read as follows:

1 Any official of the state authorized to disburse funds in payment  
2 of salaries and wages of public officers or employees is authorized,  
3 upon written request of the officer or employee, to deduct from the  
4 salaries or wages of the officers or employees, the amount or amounts  
5 of subscription payments, premiums, contributions, or continuation  
6 thereof, for payment of the following:

7 (1) Credit union deductions: PROVIDED, That the credit union is  
8 organized solely for public employees: AND PROVIDED FURTHER, That  
9 twenty-five or more employees of a single state agency or a total of  
10 one hundred or more state employees of several agencies have authorized  
11 such a deduction for payment to the same credit union.

12 (2) Parking fee deductions: PROVIDED, That payment is made for  
13 parking facilities furnished by the agency or by the department of  
14 general administration.

15 (3) U.S. savings bond deductions: PROVIDED, That a person within  
16 the particular agency shall be appointed to act as trustee. The  
17 trustee will receive all contributions; purchase and deliver all bond  
18 certificates; and keep such records and furnish such bond or security  
19 as will render full accountability for all bond contributions.

20 (4) Board, lodging or uniform deductions when such board, lodging  
21 and uniforms are furnished by the state, or deductions for academic  
22 tuitions or fees or scholarship contributions payable to the employing  
23 institution.

24 (5) Dues and other fees deductions: PROVIDED, That the deduction  
25 is for payment of membership dues to any professional organization  
26 formed primarily for public employees or college and university  
27 professors: AND PROVIDED, FURTHER, That twenty-five or more employees  
28 of a single state agency, or a total of one hundred or more state  
29 employees of several agencies have authorized such a deduction for  
30 payment to the same professional organization.

1           (6) Labor or employee organization dues may be deducted in the  
2 event that a payroll deduction is not provided under a collective  
3 bargaining agreement under the provisions of ((RCW 41.06.150)) chapter  
4 41.-- RCW (sections 1 through 21 of this act): PROVIDED, That twenty-  
5 five or more officers or employees of a single agency, or a total of  
6 one hundred or more officers or employees of several agencies have  
7 authorized such a deduction for payment to the same labor or employee  
8 organization: PROVIDED, FURTHER, That labor or employee organizations  
9 with five hundred or more  
10 members in state government may have payroll deduction for employee  
11 benefit programs.

12           (7) Voluntary deductions for political committees duly registered  
13 with the public disclosure commission and/or the federal election  
14 commission: PROVIDED, That twenty-five or more officers or employees  
15 of a single agency or a total of one hundred or more officers or  
16 employees of several agencies have authorized such a deduction for  
17 payment to the same political committee.

18           (8) Insurance contributions to the authority for payment of  
19 premiums under contracts authorized by the state health care authority.

20           Deductions from salaries and wages of public officers and employees  
21 other than those enumerated in this section or by other law, may be  
22 authorized by the director of financial management for purposes clearly  
23 related to state employment or goals and objectives of the agency and  
24 for plans authorized by the state health care authority.

25           The authority to make deductions from the salaries and wages of  
26 public officers and employees as provided for in this section shall be  
27 in addition to such other authority as may be provided by law:  
28 PROVIDED, That the state or any department, division, or separate  
29 agency of the state shall not be liable to any insurance carrier or  
30 contractor for the failure to make or transmit any such deduction.

1        NEW SECTION.    **Sec. 31.**    A new section is added to chapter 41.05 RCW  
2 to read as follows:

3        In case of any conflict between the provisions of this chapter or  
4 administrative rules adopted under this chapter and the provisions of  
5 chapter 41.-- RCW (sections 1 through 21 of this act) or a collective  
6 bargaining agreement negotiated under chapter 41.-- RCW (sections 1  
7 through 21 of this act), the provisions of chapter 41.-- RCW (sections  
8 1 through 21 of this act) or the collective bargaining agreement shall  
9 prevail.

10        **Sec. 32.**    RCW 41.06.020 and 1985 c 461 s 1    and 1985 c 365 s 3 are  
11 each reenacted and amended to read as follows:

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

14        (1) "Agency" means an office, department, board, commission,  
15 institution of higher education, or other separate unit or division,  
16 however designated, of the state government and all personnel thereof;  
17 it includes any unit of state government established by law, the  
18 executive officer or members of which are either elected or appointed,  
19 upon which the statutes confer powers and impose duties in connection  
20 with operations of either a governmental or proprietary nature.

21        (2) "Board" means the state personnel board established under the  
22 provisions of RCW 41.06.110, except that this definition does not apply  
23 to the words "board" or "boards" when used in RCW 41.06.070.

24        (3) "Classified service" means all positions in the state service  
25 subject to the provisions of this chapter.

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

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

4 (6) "Institutions of higher education" means the University of  
5 Washington, Washington State University, Central Washington University,  
6 Eastern Washington University, Western Washington University, The  
7 Evergreen State College, and the various state community colleges.

8 (7) "Noncompetitive service" means all positions in the classified  
9 service for which a competitive examination is not required.

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

14 (~~(8)~~) (9) "Career development" means the progressive development  
15 of employee capabilities to facilitate productivity, job satisfaction,  
16 and upward mobility through work assignments as well as education and  
17 training that are both state-sponsored and are achieved by individual  
18 employee efforts, all of which shall be consistent with the needs and  
19 obligations of the state and its agencies.

20 (~~(9)~~) (10) "Training" means activities designed to develop job-  
21 related knowledge and skills of employees.

22 (~~(10)~~) (11) "Director" means the director of personnel appointed  
23 under the provisions of RCW 41.06.130.

24 (~~(11)~~) (12) "Affirmative action" means a procedure by which  
25 racial minorities, women, persons in the protected age category,  
26 persons with disabilities, Vietnam-era veterans, and disabled veterans  
27 are provided with increased employment opportunities. It shall not  
28 mean any sort of quota system.

1       **Sec. 33.** RCW 41.06.070 and 1990 c 60 s 101 are each amended to  
2 read as follows:

3       The provisions of this chapter do not apply to:

4       (1) The members of the legislature or to any employee of, or  
5 position in, the legislative branch of the state government including  
6 members, officers, and employees of the legislative council,  
7 legislative budget committee, statute law committee, and any interim  
8 committee of the legislature;

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

13       (3) ~~((Officers, academic personnel, and employees of state  
14 institutions of higher education, the state board for community college  
15 education, and the higher education personnel board;~~

16       ~~(4))~~) The officers of the Washington state patrol;

17       ~~((5))~~) (4) Elective officers of the state;

18       ~~((6))~~) (5) The chief executive officer of each agency;

19       ~~((7))~~) (6) In the departments of employment security, fisheries,  
20 social and health services, the director and his confidential  
21 secretary; in all other departments, the executive head of which is an  
22 individual appointed by the governor, the director, his confidential  
23 secretary, and his statutory assistant directors;

24       ~~((8))~~) (7) In the case of a multimember board, commission, or  
25 committee, whether the members thereof are elected, appointed by the  
26 governor or other authority, serve ex officio, or are otherwise chosen:

27       (a) All members of such boards, commissions, or committees;

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

1 executive officer of the board, commission, or committee; and (iii) the  
2 confidential secretary of the chief executive officer of the board,  
3 commission, or committee;

4 (c) If the members of the board, commission, or committee serve on  
5 a full-time basis: (i) The chief executive officer or administrative  
6 officer as designated by the board, commission, or committee; and (ii)  
7 a confidential secretary to the chairman of the board, commission, or  
8 committee;

9 (d) If all members of the board, commission, or committee serve ex  
10 officio: (i) The chief executive officer; and (ii) the confidential  
11 secretary of such chief executive officer;

12 (~~(9)~~) (8) The confidential secretaries and administrative  
13 assistants in the immediate offices of the elective officers of the  
14 state;

15 (~~(10)~~) (9) Assistant attorneys general;

16 (~~(11)~~) (10) Commissioned and enlisted personnel in the military  
17 service of the state;

18 (~~(12)~~) (11) Inmate, student, part-time, or temporary employees,  
19 and part-time professional consultants, as defined by the state  
20 personnel board or the board having jurisdiction;

21 (~~(13)~~) (12) The public printer or to any employees of or  
22 positions in the state printing plant;

23 (~~(14)~~) (13) Officers and employees of the Washington state fruit  
24 commission;

25 (~~(15)~~) (14) Officers and employees of the Washington state apple  
26 advertising commission;

27 (~~(16)~~) (15) Officers and employees of the Washington state dairy  
28 products commission;

29 (~~(17)~~) (16) Officers and employees of the Washington tree fruit  
30 research commission;

1       (~~(18)~~) (17) Officers and employees of the Washington state beef  
2 commission;

3       (~~(19)~~) (18) Officers and employees of any commission formed under  
4 the provisions of chapter 191, Laws of 1955, and chapter 15.66 RCW;

5       (~~(20)~~) (19) Officers and employees of the state wheat commission  
6 formed under the provisions of chapter 87, Laws of 1961 (chapter 15.63  
7 RCW);

8       (~~(21)~~) (20) Officers and employees of agricultural commissions  
9 formed under the provisions of chapter 256, Laws of 1961 (chapter 15.65  
10 RCW);

11       (~~(22)~~) (21) Officers and employees of the nonprofit corporation  
12 formed under chapter 67.40 RCW;

13       (~~(23)~~) (22) Liquor vendors appointed by the Washington state  
14 liquor control board pursuant to RCW 66.08.050: PROVIDED, HOWEVER,  
15 That rules and regulations adopted by the state personnel board  
16 pursuant to RCW 41.06.150 regarding the basis for, and procedures to be  
17 followed for, the dismissal, suspension, or demotion of an employee,  
18 and appeals therefrom shall be fully applicable to liquor vendors  
19 except those part time agency vendors employed by the liquor control  
20 board when, in addition to the sale of liquor for the state, they sell  
21 goods, wares, merchandise, or services as a self-sustaining private  
22 retail business;

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

1       (~~(25)~~) (24) In each agency with fifty or more employees: Deputy  
2 agency heads, assistant directors or division directors, and not more  
3 than three principal policy assistants who report directly to the  
4 agency head or deputy agency heads;

5       (~~(26)~~) (25) All employees of the marine employees' commission;

6       (~~(27)~~) (26) Up to a total of five senior staff positions of the  
7 western library network under chapter 27.26 RCW responsible for  
8 formulating policy or for directing program management of a major  
9 administrative unit. This subsection shall expire on June 30, 1997;

10       (~~(28)~~) (27) In addition to the exemptions specifically provided  
11 by this chapter, the state personnel board may provide for further  
12 exemptions pursuant to the following procedures. The governor or other  
13 appropriate elected official may submit requests for exemption to the  
14 personnel board stating the reasons for requesting such exemptions.  
15 The personnel board shall hold a public hearing, after proper notice,  
16 on requests submitted pursuant to this subsection. If the board  
17 determines that the position for which exemption is requested is one  
18 involving substantial responsibility for the formulation of basic  
19 agency or executive policy or one involving directing and controlling  
20 program operations of an agency or a major administrative division  
21 thereof, the personnel board shall grant the request and such  
22 determination shall be final. The total number of additional exemptions  
23 permitted under this subsection shall not exceed one hundred  
24 eighty-seven for those agencies not directly under the authority of any  
25 elected public official other than the governor, and shall not exceed  
26 a total of twenty-five for all agencies under the authority of elected  
27 public officials other than the governor. The state personnel board  
28 shall report to each regular session of the legislature during an  
29 odd-numbered year all exemptions granted under subsections (23), (24),

1 (~~(+25+)~~) and (~~(+28+)~~) (27) of this section, together with the reasons  
2 for such exemptions.

3 The salary and fringe benefits of all positions presently or  
4 hereafter exempted except for the chief executive officer of each  
5 agency, full-time members of boards and commissions, administrative  
6 assistants and confidential secretaries in the immediate office of an  
7 elected state official, and the personnel listed in subsections  
8 (~~(+10+)~~) (9) through (~~(+22+)~~) (21) of this section, shall be determined  
9 by the state personnel board.

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

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

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

24 **Sec. 34.** RCW 41.06.110 and 1984 c 287 s 69 are each amended to  
25 read as follows:

26 (1) There is hereby created a state personnel board composed of  
27 three members appointed by the governor, subject to confirmation by the  
28 senate. The first such board shall be appointed within thirty days  
29 after December 8, 1960, for terms of two, four, and six years. Each

1 odd-numbered year thereafter the governor shall appoint a member for a  
2 six-year term. Each member shall continue to hold office after the  
3 expiration of the member's term until a successor has been appointed.  
4 Persons so appointed shall have clearly demonstrated an interest and  
5 belief in the merit principle, shall not hold any other employment with  
6 the state, shall not have been an officer of a political party for a  
7 period of one year immediately prior to such appointment, and shall not  
8 be or become a candidate for partisan elective public office during the  
9 term to which they are appointed((?)).

10 (2) Each member of the board shall be compensated in accordance  
11 with RCW 43.03.250. The members of the board may receive any number of  
12 daily payments for official meetings of the board actually attended.  
13 Members of the board shall also be reimbursed for travel expenses  
14 incurred in the discharge of their official duties in accordance with  
15 RCW 43.03.050 and 43.03.060.

16 (3) At its first meeting following the appointment of all of its  
17 members, and annually thereafter, the board shall elect a chairman and  
18 vice chairman from among its members to serve one year. The presence  
19 of at least two members of the board shall constitute a quorum to  
20 transact business. A written public record shall be kept by the board  
21 of all actions of the board. The director of personnel shall serve as  
22 secretary.

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

28 **Sec. 35.** RCW 41.06.150 and 1990 c 60 s 103 are each amended to  
29 read as follows:

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

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

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

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

15       (4) Appointments;

16       (5) Training and career development;

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

21       (7) Transfers;

22       (8) Sick leaves and vacations;

23       (9) Hours of work;

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

26       (11) ~~((Determination of appropriate bargaining units within any  
27 agency:—PROVIDED, That in making such determination the board shall  
28 consider the duties, skills, and working conditions of the employees,  
29 the history of collective bargaining by the employees and their~~

1 bargaining representatives, the extent of organization among the  
2 employees, and the desires of the employees;

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

1 programs, and such employee shall not be a member of the union but is  
2 entitled to all the representation rights of a union member;

3 ~~(13) Agreements between agencies and certified exclusive bargaining~~  
4 ~~representatives providing for grievance procedures and collective~~  
5 ~~negotiations on all personnel matters over which the appointing~~  
6 ~~authority of the appropriate bargaining unit of such agency may~~  
7 ~~lawfully exercise discretion;~~

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

15 ~~(15)) Adoption and revision of a comprehensive classification plan~~  
16 ~~for all positions in the classified service, based on investigation and~~  
17 ~~analysis of the duties and responsibilities of each such position;~~

18 ~~((16)) (12) Allocation and reallocation of positions within the~~  
19 ~~classification plan;~~

20 ~~((17)) (13) Adoption and revision of a state salary schedule to~~  
21 ~~reflect the prevailing rates in Washington state private industries and~~  
22 ~~other governmental units but the rates in the salary schedules or plans~~  
23 ~~shall be increased if necessary to attain comparable worth under an~~  
24 ~~implementation plan under RCW 41.06.155, such adoption and revision~~  
25 ~~subject to approval by the director of financial management in~~  
26 ~~accordance with the provisions of chapter 43.88 RCW;~~

27 ~~((18)) (14) Increment increases within the series of steps for~~  
28 ~~each pay grade based on length of service for all employees whose~~  
29 ~~standards of performance are such as to permit them to retain job~~  
30 ~~status in the classified service;~~

1       (~~(19)~~) (15) Providing for veteran's preference as required by  
2 existing statutes, with recognition of preference in regard to layoffs  
3 and subsequent reemployment for veterans and their widows by giving  
4 such eligible veterans and their widows additional credit in computing  
5 their seniority by adding to their unbroken state service, as defined  
6 by the board, the veteran's service in the military not to exceed five  
7 years. For the purposes of this section, "veteran" means any person who  
8 has one or more years of active military service in any branch of the  
9 armed forces of the United States or who has less than one year's  
10 service and is discharged with a disability incurred in the line of  
11 duty or is discharged at the convenience of the government and who,  
12 upon termination of such service has received an honorable discharge,  
13 a discharge for physical reasons with an honorable record, or a release  
14 from active military service with evidence of service other than that  
15 for which an undesirable, bad conduct, or dishonorable discharge shall  
16 be given: PROVIDED, HOWEVER, That the widow of a veteran is entitled to  
17 the benefits of this section regardless of the veteran's length of  
18 active military service: PROVIDED FURTHER, That for the purposes of  
19 this section "veteran" does not include any person who has voluntarily  
20 retired with twenty or more years of active military service and whose  
21 military retirement pay is in excess of five hundred dollars per month;

22       (~~(20)~~) (16) Permitting agency heads to delegate the authority to  
23 appoint, reduce, dismiss, suspend, or demote employees within their  
24 agencies if such agency heads do not have specific statutory authority  
25 to so delegate: PROVIDED, That the board may not authorize such  
26 delegation to any position lower than the head of a major subdivision  
27 of the agency;

28       (~~(21)~~) ~~Assuring persons who are or have been employed in classified~~  
29 ~~positions under chapter 28B.16 RCW will be eligible for employment,~~

1 reemployment, transfer, and promotion in respect to classified  
2 positions covered by this chapter;

3       (22)) (17) Affirmative action in appointment, promotion, transfer,  
4 recruitment, training, and career development; development and  
5 implementation of affirmative action goals and timetables; and  
6 monitoring of progress against those goals and timetables.

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

12       **Sec. 36.** RCW 41.06.170 and 1981 c 311 s 19 are each amended to  
13 read as follows:

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

23       (2) Any employee who is reduced, dismissed, suspended, or demoted,  
24 after completing his probationary period of service as provided by the  
25 rules and regulations of the board, or any employee who is adversely  
26 affected by a violation of the state civil service law, chapter 41.06  
27 RCW, as now or hereafter amended, or rules promulgated pursuant  
28 thereto, shall have the right to appeal to the ((personnel appeals))  
29 board ((created by RCW 41.64.010)) not later than thirty days after the

1 effective date of such action. The employee shall be furnished with  
2 specified charges in writing when a reduction, dismissal, suspension,  
3 or demotion action is taken. Such appeal shall be in writing.

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

9 **Sec. 37.** RCW 4.24.490 and 1989 c 413 s 3 are each amended to read  
10 as follows:

11 (1) The state shall indemnify and hold harmless its employees in  
12 the amount of any judgment obtained or fine levied against an employee  
13 in any state or federal court, or in the amount of the settlement of a  
14 claim, or shall pay the judgment, fine, or settlement, if the act or  
15 omission that gave rise to the civil or criminal liability was in good  
16 faith and occurred while the employee was acting within the scope of  
17 his or her employment or duties and the employee is being represented  
18 in accordance with RCW 4.92.070.

19 (2) For purposes of this section "state employee" means a member of  
20 the civil service or an exempt person under chapter 41.06 RCW ~~((or~~  
21 ~~higher education personnel under chapter 28B.16 RCW))~~.

22 **Sec. 38.** RCW 28B.10.824 and 1973 c 62 s 5 are each amended to read  
23 as follows:

24 Subject to the provisions of chapter ~~((28B.16))~~ 41.06 RCW, the  
25 state ~~((higher education personnel))~~ civil service law, the commission  
26 shall appoint an executive director as chief administrator of the  
27 commission, and such employees as it deems advisable, and shall fix  
28 their compensation and prescribe their duties.

1       **Sec. 39.** RCW 28B.10.650 and 1985 c 370 s 53 are each amended to  
2 read as follows:

3       It is the intent of the legislature that when the state and  
4 regional universities, The Evergreen State College, and community  
5 colleges grant professional leaves to faculty and exempt staff, such  
6 leaves be for the purpose of providing opportunities for study,  
7 research, and creative activities for the enhancement of the  
8 institution's instructional and research programs.

9       The boards of regents of the state universities, the boards of  
10 trustees of the regional universities and of The Evergreen State  
11 College and the board of trustees of each community college district  
12 may grant remunerated professional leaves to faculty members and exempt  
13 staff, as defined in RCW 28B.16.040, in accordance with regulations  
14 adopted by the respective governing boards for periods not to exceed  
15 twelve consecutive months in accordance with the following provisions:

16       (1) The remuneration from state general funds and general local  
17 funds for any such leave granted for any academic year shall not exceed  
18 the average of the highest quartile of a rank order of salaries of all  
19 full time teaching faculty holding academic year contracts or  
20 appointments at the institution or in the district.

21       (2) Remunerated professional leaves for a period of more or less  
22 than an academic year shall be compensated at rates not to exceed a  
23 proportional amount of the average salary as otherwise calculated for  
24 the purposes of subsection (1) of this section.

25       (3) The grant of any such professional leave shall be contingent  
26 upon a signed contractual agreement between the respective governing  
27 board and the recipient providing that the recipient shall return to  
28 the granting institution or district following his or her completion of  
29 such leave and serve in a professional status for a period commensurate  
30 with the amount of leave so granted. Failure to comply with the

1 provisions of such signed agreement shall constitute an obligation of  
2 the recipient to repay to the institution any remuneration received  
3 from the institution during the leave.

4 (4) The aggregate cost of remunerated professional leaves awarded  
5 at the institution or district during any year, including the cost of  
6 replacement personnel, shall not exceed the cost of salaries which  
7 otherwise would have been paid to personnel on leaves: PROVIDED, That  
8 for community college districts the aggregate cost shall not exceed one  
9 hundred fifty percent of the cost of salaries which would have  
10 otherwise been paid to personnel on leaves: PROVIDED FURTHER, That this  
11 subsection shall not apply to any community college district with fewer  
12 than seventy-five full time faculty members and granting fewer than  
13 three individuals such leaves in any given year.

14 (5) The average number of annual remunerated professional leaves  
15 awarded at any such institution or district shall not exceed four  
16 percent of the total number of full time equivalent faculty, as defined  
17 by the office of financial management, who are engaged in instruction,  
18 and exempt staff as defined in ((RCW 28B.16.040)) chapter 41.06 RCW.

19 (6) Negotiated agreements made in accordance with chapter 28B.52  
20 RCW and entered into after July 1, 1977, shall be in conformance with  
21 the provisions of this section.

22 (7) The respective institutions and districts shall maintain such  
23 information which will ensure compliance with the provisions of this  
24 section. The higher education coordinating board shall periodically  
25 request such information as to ensure institutions are in compliance.

26 **Sec. 40.** RCW 28B.12.060 and 1987 c 330 s 202 are each amended to  
27 read as follows:

28 The higher education coordinating board shall adopt rules and  
29 regulations as may be necessary or appropriate for effecting the

1 provisions of this chapter, and not in conflict with this chapter, in  
2 accordance with the provisions of chapter ((28B.19)) 34.05 RCW, the  
3 ((state higher education)) administrative procedure act. Such rules  
4 and regulations shall include provisions designed to make employment  
5 under such work-study program reasonably available, to the extent of  
6 available funds, to all eligible students in eligible post-secondary  
7 institutions in need thereof. Such rules and regulations shall  
8 include:

9 (1) Providing work under the college work-study program which will  
10 not result in the displacement of employed workers or impair existing  
11 contracts for services.

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

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

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

21 (c) Is not pursuing a degree in theology.

22 (3) Placing priority on the securing of work opportunities for  
23 students who are residents of the state of Washington as defined in RCW  
24 28B.15.011 through 28B.15.014.

25 (4) Provisions to assure that in the state institutions of higher  
26 education utilization of this student work-study program:

27 (a) Shall only supplement and not supplant classified positions  
28 under jurisdiction of chapter ((28B.16)) 41.06 RCW;

29 (b) That all positions established which are comparable shall be  
30 identified to a job classification under the ((higher education)) state

1 personnel board's classification plan and shall receive equal  
2 compensation;

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

5 (d) That work study positions shall only be established at entry  
6 level positions of the classified service.

7 **Sec. 41.** RCW 28B.15.558 and 1990 c 88 s 1 are each amended to read  
8 as follows:

9 (1) The governing boards of state institutions of higher education  
10 as defined in RCW 28B.10.016 may waive the tuition and services and  
11 activities fees for state employees as defined under subsection (2) of  
12 this section pursuant to the following conditions:

13 (a) Such state employees shall register for and be enrolled in  
14 courses on a space available basis and no new course sections shall be  
15 created as a result of the registration;

16 (b) Enrollment information on state employees registered pursuant  
17 to this section shall be maintained separately from other enrollment  
18 information and shall not be included in official enrollment reports,  
19 nor shall such state employees be considered in any enrollment  
20 statistics which would affect budgetary determinations; and

21 (c) State employees registering on a space available basis shall be  
22 charged a registration fee of not less than five dollars.

23 (2) For the purposes of this section, "state employees" means  
24 permanent full-time employees in classified service under chapter(~~s~~  
25 ~~28B.16 and~~) 41.06 RCW.

26 **Sec. 42.** RCW 28B.50.060 and 1975-'76 2nd ex.s. c 34 s 75 are each  
27 amended to read as follows:

1 A director of the state system of community colleges shall be  
2 appointed by the college board and shall serve at the pleasure of the  
3 college board. He shall be appointed with due regard to his fitness  
4 and background in education, by his knowledge of and recent practical  
5 experience in the field of educational administration particularly in  
6 institutions beyond the high school level. The college board may also  
7 take into consideration an applicant's proven management background  
8 even though not particularly in the field of education.

9 The director shall devote his time to the duties of his office and  
10 shall not have any direct pecuniary interest in or any stock or bonds  
11 of any business connected with or selling supplies to the field of  
12 education within this state, in keeping with chapter 42.18 RCW, the  
13 executive conflict of interest act.

14 He shall receive a salary to be fixed by the college board and  
15 shall be reimbursed for travel expenses incurred by him in the  
16 discharge of his official duties in accordance with RCW 43.03.050 and  
17 43.03.060, as now existing or hereafter amended.

18 He shall be the executive officer of the college board and serve as  
19 its secretary and under its supervision shall administer the provisions  
20 of this chapter and the rules, regulations and orders established  
21 thereunder and all other laws of the state. He shall attend, but not  
22 vote at, all meetings of the college board. He shall be in charge of  
23 offices of the college board and responsible to the college board for  
24 the preparation of reports and the collection and dissemination of data  
25 and other public information relating to the state system of community  
26 colleges. At the direction of the college board, he shall, together  
27 with the chairman of the college board, execute all contracts entered  
28 into by the college board.

29 The director shall, with the approval of the college board: (1)  
30 Employ necessary assistant directors of major staff divisions who shall

1 serve at his pleasure on such terms and conditions as he determines,  
2 and (2) subject to the provisions of chapter ((28B.16)) 41.06 RCW, the  
3 ((higher education personnel)) state civil service law, the director  
4 shall, with the approval of the college board, appoint and employ such  
5 field and office assistants, clerks and other employees as may be  
6 required and authorized for the proper discharge of the functions of  
7 the college board and for whose services funds have been appropriated.

8 The board may, by written order filed in its office, delegate to  
9 the director any of the powers and duties vested in or imposed upon it  
10 by this chapter. Such delegated powers and duties may be exercised by  
11 the director in the name of the college board.

12 **Sec. 43.** RCW 28B.80.350 and 1988 c 172 s 4 are each amended to  
13 read as follows:

14 The board shall coordinate educational activities among all  
15 segments of higher education taking into account the educational  
16 programs, facilities, and other resources of both public and  
17 independent two and four-year colleges and universities. The four-year  
18 institutions and the state board for community college education shall  
19 coordinate information and activities with the board. The board shall  
20 have the following additional responsibilities:

21 (1) Promote interinstitutional cooperation;

22 (2) Establish minimum admission standards for four-year  
23 institutions, including a requirement that coursework in sign language  
24 shall satisfy any foreign language requirement the board or the  
25 institutions may establish as a general undergraduate admissions  
26 requirement;

27 (3) Establish transfer policies;

28 (4) Adopt rules implementing statutory residency requirements;

1 (5) Develop and administer reciprocity agreements with bordering  
2 states and the province of British Columbia;

3 (6) Review and recommend compensation practices and levels for  
4 administrative employees, exempt under chapter ((28B.16)) 41.06 RCW,  
5 and faculty using comparative data from peer institutions;

6 (7) Monitor higher education activities for compliance with all  
7 relevant state policies for higher education;

8 (8) Arbitrate disputes between and among four-year institutions or  
9 between and among four-year institutions and community colleges at the  
10 request of one or more of the institutions involved, or at the request  
11 of the governor, or from a resolution adopted by the legislature. The  
12 decision of the board shall be binding on the participants in the  
13 dispute;

14 (9) Establish and implement a state system for collecting,  
15 analyzing, and distributing information;

16 (10) Recommend to the governor and the legislature ways to remove  
17 any economic incentives to use off-campus program funds for on-campus  
18 activities; and

19 (11) Make recommendations to increase minority participation, and  
20 monitor and report on the progress of minority participation in higher  
21 education.

22 **Sec. 44.** RCW 28B.80.430 and 1987 c 330 s 301 are each amended to  
23 read as follows:

24 The board shall employ a director and may delegate agency  
25 management to the director. The director shall serve at the pleasure  
26 of the board, shall be the executive officer of the board, and shall,  
27 under the board's supervision, administer the provisions of this  
28 chapter. The executive director shall, with the approval of the board:

29 (1) Employ necessary deputy and assistant directors and other exempt

1 staff under chapter ((28B.16)) 41.06 RCW who shall serve at his or her  
2 pleasure on such terms and conditions as he or she determines and (2)  
3 subject to the provisions of chapter ((28B.16)) 41.06 RCW, appoint and  
4 employ such other employees as may be required for the proper discharge  
5 of the functions of the board. The executive director shall exercise  
6 such additional powers, other than rulemaking, as may be delegated by  
7 the board by resolution. In fulfilling the duties under this chapter,  
8 the board shall make extensive use of those state agencies with  
9 responsibility for implementing and supporting postsecondary education  
10 plans and policies including but not limited to appropriate legislative  
11 groups, the postsecondary education institutions, the office of  
12 financial management, ((the commission for vocational education,)) and  
13 the state board for community college education. Outside consulting  
14 and service agencies may also be employed. The board may compensate  
15 these groups and consultants in appropriate ways.

16 **Sec. 45.** RCW 28C.15.020 and 1987 c 492 s 2 are each amended to  
17 read as follows:

18 (1) The governor is authorized to form a public nonprofit  
19 corporation in the same manner as a private nonprofit corporation is  
20 formed under chapter 24.03 RCW. The public corporation shall be an  
21 instrumentality of the state and have all the powers and be subject to  
22 the same restrictions as are permitted or prescribed to private  
23 nonprofit corporations, but shall exercise those powers only for  
24 carrying out the purposes of this chapter and those purposes  
25 necessarily implied therefrom. The governor shall appoint a board of  
26 fifteen directors for the corporation who shall serve terms of six  
27 years. The governor shall appoint the members as follows: Nine members  
28 shall represent the business community, three members shall represent  
29 the sixth community college district board of trustees, and three shall

1 represent the Seattle school board. The terms of the initial members  
2 shall be staggered. The directors may provide for the payment of their  
3 expenses. The corporation may cause a vocational technical center to  
4 be designed and constructed on a site in the city of Seattle. The  
5 center shall be named the Washington institute of applied technology.

6 (2) The powers and duties of the directors shall include:

7 (a) Having full authority and responsibility for management, policy  
8 decisions, curriculum development, and resource allocations involving  
9 the center;

10 (b) Employing a director of the center, who shall serve at the  
11 pleasure of the directors of the corporation;

12 (c) Working with the Seattle school district and the sixth  
13 community college district to use existing resources of the Seattle  
14 school district and the sixth community college district to provide  
15 services for all normal operating functions of the center, including  
16 but not limited to, payroll, personnel, accounting, and disbursement of  
17 funds, as authorized by the director;

18 (d) Working closely with the office of the superintendent of public  
19 instruction on all fiscal matters;

20 (e) Negotiating an agreement with the sixth community college  
21 district and the Seattle school district which will commit all parties  
22 to a plan of governance and operation of the center and the plan shall  
23 be completed and agreed upon within forty-five days after May 19, 1987;

24 (f) Hiring staff as necessary to negotiate, with the approval of  
25 the directors, with the applicable public or private service providers  
26 to conduct the instructional activities of the center. However, the  
27 directors shall not hire instructional staff or faculty;

28 (g) Designing and implementing the programs offered through the  
29 center, but the directors shall not cause a training program in the

1 construction trades to be offered unless the program is approved by  
2 recognized trade groups in this state and the directors;

3 (h) Awarding appropriate diplomas or certificates of completion, or  
4 other evidence of satisfactory performance may be awarded as  
5 appropriate;

6 (i) Initiating and causing to be conducted research regarding the  
7 needs of businesses and industries in the region and the state for a  
8 work force with appropriate training and evaluating the center's  
9 programs and courses based upon the research;

10 (j) Preparing a budget for the center consistent with the  
11 requirements applicable to common school districts;

12 (k) Receiving such gifts, grants, and endowments from public or  
13 private sources as may be made from time to time, in trust or  
14 otherwise, for the use and benefit of the purposes of the center and  
15 expend the same or any income therefrom according to the terms of the  
16 gifts, grants, or endowments; and

17 (l) Charging tuition and fees that shall not be higher than that  
18 provided for community colleges under RCW 28B.15.502 and that comply  
19 with the applicable provisions under chapter 28B.15 RCW, including but  
20 not limited to the provisions defining "resident student," and the  
21 board may provide for waivers of tuition and fees and provide  
22 scholarships.

23 (3) The directors shall enter into contracts with participating  
24 school districts that provide for a school district to reimburse the  
25 center for the costs of a student enrolled in a school in that district  
26 attending a course or courses at the center. The reimbursement shall  
27 not exceed the proportionate amount of full time equivalent funding  
28 received by the district for that student, and for state-funding  
29 purposes such student shall be deemed to be attending courses in the  
30 applicable school district.

1 (4) The corporation may acquire and transfer real and personal  
2 property by lease, purchase, or sale, and further acquire property by  
3 gift, accept grants, cause the vocational technical center facilities  
4 to be constructed if funds are so appropriated, and do whatever is  
5 necessary or appropriate to carry out those purposes. The corporation  
6 shall maintain, operate, promote, and manage the vocational technology  
7 center.

8 (5) In order to allow the corporation flexibility in its personnel  
9 policies, the corporation is exempt from chapter 41.06 RCW, chapter  
10 41.05 RCW, RCW 43.01.040 through 43.01.044, chapter 41.04 RCW;  
11 (~~chapter 28B.16 RCW~~) and chapter 41.40 RCW.

12 **Sec. 46.** RCW 34.12.020 and 1989 c 175 s 33 are each amended to  
13 read as follows:

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

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

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

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

23 (4) "State agency" means any state board, commission, department,  
24 or officer authorized by law to make rules or to conduct adjudicative  
25 proceedings, except those in the legislative or judicial branches, the  
26 pollution control hearings board, the shorelines hearings board, the  
27 forest practices appeals board, the environmental hearings office, the  
28 board of industrial insurance appeals, the state personnel board, the  
29 (~~higher education personnel board~~) state employees' relations

1 commission, the public employment relations commission, the personnel  
2 appeals board, and the board of tax appeals.

3 **Sec. 47.** RCW 41.04.340 and 1990 c 162 s 1 are each amended to read  
4 as follows:

5 As used in this section the term "eligible employee" means any  
6 employee of the state, other than teaching and research faculty at the  
7 state and regional universities and The Evergreen State College,  
8 entitled to accumulate sick leave and for whom accurate sick leave  
9 records have been maintained. No employee may receive compensation  
10 under this section for any portion of sick leave accumulated at a rate  
11 in excess of one day per month. The state and regional universities  
12 and The Evergreen State College shall maintain complete and accurate  
13 sick leave records for all teaching and research faculty.

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

24 At the time of separation from state service due to retirement or  
25 death, an eligible employee or the employee's estate shall receive  
26 remuneration at a rate equal to one day's current monetary compensation  
27 of the employee for each four full days of accrued sick leave:  
28 PROVIDED, That community college districts may delay until July 1,  
29 1981, payment due any eligible employee or employee's estate: PROVIDED

1 FURTHER, That there shall be added to any such delayed payment interest  
2 at the rate of eight percent per year.

3 Moneys received under this section shall not be included for the  
4 purpose of computing a retirement allowance under any public retirement  
5 system in this state.

6 This section shall be administered, and rules shall be promulgated  
7 to carry out its purposes, by the state personnel board (~~and the~~  
8 ~~higher education personnel board~~) for persons subject to chapter(~~s~~)  
9 41.06 (~~and 28B.16~~) RCW(~~, respectively~~), and by their respective  
10 personnel authorities for other eligible employees: PROVIDED, That  
11 determination of classes of eligible employees shall be subject to  
12 approval by the office of financial management.

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

16 **Sec. 48.** RCW 41.04.670 and 1990 c 23 s 3 are each amended to read  
17 as follows:

18 The state personnel board(~~, the higher education personnel~~  
19 ~~board,~~) and other personnel authorities shall each adopt rules  
20 applicable to employees under their respective jurisdictions: (1)  
21 Establishing appropriate parameters for the program which are  
22 consistent with the provisions of RCW 41.04.650 through 41.04.665; (2)  
23 providing for equivalent treatment of employees between their  
24 respective jurisdictions and allowing transfers of leave in accordance  
25 with RCW 41.04.665(5); (3) establishing procedures to ensure that the  
26 program does not significantly increase the cost of providing leave;  
27 and (4) providing for the administration of the program and providing  
28 for maintenance and collection of sufficient information on the program  
29 to allow a thorough legislative review.

1       **Sec. 49.** RCW 41.06.079 and 1985 c 178 s 1 are each amended to read  
2 as follows:

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

24       **Sec. 50.** RCW 41.06.155 and 1983 1st ex.s. c 75 s 6 are each  
25 amended to read as follows:

26       Salary changes necessary to achieve comparable worth shall be  
27 implemented during the 1983-85 biennium under a schedule developed by  
28 the department (~~(in cooperation with the higher education personnel~~  
29 ~~board)~~). Increases in salaries and compensation solely for the purpose

1 of achieving comparable worth shall be made at least annually.  
2 Comparable worth for the jobs of all employees under this chapter shall  
3 be fully achieved not later than June 30, 1993.

4 **Sec. 51.** RCW 41.06.160 and 1985 c 94 s 2 are each amended to read  
5 as follows:

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

1 In the case of comprehensive salary and fringe benefit surveys, the  
2 department shall furnish the following supplementary data in support of  
3 its recommended salary schedule:

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

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

16 (3) A list of class codes and titles indicating recommended monthly  
17 salary ranges for all state classes under the control of the department  
18 of personnel with( (+

19 (a)) those salary ranges which do not substantially conform to the  
20 prevailing rates developed from the salary and fringe benefit survey  
21 distinctly marked and an explanation of the reason for the deviation  
22 included; ((and

23 (b) ~~Those department of personnel classes which are substantially~~  
24 ~~the same as classes being used by the higher education personnel board~~  
25 ~~clearly marked to show the commonality of the classes between the two~~  
26 ~~jurisdictions;))~~

27 (4) A supplemental salary schedule which indicates the additional  
28 salary to be paid state employees for hazardous duties or other  
29 considerations requiring extra compensation under specific  
30 circumstances. Additional compensation for these circumstances shall

1 not be included in the basic salary schedule but shall be maintained as  
2 a separate pay schedule for purposes of full disclosure and visibility;  
3 and

4 (5) A supplemental salary schedule which indicates those cases  
5 where the board determines that prevailing rates do not provide similar  
6 salaries for positions that require or impose similar responsibilities,  
7 judgment, knowledge, skills, and working conditions. This  
8 supplementary salary schedule shall contain proposed salary adjustments  
9 necessary to eliminate any such dissimilarities in compensation.  
10 Additional compensation needed to eliminate such salary dissimilarities  
11 shall not be included in the basic salary schedule but shall be  
12 maintained as a separate salary schedule for purposes of full  
13 disclosure and visibility.

14 It is the intention of the legislature that requests for funds to  
15 support recommendations for salary deviations from the prevailing rate  
16 survey data shall be kept to a minimum, and that the requests be fully  
17 documented when forwarded by the department of personnel. (~~Further,~~  
18 ~~it is the intention of the legislature that the department of personnel~~  
19 ~~and the higher education personnel board jointly determine job classes~~  
20 ~~which are substantially common to both jurisdictions and that basic~~  
21 ~~salaries for these job classes shall be equal based on salary and~~  
22 ~~fringe benefit survey findings.))~~

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

27 The first comprehensive salary and fringe benefit survey required  
28 by this section shall be completed and forwarded to the governor and  
29 the director of financial management by September 30, 1986. The first  
30 trend salary and fringe benefit survey required by this section shall

1 be completed and forwarded to the governor and the director of  
2 financial management by September 30, 1988.

3 **Sec. 52.** RCW 41.06.163 and 1987 c 185 s 9 are each amended to read  
4 as follows:

5 (1) In the conduct of salary and fringe benefit surveys under RCW  
6 41.06.160 (~~as now or hereafter amended~~), it is the intention of the  
7 legislature that the surveys be undertaken in a manner consistent with  
8 statistically accurate sampling techniques. For this purpose, a  
9 comprehensive salary and fringe benefit survey plan shall be submitted  
10 to the director of financial management, employee organizations, and  
11 the standing committees for appropriations of the senate and house of  
12 representatives six months before the beginning of each periodic survey  
13 required before regular legislative sessions. This comprehensive plan  
14 shall include but not be limited to the following:

15 (a) A complete explanation of the technical, statistical process to  
16 be used in the salary and fringe benefit survey including the  
17 percentage of accuracy expected from the planned statistical sample  
18 chosen for the survey and a definition of the term "prevailing rates"  
19 which is to be used in the planned survey;

20 (b) A comprehensive salary and fringe benefit survey model based on  
21 scientific statistical principles which:

22 (i) Encompasses the interrelationships among the various elements  
23 of the survey sample including sources of salary and fringe benefit  
24 data by organization type, size, and regional location;

25 (ii) Is representative of private and public employment in this  
26 state;

27 (iii) Ensures that, wherever practical, data from smaller, private  
28 firms are included and proportionally weighted in the survey sample;  
29 and

1 (iv) Indicates the methodology to be used in application of survey  
2 data to job classes used by state government;

3 (c) A prediction of the increase or decrease in total funding  
4 requirements expected to result from the pending salary and fringe  
5 benefit survey based on consumer price index information and other  
6 available trend data pertaining to Washington state salaries and fringe  
7 benefits.

8 (2) Every comprehensive survey plan shall fully consider fringe  
9 benefits as an element of compensation in addition to basic salary  
10 data. The plans prepared under this section shall be developed  
11 ~~((jointly))~~ by the department of personnel ~~((in conjunction with the  
12 higher education personnel board established under chapter 28B.16 RCW.  
13 All comprehensive salary and fringe benefit survey plans shall be  
14 submitted on a joint signature basis by the department of personnel and  
15 the higher education personnel board))~~.

16 (3) Interim or special surveys conducted under RCW 41.06.160 as now  
17 or hereafter amended shall conform when possible to the statistical  
18 techniques and principles developed for regular periodic surveys under  
19 this section.

20 (4) The term "fringe benefits" as used in this section and in  
21 conjunction with salary surveys shall include but not be limited to  
22 compensation for:

23 (a) Leave time, including vacation, holiday, civil, and personal  
24 leave;

25 (b) Employer retirement contributions;

26 (c) Health and insurance payments, including life, accident, and  
27 health insurance, workers' compensation, and sick leave; and

28 (d) Stock options, bonuses, and purchase discounts where  
29 appropriate.

1       **Sec. 53.** RCW 41.48.140 and 1979 c 152 s 3 are each amended to read  
2 as follows:

3       Nothing in RCW 41.48.120 or 41.48.130 shall affect the power of the  
4 state personnel board(~~(, the higher education personnel board,)~~) or any  
5 other state personnel authority to establish sick leave regulations  
6 except as may be required under RCW 41.48.120 or 41.48.130: PROVIDED,  
7 That each personnel board and personnel authority shall establish the  
8 maximum number of working days an employee under its jurisdiction may  
9 be absent on account of sickness or accident disability without a  
10 medical certificate.

11       "Personnel authority" as used in this section, means a state  
12 agency, board, committee, or similar body having general authority to  
13 establish personnel regulations.

14       **Sec. 54.** RCW 41.60.015 and 1987 c 387 s 2 are each amended to read  
15 as follows:

16       (1) There is hereby created the productivity board. The board  
17 shall administer the employee suggestion program under this chapter and  
18 shall review applications for teamwork incentive pay for state  
19 employees under RCW 41.60.100, 41.60.110, and 41.60.120.

20       (2) The board shall be composed of:

21       (a) The secretary of state who shall act as chairperson;

22       (b) The director of personnel appointed under the provisions of RCW  
23 41.06.130 or the director's designee;

24       (c) The director of financial management or the director's  
25 designee;

26       (d) ~~((The personnel director appointed under the provisions of RCW  
27 28B.16.060 or the director's designee;~~

28       (e)) The director of general administration or the director's  
29 designee;

1       (~~(f)~~) (e) Three persons with experience in administering  
2 incentives such as those used by industry, with the governor,  
3 lieutenant governor, and speaker of the house of representatives each  
4 appointing one person. The governor's appointee shall be a  
5 representative of an employee organization certified as an exclusive  
6 representative of at least one bargaining unit of classified employees,  
7 but no one organization may be represented for two consecutive terms;

8       (~~(g)~~) (f) One person representing state agencies and institutions  
9 with employees subject to chapter 41.06 RCW(~~(, and one person~~  
10 ~~representing those subject to chapter 28B.16 RCW, both)~~) to be  
11 appointed by the governor; and

12       (~~(h)~~) (g) In addition, the governor and board chairperson may  
13 jointly appoint persons to the board on an ad hoc basis. Ad hoc members  
14 shall serve in an advisory capacity and shall not have the right to  
15 vote.

16       Members under subsection (2) (e) and (f) (~~and (g)~~) of this  
17 section shall be appointed to serve three-year terms.

18       Members of the board appointed pursuant to subsection (2)(~~(f)~~)  
19 (e) of this section may be compensated in accordance with RCW  
20 43.03.240. Any board member who is not a state employee may be  
21 reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

22       **Sec. 55.** RCW 42.17.2401 and 1989 1st ex.s. c 9 s 812 are each  
23 amended to read as follows:

24       For the purposes of RCW 42.17.240, the term "executive state  
25 officer" includes:

26       (1) The chief administrative law judge, the director of  
27 agriculture, the administrator of the Washington basic health plan, the  
28 director of the department of services for the blind, the director of  
29 the state system of community colleges, the director of community

1 development, the secretary of corrections, the director of ecology, the  
2 commissioner of employment security, the chairman of the energy  
3 facility site evaluation council, the director of the energy office,  
4 the secretary of the state finance committee, the director of financial  
5 management, the director of fisheries, the executive secretary of the  
6 forest practices appeals board, the director of the gambling  
7 commission, the director of general administration, the secretary of  
8 health, the administrator of the Washington state health care  
9 authority, the executive secretary of the health care facilities  
10 authority, the executive secretary of the higher education facilities  
11 authority, (~~the director of the higher education personnel board,~~)  
12 the executive secretary of the horse racing commission, the executive  
13 secretary of the human rights commission, the executive secretary of  
14 the indeterminate sentence review board, the director of the department  
15 of information services, the director of the interagency committee for  
16 outdoor recreation, the executive director of the state investment  
17 board, the director of labor and industries, the director of licensing,  
18 the director of the lottery commission, the director of the office of  
19 minority and women's business enterprises, the director of parks and  
20 recreation, the director of personnel, the executive director of the  
21 public disclosure commission, the director of retirement systems, the  
22 director of revenue, the secretary of social and health services, the  
23 chief of the Washington state patrol, the executive secretary of the  
24 board of tax appeals, the director of trade and economic development,  
25 the secretary of transportation, the secretary of the utilities and  
26 transportation commission, the director of veterans affairs, the  
27 director of wildlife, the president of each of the regional and state  
28 universities and the president of The Evergreen State College, each  
29 district and each campus president of each state community college;

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

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

2 (4) Central Washington University board of trustees, board of  
3 trustees of each community college, each member of the state board for  
4 community college education, state convention and trade center board of  
5 directors, committee for deferred compensation, Eastern Washington  
6 University board of trustees, Washington economic development finance  
7 authority, The Evergreen State College board of trustees, forest  
8 practices appeals board, forest practices board, gambling commission,  
9 Washington health care facilities authority, state health coordinating  
10 council, higher education coordinating board, higher education  
11 facilities authority, (~~higher education personnel board,~~) horse  
12 racing commission, (~~hospital commission,~~) state housing finance  
13 commission, human rights commission, indeterminate sentence review  
14 board, board of industrial insurance appeals, information services  
15 board, interagency committee for outdoor recreation, state investment  
16 board, liquor control board, lottery commission, oil and gas  
17 conservation committee, Pacific Northwest electric power and  
18 conservation planning council, parks and recreation commission,  
19 personnel appeals board, personnel board, pollution control hearings  
20 board, public disclosure commission, public pension commission,  
21 shorelines hearing board, state employees' benefits board, board of tax  
22 appeals, transportation commission, University of Washington board of  
23 regents, utilities and transportation commission, Washington public  
24 power supply system executive board, Washington State University board  
25 of regents, Western Washington University board of trustees, and  
26 wildlife commission.

27 **Sec. 56.** RCW 41.60.160 and 1987 c 387 s 8 are each amended to read  
28 as follows:

1 No award may be made under this chapter to any elected state  
2 official or state agency director. No monetary award may be made to  
3 persons exempt from the state civil service law under RCW 41.06.070  
4 (~~((+5))~~) (4) or (~~((+9))~~) (8).

5 **Sec. 57.** RCW 42.40.020 and 1989 c 284 s 1 are each amended to read  
6 as follows:

7 As used in this chapter, the terms defined in this section shall  
8 have the meanings indicated unless the context clearly requires  
9 otherwise.

10 (1) "Auditor" means the office of the state auditor.

11 (2) "Employee" means any individual employed or holding office in  
12 any department or agency of state government.

13 (3) (a) "Improper governmental action" means any action by an  
14 employee:

15 (i) Which is undertaken in the performance of the employee's  
16 official duties, whether or not the action is within the scope of the  
17 employee's employment; and

18 (ii) Which is in violation of any state law or rule, is an abuse of  
19 authority, is of substantial and specific danger to the public health  
20 or safety, or is a gross waste of public funds.

21 (b) "Improper governmental action" does not include personnel  
22 actions including but not limited to employee grievances, complaints,  
23 appointments, promotions, transfers, assignments, reassignments,  
24 reinstatements, restorations, reemployments, performance evaluations,  
25 reductions in pay, dismissals, suspensions, demotions, violations of  
26 the state civil service law, alleged labor agreement violations,  
27 reprimands, or any action which may be taken under chapter 41.06 (~~(or~~  
28 ~~28B.16))~~) RCW, or other disciplinary action except as provided in RCW  
29 42.40.030.

1 (4) "Use of official authority or influence" includes taking,  
2 directing others to take, recommending, processing, or approving any  
3 personnel action such as an appointment, promotion, transfer,  
4 assignment, reassignment, reinstatement, restoration, reemployment,  
5 performance evaluation, or any adverse action under chapter 41.06 (~~or~~  
6 ~~28B.16~~) RCW, or other disciplinary action.

7 **Sec. 58.** RCW 43.06.410 and 1985 c 442 s 1 are each amended to read  
8 as follows:

9 There is established within the office of the governor the  
10 Washington state internship program to assist students and state  
11 employees in gaining valuable experience and knowledge in various areas  
12 of state government. In administering the program, the governor shall:

13 (1) Consult with the secretary of state, the director of personnel,  
14 (~~the director of the higher education personnel board,~~) the  
15 commissioner of the employment security department, and representatives  
16 of labor;

17 (2) Encourage and assist agencies in developing intern positions;

18 (3) Develop and coordinate a selection process for placing  
19 individuals in intern positions. This selection process shall give due  
20 regard to the responsibilities of the state to provide equal employment  
21 opportunities;

22 (4) Develop and coordinate a training component of the internship  
23 program which balances the need for training and exposure to new ideas  
24 with the intern's and agency's need for on-the-job work experience;

25 (5) Work with institutions of higher education in developing the  
26 program, soliciting qualified applicants, and selecting participants;  
27 and

28 (6) Develop guidelines for compensation of the participants.

1       **Sec. 59.** RCW 43.06.425 and 1985 c 442 s 4 are each amended to read  
2 as follows:

3       The state personnel board (~~(and the higher education personnel~~  
4 ~~board))~~) shall (~~(each))~~) adopt rules to provide that:

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

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

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

17       (4) Participants in the executive fellows program who were not  
18 public employees prior to accepting a position in the program receive  
19 sick and vacation leave allowances commensurate with other state  
20 employees.

21       **Sec. 60.** RCW 43.23.010 and 1990 c 37 s 1 are each amended to read  
22 as follows:

23       In order to obtain maximum efficiency and effectiveness within the  
24 department of agriculture, the director may create such administrative  
25 divisions within the department as he or she deems necessary. The  
26 director shall appoint a deputy director as well as such assistant  
27 directors as shall be needed to administer the several divisions within  
28 the department. The director shall appoint no more than eight  
29 assistant directors. The officers appointed under this section are

1 exempt from the provisions of the state civil service law as provided  
2 in RCW 41.06.070(~~(+7)~~), and shall be paid salaries to be fixed by the  
3 governor in accordance with the procedure established by law for the  
4 fixing of salaries for officers exempt from the operation of the state  
5 civil service law. The director shall also appoint and deputize a  
6 state veterinarian who shall be an experienced veterinarian properly  
7 licensed to practice veterinary medicine in this state.

8 The director of agriculture shall have charge and general  
9 supervision of the department and may assign supervisory and  
10 administrative duties other than those specified in RCW 43.23.070 to  
11 the division which in his or her judgment can most efficiently carry on  
12 those functions.

13 **Sec. 61.** RCW 43.88.280 and 1977 ex.s. c 320 s 1 are each amended  
14 to read as follows:

15 As used in RCW 43.88.290 and 43.88.300 the term "state officer or  
16 employee" includes the members of the governing body of any state  
17 agency, as state agency is defined in RCW 43.88.020(4) and those  
18 generally known as executive management but excludes nonsupervisory  
19 state employees covered by civil service under chapter(~~(s)~~) 41.06 (~~(and~~  
20 ~~28B.16)~~) RCW.

21 **Sec. 62.** RCW 43.105.052 and 1990 c 208 s 7 are each amended to  
22 read as follows:

23 The department shall:

24 (1) Perform all duties and responsibilities the board delegates to  
25 the department, including but not limited to:

26 (a) The review of agency acquisition plans and requests; and

27 (b) Implementation of state-wide and interagency policies,  
28 standards, and guidelines;

1 (2) Make available information services to state agencies and local  
2 governments on a full cost-recovery basis. These services may include,  
3 but are not limited to:

4 (a) Telecommunications services for voice, data, and video;

5 (b) Mainframe computing services;

6 (c) Support for departmental and microcomputer evaluation,  
7 installation, and use;

8 (d) Equipment acquisition assistance, including leasing, brokering,  
9 and establishing master contracts;

10 (e) Facilities management services for information technology  
11 equipment, equipment repair, and maintenance service;

12 (f) Negotiate [Negotiation] with local cable companies and local  
13 governments to provide for connection to local cable services to allow  
14 for access to these public and educational channels in the state;

15 (g) Office automation services;

16 (h) System development services; and

17 (i) Training.

18 These services are for discretionary use by customers and customers  
19 may elect other alternatives for service if those alternatives are more  
20 cost-effective or provide better service. Agencies may be required to  
21 use the backbone network portions of the telecommunications services  
22 during an initial start-up period not to exceed three years;

23 (3) Establish rates and fees for services provided by the  
24 department to assure that the services component of the department is  
25 self-supporting. A billing rate plan shall be developed for a  
26 two-year period to coincide with the budgeting process. The rate plan  
27 shall be subject to review at least annually by the customer oversight  
28 committees. The rate plan shall show the proposed rates by each cost  
29 center and will show the components of the rate structure as mutually  
30 determined by the department and the customer oversight committees.

1 The same rate structure will apply to all user agencies of each cost  
2 center. The rate plan and any adjustments to rates shall be approved  
3 by the office of financial management. The services component shall not  
4 subsidize the operations of the planning component;

5 (4) With the advice of the information services board and agencies,  
6 develop and publish state-wide goals and objectives at least  
7 biennially;

8 (5) Develop plans for the department's achievement of state-wide  
9 goals and objectives. These plans shall address such services as  
10 telecommunications, central and distributed computing, local area  
11 networks, office automation, and end user computing. The department  
12 shall seek the advice of customer oversight committees and the board in  
13 the development of these plans;

14 (6) Under direction of the information services board and in  
15 collaboration with the department of personnel(~~(, the higher education~~  
16 ~~personnel board,)) and other agencies as may be appropriate, develop  
17 training plans and coordinate training programs that are responsive to  
18 the needs of agencies;~~

19 (7) Identify opportunities for the effective use of information  
20 services and coordinate appropriate responses to those opportunities;

21 (8) Assess agencies' projects, acquisitions, plans, or overall  
22 information processing performance as requested by the board, agencies,  
23 the director of financial management, or the legislature. Agencies may  
24 be required to reimburse the department for agency-requested reviews;

25 (9) Develop planning, budgeting, and expenditure reporting  
26 requirements, in conjunction with the office of financial management,  
27 for agencies to follow;

28 (10) Assist the office of financial management with budgetary and  
29 policy review of agency plans for information services;

1 (11) Provide staff support from the planning component to the board  
2 for:

3 (a) Meeting preparation, notices, and minutes;

4 (b) Promulgation of policies, standards, and guidelines adopted by  
5 the board;

6 (c) Supervision of studies and reports requested by the board;

7 (d) Conducting reviews and assessments as directed by the board;

8 (12) Be the lead agency in coordinating video telecommunications  
9 services for all state agencies and develop, pursuant to board  
10 policies, standards and common specifications for leased and purchased  
11 telecommunications equipment. The department shall not evaluate the  
12 merits of school curriculum, higher education course offerings, or  
13 other education and training programs proposed for transmission and/or  
14 reception using video telecommunications resources. Nothing in this  
15 section shall abrogate or abridge the legal responsibilities of  
16 licensees of telecommunications facilities as licensed by the federal  
17 communication commission on March 27, 1990; and

18 (13) Perform all other matters and things necessary to carry out  
19 the purposes and provisions of this chapter.

20 **Sec. 63.** RCW 49.46.010 and 1989 c 1 s 1 (Initiative Measure No.  
21 518) are each amended to read as follows:

22 As used in this chapter:

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

24 (2) "Wage" means compensation due to an employee by reason of  
25 employment, payable in legal tender of the United States or checks on  
26 banks convertible into cash on demand at full face value, subject to  
27 such deductions, charges, or allowances as may be permitted by  
28 regulations of the director;

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

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

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

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

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

17 (c) Any individual employed in a bona fide executive,  
18 administrative, or professional capacity or in the capacity of outside  
19 salesman as those terms are defined and delimited by regulations of the  
20 director. However, those terms shall be defined and delimited by the  
21 state personnel board pursuant to chapter 41.06 RCW (~~and the higher~~  
22 ~~education personnel board pursuant to chapter 28B.16 RCW~~) for  
23 employees employed under (~~their respective~~) its jurisdiction(~~s~~);

24 (d) Any individual engaged in the activities of an educational,  
25 charitable, religious, state or local governmental body or agency, or  
26 nonprofit organization where the employer-employee relationship does  
27 not in fact exist or where the services are rendered to such  
28 organizations gratuitously. If the individual receives reimbursement  
29 in lieu of compensation for normally incurred out-of-pocket expenses or  
30 receives a nominal amount of compensation per unit of voluntary service

1 rendered, an employer-employee relationship is deemed not to exist for  
2 the purpose of this section or for purposes of membership or  
3 qualification in any state, local government or publicly supported  
4 retirement system other than that provided under chapter 41.24 RCW;

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

12 (f) Any newspaper vendor or carrier;

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

15 (h) Any individual engaged in forest protection and fire prevention  
16 activities;

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

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

26 (k) Any resident, inmate, or patient of a state, county, or  
27 municipal correctional, detention, treatment or rehabilitative  
28 institution;

29 (l) Any individual who holds a public elective or appointive office  
30 of the state, any county, city, town, municipal corporation or quasi

1 municipal corporation, political subdivision, or any instrumentality  
2 thereof, or any employee of the state legislature;

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

5 (n) Any individual employed as a seaman on a vessel other than an  
6 American vessel.

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

10 **Sec. 64.** RCW 49.74.020 and 1985 c 365 s 9 are each amended to read  
11 as follows:

12 If the commission reasonably believes that a state agency, an  
13 institution of higher education, or the state patrol has failed to  
14 comply with an affirmative action rule adopted under RCW  
15 ~~((28B.16.1007))~~ 41.06.150~~((7))~~ or 43.43.340, the commission shall  
16 notify the director of the state agency, president of the institution  
17 of higher education, or chief of the Washington state patrol of the  
18 noncompliance, as well as the director of personnel ~~((or the director  
19 of the higher education personnel board, whichever is appropriate))~~.  
20 The commission shall give the director of the state agency, president  
21 of the institution of higher education, or chief of the Washington  
22 state patrol an opportunity to be heard on the failure to comply.

23 **Sec. 65.** RCW 49.74.030 and 1985 c 365 s 10 are each amended to  
24 read as follows:

25 The commission in conjunction with the department of personnel~~((7  
26 the higher education personnel board,7))~~ or the state patrol, whichever  
27 is appropriate, shall attempt to resolve the noncompliance through  
28 conciliation. If an agreement is reached for the elimination of

1 noncompliance, the agreement shall be reduced to writing and an order  
2 shall be issued by the commission setting forth the terms of the  
3 agreement. The noncomplying state agency, institution of higher  
4 education, or state patrol shall make a good faith effort to conciliate  
5 and make a full commitment to correct the noncompliance with any action  
6 that may be necessary to achieve compliance, provided such action is  
7 not inconsistent with the rules adopted under RCW ((28B.16.100(20),  
8 ~~41.06.150(21)~~, and)) 41.06.150 or 43.43.340(5), whichever is  
9 appropriate.

10 **Sec. 66.** RCW 49.74.040 and 1985 c 365 s 11 are each amended to  
11 read as follows:

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

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

25 **Sec. 67.** RCW 50.13.060 and 1981 c 177 s 1 are each amended to read  
26 as follows:

27 (1) Governmental agencies, including law enforcement agencies,  
28 prosecuting agencies, and the executive branch, whether state, local,

1 or federal shall have access to information or records deemed private  
2 and confidential under this chapter if the information or records are  
3 needed by the agency for official purposes and:

4 (a) The agency submits an application in writing to the employment  
5 security department for the records or information containing a  
6 statement of the official purposes for which the information or records  
7 are needed and specific identification of the records or information  
8 sought from the department; and

9 (b) The director, commissioner, chief executive, or other official  
10 of the agency has verified the need for the specific information in  
11 writing either on the application or on a separate document; and

12 (c) The agency requesting access has served a copy of the  
13 application for records or information on the individual or employing  
14 unit whose records or information are sought and has provided the  
15 department with proof of service. Service shall be made in a manner  
16 which conforms to the civil rules for superior court. The requesting  
17 agency shall include with the copy of the application a statement to  
18 the effect that the individual or employing unit may contact the public  
19 records officer of the employment security department to state any  
20 objections to the release of the records or information. The employment  
21 security department shall not act upon the application of the  
22 requesting agency until at least five days after service on the  
23 concerned individual or employing unit. The employment security  
24 department shall consider any objections raised by the concerned  
25 individual or employing unit in deciding whether the requesting agency  
26 needs the information or records for official purposes.

27 (2) The requirements of subsections (1) and (7) of this section  
28 shall not apply to the state legislative branch. The state legislature  
29 shall have access to information or records deemed private and  
30 confidential under this chapter, if the legislature or a legislative

1 committee finds that the information or records are necessary and for  
2 official purposes. If the employment security department does not make  
3 information or records available as provided in this subsection, the  
4 legislature may exercise its authority granted by chapter 44.16 RCW.

5 (3) In cases of emergency the governmental agency requesting access  
6 shall not be required to formally comply with the provisions of  
7 subsection (1) of this section at the time of the request if the  
8 procedures required by subsection (1) of this section are complied with  
9 by the requesting agency following the receipt of any records or  
10 information deemed private and confidential under this chapter. An  
11 emergency is defined as a situation in which irreparable harm or damage  
12 could occur if records or information are not released immediately.

13 (4) The requirements of subsection (1)(c) of this section shall not  
14 apply to governmental agencies where the procedures would frustrate the  
15 investigation of possible violations of criminal laws.

16 (5) Governmental agencies shall have access to certain records or  
17 information, limited to such items as names, addresses, social security  
18 numbers, and general information about benefit entitlement or employer  
19 information possessed by the department, for comparison purposes with  
20 records or information possessed by the requesting agency to detect  
21 improper or fraudulent claims, or to determine potential tax liability  
22 or employer compliance with registration and licensing requirements.  
23 In those cases the governmental agency shall not be required to comply  
24 with subsection (1)(c) of this section, but the requirements of the  
25 remainder of subsection (1) must be satisfied.

26 (6) Disclosure to governmental agencies of information or records  
27 obtained by the employment security department from the federal  
28 government shall be governed by any applicable federal law or any  
29 agreement between the federal government and the employment security

1 department where so required by federal law. When federal law does not  
2 apply to the records or information state law shall control.

3 (7) The disclosure of any records or information by a governmental  
4 agency which has obtained the records or information under this section  
5 is prohibited unless the disclosure is directly connected to the  
6 official purpose for which the records or information were obtained.

7 (8) In conducting periodic salary or fringe benefit studies  
8 pursuant to law, the department of personnel (~~and the higher education~~  
9 ~~personnel board~~)) shall have access to records of the employment  
10 security department as may be required for such studies. For such  
11 purposes, the requirements of subsection (1)(c) of this section need  
12 not apply.

13 **Sec. 68.** RCW 51.32.300 and 1990 c 204 s 5 are each amended to read  
14 as follows:

15 The director shall appoint a state employee vocational  
16 rehabilitation coordinator who shall provide technical assistance and  
17 coordination of claims management to state agencies and institutions of  
18 higher education under the state return-to-work programs created by RCW  
19 41.06.490 (~~and 28B.16.300~~)).

20 **Sec. 69.** RCW 70.24.300 and 1988 c 206 s 607 are each amended to  
21 read as follows:

22 The state personnel board(~~(, the higher education personnel~~  
23 ~~board,~~)) and each unit of local government shall determine whether any  
24 employees under their jurisdiction have a substantial likelihood of  
25 exposure in the course of their employment to the human  
26 immunodeficiency virus. If so, the agency or unit of government shall  
27 adopt rules requiring appropriate training and education for the  
28 employees on the prevention, transmission, and treatment of AIDS. The

1 rules shall specifically provide for such training and education for  
2 law enforcement, correctional, and health care workers. The state  
3 personnel board(~~(, the higher education personnel board,)~~) and each  
4 unit of local government shall work with the office on AIDS under RCW  
5 70.24.250 to develop the educational and training material necessary  
6 for employees.

7 NEW SECTION. Sec. 70. (1) The state personnel appeals board  
8 and the higher education personnel board are hereby abolished. All  
9 powers, duties, and functions of these agencies are transferred to the  
10 state personnel board.

11 (2) All references to the abolished agencies in the Revised Code of  
12 Washington shall be construed to mean the state personnel board.

13 NEW SECTION. Sec. 71. All reports, documents, surveys, books,  
14 records, files, papers, or written material in the possession of the  
15 agencies abolished in section 70 of this act and pertaining to the  
16 powers, functions, and duties transferred by section 70 of this act  
17 shall be delivered to the custody of the state personnel board. All  
18 cabinets, furniture, office equipment, motor vehicles, and other  
19 tangible property employed by the abolished agencies in carrying out  
20 the powers, functions, and duties transferred by section 70 of this act  
21 shall be made available to the state personnel board. All funds,  
22 credits, or other assets held in connection with the powers, functions,  
23 and duties transferred by section 70 of this act shall be assigned to  
24 the state personnel board. Any appropriations made to the abolished  
25 agencies for carrying out the powers, functions, and duties transferred  
26 by section 70 of this act shall, on the effective date of this section,  
27 be transferred and credited to the state personnel board. Whenever any  
28 question arises as to the transfer of any personnel, funds, books,

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

6 NEW SECTION. **Sec. 72.** (1) All classified employees of the  
7 state personnel appeals board engaged in performing the powers,  
8 functions, and duties transferred by section 70 of this act are  
9 transferred to the jurisdiction of the state personnel board.

10 (2) All employees of the higher education personnel board  
11 classified under chapter 28B.16 RCW are assigned to the department of  
12 personnel to perform their usual duties upon the same terms as  
13 formerly, without any loss of rights, subject to any action that may be  
14 appropriate thereafter in accordance with the laws and rules governing  
15 state civil service.

16 (3) All employees of the department of personnel assigned to labor  
17 relations functions are assigned to the state employees' relations  
18 commission to perform their usual duties upon the same terms as  
19 formerly, without any loss of rights, subject to any action that may be  
20 appropriate thereafter in accordance with the laws and rules governing  
21 state civil service.

22 NEW SECTION. **Sec. 73.** All rules and all pending business  
23 before the abolished agencies pertaining to the powers, functions, and  
24 duties transferred by section 70 of this act shall be continued and  
25 acted upon by the state personnel board. All existing contracts and  
26 obligations shall remain in full force and shall be performed by the  
27 state personnel board.

1        NEW SECTION.    **Sec. 74.**        The transfer of the powers, duties,  
2 functions, and personnel of the abolished agencies under section 70 of  
3 this act shall not affect the validity of any act performed by such  
4 employee prior to the effective date of this section.

5        NEW SECTION.    **Sec. 75.**        If apportionments of budgeted funds are  
6 required because of the transfers directed by sections 70 through 74 of  
7 this act, the director of financial management shall certify the  
8 apportionments to the agencies affected, the state auditor, and the  
9 state treasurer. Each of these shall make the appropriate transfer and  
10 adjustments in funds and appropriation accounts and equipment records  
11 in accordance with the certification.

12       NEW SECTION.    **Sec. 76.**        Rules,        classification        plans,  
13 compensation plans, and bargaining units adopted or established  
14 pursuant to chapter 28B.16 RCW shall remain in effect until superseded  
15 by action of the state personnel board or state employees' relations  
16 commission, respectively.

17       NEW SECTION.    **Sec. 77.**    SECTION CAPTIONS.    Section captions used in  
18 this act constitute no part of the law.

19       NEW SECTION.    **Sec. 78.**        The following acts or parts of acts are  
20 each repealed:

21        (1) RCW 28B.16.010 and 1969 ex.s. c 36 s 1;

22        (2) RCW 28B.16.020 and 1985 c 461 s 8, 1985 c 365 s 2, 1983 1st  
23 ex.s. c 75 s 1, 1982 1st ex.s. c 53 s 14, 1977 ex.s. c 169 s 41, & 1969  
24 ex.s. c 36 s 2;

25        (3) RCW 28B.16.030 and 1969 ex.s. c 36 s 3;

1 (4) RCW 28B.16.040 and 1990 c 60 s 201, 1982 1st ex.s. c 53 s 15,  
2 1977 ex.s. c 94 s 1, & 1969 ex.s. c 36 s 4;  
3 (5) RCW 28B.16.041 and 1985 c 442 s 9;  
4 (6) RCW 28B.16.042 and 1985 c 266 s 1;  
5 (7) RCW 28B.16.060 and 1984 c 287 s 63, 1981 c 338 s 19, 1975-'76  
6 2nd ex.s. c 34 s 73, & 1969 ex.s. c 36 s 6;  
7 (8) RCW 28B.16.070 and 1983 c 23 s 1 & 1969 ex.s. c 36 s 7;  
8 (9) RCW 28B.16.080 and 1969 ex.s. c 36 s 8;  
9 (10) RCW 28B.16.090 and 1969 ex.s. c 36 s 9;  
10 (11) RCW 28B.16.100 and 1990 c 60 s 202;  
11 (12) RCW 28B.16.101 and 1982 1st ex.s. c 53 s 19 & 1977 ex.s. c 152  
12 s 9;  
13 (13) RCW 28B.16.105 and 1985 c 461 s 10, 1982 1st ex.s. c 53 s 17,  
14 & 1977 c 152 s 13;  
15 (14) RCW 28B.16.110 and 1985 c 94 s 1, 1980 c 11 s 3, 1979 c 151 s  
16 16, 1977 ex.s. c 152 s 10, 1975 1st ex.s. c 122 s 2, & 1969 ex.s. c 36  
17 s 11;  
18 (15) RCW 28B.16.112 and 1987 c 185 s 3, 1986 c 158 s 4, 1979 c 151  
19 s 17, & 1977 ex.s. c 152 s 11;  
20 (16) RCW 28B.16.113 and 1977 ex.s. c 152 s 12;  
21 (17) RCW 28B.16.116 and 1983 1st ex.s. c 75 s 3;  
22 (18) RCW 28B.16.120 and 1969 ex.s. c 36 s 12;  
23 (19) RCW 28B.16.130 and 1969 ex.s. c 36 s 13;  
24 (20) RCW 28B.16.140 and 1969 ex.s. c 36 s 14;  
25 (21) RCW 28B.16.150 and 1969 ex.s. c 36 s 15;  
26 (22) RCW 28B.16.160 and 1988 c 202 s 27, 1971 c 81 s 72, & 1969  
27 ex.s. c 36 s 16;  
28 (23) RCW 28B.16.170 and 1969 ex.s. c 36 s 26;  
29 (24) RCW 28B.16.180 and 1973 1st ex.s. c 46 s 3 & 1969 ex.s. c 36  
30 s 17;

- 1 (25) RCW 28B.16.190 and 1969 ex.s. c 36 s 19;
- 2 (26) RCW 28B.16.200 and 1979 c 151 s 18 & 1969 ex.s. c 36 s 20;
- 3 (27) RCW 28B.16.210 and 1969 ex.s. c 36 s 29;
- 4 (28) RCW 28B.16.220 and 1969 ex.s. c 36 s 31;
- 5 (29) RCW 28B.16.230 and 1973 ex.s. c 62 s 6 & 1969 ex.s. c 215 s
- 6 14;
- 7 (30) RCW 28B.16.240 and 1979 ex.s. c 46 s 1;
- 8 (31) RCW 28B.16.255 and 1985 c 461 s 11;
- 9 (32) RCW 28B.16.265 and 1985 c 461 s 12;
- 10 (33) RCW 28B.16.275 and 1985 c 461 s 13;
- 11 (34) RCW 28B.16.900 and 1969 ex.s. c 36 s 18;
- 12 (35) RCW 28B.16.910 and 1969 ex.s. c 36 s 27;
- 13 (36) RCW 28B.16.920 and 1969 ex.s. c 36 s 30;
- 14 (37) RCW 28B.16.930 and 1969 ex.s. c 36 s 28;
- 15 (38) RCW 41.64.010 and 1981 c 311 s 1;
- 16 (39) RCW 41.64.020 and 1981 c 311 s 3;
- 17 (40) RCW 41.64.030 and 1984 c 287 s 73, 1984 c 34 s 4, & 1981 c 311
- 18 s 4;
- 19 (41) RCW 41.64.040 and 1981 c 311 s 5;
- 20 (42) RCW 41.64.050 and 1981 c 311 s 6;
- 21 (43) RCW 41.64.060 and 1981 c 311 s 7;
- 22 (44) RCW 41.64.070 and 1981 c 311 s 8;
- 23 (45) RCW 41.64.080 and 1981 c 311 s 9;
- 24 (46) RCW 41.64.090 and 1981 c 311 s 10;
- 25 (47) RCW 41.64.100 and 1981 c 311 s 11;
- 26 (48) RCW 41.64.110 and 1985 c 461 s 7 & 1981 c 311 s 12;
- 27 (49) RCW 41.64.120 and 1981 c 311 s 13;
- 28 (50) RCW 41.64.130 and 1981 c 311 s 14;
- 29 (51) RCW 41.64.140 and 1988 c 202 s 42 & 1981 c 311 s 15;
- 30 (52) RCW 41.64.900 and 1981 c 311 s 2;

- 1 (53) RCW 41.64.910 and 1981 c 311 s 24;  
2 (54) RCW 41.06.230 and 1961 c 1 s 23;  
3 (55) RCW 41.06.310 and 1969 c 45 s 2; and  
4 (56) RCW 41.06.340 and 1969 ex.s. c 215 s 13.

5 NEW SECTION. **Sec. 79.** CODIFICATION DIRECTIONS. Sections 1  
6 through 21 of this act shall constitute a new chapter in Title 41 RCW.

7 NEW SECTION. **Sec. 80.** SEVERABILITY. If any provision of this act  
8 or its application to any person or circumstance is held invalid, the  
9 remainder of the act or the application of the provision to other  
10 persons or circumstances is not affected.

11 NEW SECTION. **Sec. 81.** EFFECTIVE DATE AND TRANSITION PROVISIONS.  
12 (1) This act shall take effect on July 1, 1993, except for sections 1  
13 through 21 of this act which shall take effect January 1, 1992. The  
14 governor shall take such action as is necessary, including appointment  
15 of the members of the state employees' relations board, to ensure that  
16 sections 1 through 21 of this act are implemented on their effective  
17 date. Until July 1, 1993, the state employees' relations board shall  
18 contract with the department of personnel for labor relations staffing  
19 necessary to carry out its functions.

20 (2) The provisions of all collective bargaining agreements in  
21 effect covering employees affected by sections 1 through 21 of this act  
22 as of the effective date of this act and that expire prior to July 1,  
23 1993, shall be extended without change through and including June 30,  
24 1993, at which time all such agreements shall expire.

25 (3) Any collective bargaining agreement entered into prior to the  
26 effective date of this act covering employees affected by sections 1

1 through 21 of this act that expires after the effective date of this  
2 act shall, unless a superseding agreement complying with this chapter  
3 is negotiated by the parties, remain in full force during its duration,  
4 but shall not be renewed or extended. Negotiations for an agreement to  
5 succeed agreements under this subsection shall commence one year prior  
6 to expiration of the agreement or by July 1 preceding expiration,  
7 whichever occurs first. The succeeding contract shall expire on July  
8 1 of the next odd-numbered year.

9 (4) Collective bargaining under this act concerning employees  
10 affected by sections 1 through 21 of this act shall not commence prior  
11 to July 1, 1992, and the provisions of any collective bargaining  
12 agreement negotiated under this chapter shall not be effective prior to  
13 July 1, 1993.