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HOUSE BILL 2244

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State of Washington                      54th Legislature                      1996 Regular Session

By Representatives Smith, Thompson, Goldsmith and Hargrove

Read first time 01/08/96. Referred to Committee on Law & Justice.

1            AN ACT Relating to requiring government to make decisions based  
2 upon merit without use of preferential treatment; amending RCW  
3 28B.14.010, 28B.58.010, 28B.80.350, 28B.80.390, 28B.102.010,  
4 28B.102.020, 28B.102.040, 28B.120.020, 28C.04.420, 28C.18.060,  
5 35.22.620, 35.82.075, 39.04.220, 39.10.050, 39.10.060, 39.80.040,  
6 43.19.1906, 43.20A.685, 43.31.425, 43.60A.080, 43.163.020, 43.175.010,  
7 43.180.070, 43.220.070, 43.330.050, 47.28.030, 50.65.250, 50.67.020,  
8 53.08.120, 70.96A.070, 70.96A.300, 72.23.025, 74.13.031, 75.30.470,  
9 41.06.010, 41.06.020, 41.06.150, 41.06.500, 41.08.040, 41.12.040, and  
10 41.14.060; reenacting and amending RCW 35.23.352, 39.04.150, 43.31.085,  
11 and 49.60.120; adding new sections to chapter 41.04 RCW; adding a new  
12 section to chapter 43.06 RCW; adding a new section to chapter 29.82  
13 RCW; adding a new section to chapter 2.28 RCW; adding a new section to  
14 chapter 9.91 RCW; adding a new section to chapter 49.60 RCW; adding a  
15 new chapter to Title 41 RCW; creating new sections; repealing RCW  
16 28A.415.200, 28A.415.205, 28A.625.200, 28A.625.210, 28A.625.230,  
17 28A.625.240, 28B.50.305, 28B.50.306, 28B.50.307, 28B.108.005,  
18 28B.108.010, 28B.108.020, 28B.108.030, 28B.108.040, 28B.108.050,  
19 28B.108.060, 28B.108.070, 39.19.010, 39.19.020, 39.19.030, 39.19.041,  
20 39.19.050, 39.19.060, 39.19.070, 39.19.080, 39.19.090, 39.19.100,  
21 39.19.110, 39.19.120, 39.19.140, 39.19.150, 39.19.160, 39.19.170,

1 39.19.200, 39.19.210, 39.19.220, 39.19.230, 39.19.910, 39.19.920,  
2 39.19.921, 39.23.005, 39.23.010, 39.23.020, 43.19.520, 43.19.525,  
3 43.19.530, 43.19.534, 43.19.536, 43.31.0925, 43.31.093, 43.43.015,  
4 43.60A.120, 43.63A.690, 43.86A.060, 43.86A.070, 43.168.150, 43.172.005,  
5 43.172.010, 43.172.011, 43.172.020, 43.172.030, 43.172.040, 43.172.050,  
6 43.172.060, 43.172.070, 43.172.080, 43.172.090, 43.172.100, 43.172.110,  
7 43.172.120, 43.172.900, 43.172.901, 43.172.902, 43.172.903, 43.210.130,  
8 49.04.100, 49.04.110, 49.04.120, 49.04.130, 49.74.005, 49.74.010,  
9 49.74.020, 49.74.030, 49.74.040, 49.74.050, 70.38.220, 74.13.109,  
10 41.06.530, 41.08.060, 41.12.060, 41.14.090, 43.20A.695, 43.113.005,  
11 43.113.010, 43.113.020, 43.113.030, 43.115.010, 43.115.020, 43.115.030,  
12 43.115.040, 43.115.045, 43.115.060, 43.115.900, 43.117.010, 43.117.020,  
13 43.117.030, 43.117.040, 43.117.050, 43.117.060, 43.117.070, 43.117.080,  
14 43.117.090, 43.117.100, and 43.117.900; prescribing penalties;  
15 providing an effective date; and declaring an emergency.

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

17 NEW SECTION. **Sec. 1.** (1) The legislature finds that the state of  
18 Washington has a compelling interest in the just treatment of its  
19 citizens in their employment opportunities as public servants and in  
20 ensuring the efficient performance of public institutions in providing  
21 essential services to the citizens of this state.

22 The legislature further finds that a bona fide merit system is  
23 essential in maintaining an unbiased and balanced means of determining  
24 the qualifications of individuals for public service and in evaluating  
25 their effectiveness as public employees.

26 (2) The legislature finds that equal protection under the law is a  
27 fundamental principle of constitutional government and is essential to  
28 the well-being and perpetuation of a free society.

29 The legislature further finds that there is a legitimate and  
30 compelling state interest in ensuring equal protection under the  
31 federal and state constitutions for each individual as an indispensable  
32 prerequisite for guaranteeing the rights of all citizens.

33 **PART I**  
34 **ELIMINATION OF AFFIRMATIVE ACTION**

1        NEW SECTION.    **Sec. 101.**    A new section is added to chapter 41.04  
2    RCW to read as follows:

3        (1) Neither the state of Washington nor any unit of local  
4    government, as defined in section 204 of this act, may use race, sex,  
5    color, ethnicity, national origin, religion, age, disability, or status  
6    as a sexual minority as a criterion for granting preferential treatment  
7    to any individual or group.

8        (2) This section applies only to governmental action taken after  
9    the effective date of this section.

10       (3) Allowable remedies for violations of this section include  
11    reasonable attorneys' fees.

12       (4) Nothing in this section may be interpreted as prohibiting  
13    classifications based on sex that are reasonably necessary to the  
14    normal operation of public employment, public education, or public  
15    institutions.

16       (5) Nothing in this section may be interpreted as invalidating any  
17    court order or consent decree that is in force as of the effective date  
18    of this section.

19       (6) Nothing in this section may be interpreted as prohibiting  
20    governmental action that is necessary to establish or maintain  
21    eligibility for any federal program, if ineligibility would result in  
22    a loss of federal funds.

23       **Sec. 102.**    RCW 28B.14.010 and 1975-'76 2nd ex.s. c 126 s 1 are each  
24    amended to read as follows:

25       For the purpose of providing needed capital improvements consisting  
26    of the acquisition, construction, remodeling, furnishing and equipping  
27    of state buildings and facilities for the institutions of higher  
28    education, the state finance committee is hereby authorized to issue  
29    from time to time general obligation bonds of the state of Washington  
30    in the aggregate principal amount of fourteen million eight hundred  
31    eighty thousand dollars, or so much thereof as shall be required to  
32    finance the capital projects relating to institutions of higher  
33    education as determined by the legislature in its capital  
34    appropriations acts from time to time, for such purposes, to be paid  
35    and discharged within thirty years of the date of issuance in  
36    accordance with Article VIII, section 1, of the Constitution of the  
37    state of Washington. (~~It is the intent of the legislature that in any~~  
38    ~~decision to contract for capital projects funded as the result of this~~

1 ~~chapter, full and fair consideration shall be given to minority~~  
2 ~~contractors.))~~

3       **Sec. 103.** RCW 28B.58.010 and 1985 c 390 s 64 are each amended to  
4 read as follows:

5       The legislature has approved by its appropriation of funds from  
6 time to time, capital projects for the state community colleges, which  
7 appropriations have been funded primarily by the issuance of building,  
8 limited obligation bonds by the state board for community and technical  
9 colleges ~~((education))~~ (hereinafter in this chapter called the "college  
10 board"). In order that any future appropriations for such approved  
11 capital projects may be funded on terms most advantageous to the state,  
12 it is hereby determined to be in the public interest to provide for the  
13 issuance of state general obligation bonds, in lieu of building,  
14 limited obligation bonds.

15       For purposes of this chapter, "community college capital projects"  
16 means the construction, reconstruction, erection, equipping,  
17 maintenance, demolition and major alteration of buildings and other  
18 capital assets owned by the state board for community and technical  
19 colleges ~~((education))~~ in the name of the state of Washington, and the  
20 acquisition of sites, rights-of-way, easements, improvements or  
21 appurtenances in relation thereto. ~~((It is the intent of the~~  
22 ~~legislature that in any decision to contract for capital projects~~  
23 ~~funded as the result of this chapter, full and fair consideration shall~~  
24 ~~be given to minority contractors.))~~

25       **Sec. 104.** RCW 28B.80.350 and 1993 c 77 s 2 are each amended to  
26 read as follows:

27       The board shall coordinate educational activities among all  
28 segments of higher education taking into account the educational  
29 programs, facilities, and other resources of both public and  
30 independent two and four-year colleges and universities. The four-year  
31 institutions and the state board for community and technical colleges  
32 shall coordinate information and activities with the board. The board  
33 shall have the following additional responsibilities:

34       (1) Promote interinstitutional cooperation;

35       (2) Establish minimum admission standards for four-year  
36 institutions, including a requirement that coursework in American sign  
37 language or an American Indian language shall satisfy any requirement

1 for instruction in a language other than English that the board or the  
2 institutions may establish as a general undergraduate admissions  
3 requirement;

4 (3) Establish transfer policies;

5 (4) Adopt rules implementing statutory residency requirements;

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

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

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

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

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

21 (10) Recommend to the governor and the legislature ways to remove  
22 any economic incentives to use off-campus program funds for on-campus  
23 activities(~~(/and~~

24 ~~(11) Make recommendations to increase minority participation, and~~  
25 ~~monitor and report on the progress of minority participation in higher~~  
26 ~~education))~~).

27 **Sec. 105.** RCW 28B.80.390 and 1985 c 370 s 10 are each amended to  
28 read as follows:

29 The board shall consist of nine members who are representative of  
30 the public(~~(/including women and the racial minority community))~~). All  
31 members shall be appointed at large by the governor and approved by the  
32 senate. The governor shall appoint the chair, who shall serve at the  
33 governor's pleasure.

34 **Sec. 106.** RCW 28B.102.010 and 1987 c 437 s 1 are each amended to  
35 read as follows:

1       The legislature finds that encouraging outstanding students to  
2 enter the teaching profession is of paramount importance to the state  
3 of Washington. By creating the future teachers conditional scholarship  
4 program, the legislature intends to assist in the effort to recruit as  
5 future teachers students who have distinguished themselves through  
6 outstanding academic achievement and students who can act as role  
7 models for children (~~including those from targeted ethnic~~  
8 ~~minorities~~). The legislature urges business, industry, and  
9 philanthropic community organizations to join with state government in  
10 making this program successful.

11       **Sec. 107.** RCW 28B.102.020 and 1993 sp.s. c 18 s 36 are each  
12 amended to read as follows:

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

15       (1) "Conditional scholarship" means a loan that is forgiven in  
16 whole or in part if the recipient renders service as a teacher in the  
17 public schools of this state.

18       (2) "Institution of higher education" or "institution" means a  
19 college or university in the state of Washington which is accredited by  
20 an accrediting association recognized as such by rule of the higher  
21 education coordinating board.

22       (3) "Board" means the higher education coordinating board.

23       (4) "Eligible student" means a student who is registered for at  
24 least ten credit hours or the equivalent, demonstrates achievement of  
25 at least a 3.30 grade point average for students entering an  
26 institution of higher education directly from high school or maintains  
27 at least a 3.00 grade point average or the equivalent for each academic  
28 year in an institution of higher education, is a resident student as  
29 defined by RCW 28B.15.012 and 28B.15.013, and has a declared intention  
30 to complete an approved preparation program leading to initial teacher  
31 certification or required for earning an additional endorsement, or a  
32 college or university graduate who meets the same credit hour  
33 requirements and is seeking an additional teaching endorsement or  
34 initial teacher certification. Resident students defined in RCW  
35 28B.15.012(2)(e) are not eligible students under this chapter.

36       (5) "Public school" means an elementary school, a middle school,  
37 junior high school, or high school within the public school system  
38 referred to in Article IX of the state Constitution.

1 (6) "Forgiven" or "to forgive" or "forgiveness" means to render  
2 service as a teacher at a public school in the state of Washington in  
3 lieu of monetary repayment.

4 (7) "Satisfied" means paid-in-full.

5 (8) "Participant" means an eligible student who has received a  
6 conditional scholarship under this chapter.

7 ~~((9) "Targeted ethnic minority" means a group of Americans with a  
8 common ethnic or racial heritage selected by the board for program  
9 consideration due to societal concerns such as high dropout rates or  
10 low rates of college participation by members of the group.))~~

11 **Sec. 108.** RCW 28B.102.040 and 1987 c 437 s 4 are each amended to  
12 read as follows:

13 The higher education coordinating board shall establish a planning  
14 committee to develop criteria for the screening and selection of  
15 recipients of the conditional scholarships. These criteria shall  
16 emphasize factors demonstrating excellence including but not limited to  
17 superior scholastic achievement, leadership ability, and community  
18 contributions(~~(, and an ability to act as a role model for targeted  
19 ethnic minority students)~~). These criteria also may include, for  
20 approximately half of the recipients, requirements that those  
21 recipients meet the definition of "needy student" under RCW 28B.10.802.

22 **Sec. 109.** RCW 28B.120.020 and 1991 c 98 s 3 are each amended to  
23 read as follows:

24 The higher education coordinating board shall have the following  
25 powers and duties in administering the program:

26 (1) To adopt rules necessary to carry out the program;

27 (2) To establish one or more review committees to assist in the  
28 evaluation of proposals for funding. The review committee shall  
29 include individuals with significant experience in higher education in  
30 areas relevant to one or more of the funding period priorities;

31 (3) To establish each biennium specific guidelines for submitting  
32 grant proposals consistent with the overall goals of the program.  
33 During the 1991-93 biennium the guidelines shall be consistent with the  
34 following priorities: (a) ~~((Minority and diversity initiatives that  
35 encourage the participation of minorities in higher education,  
36 including students with disabilities, at a rate consistent with their  
37 proportion of the population; (b))~~) K-12 teacher preparation models

1 that encourage collaboration between higher education and K-12 to  
2 improve the preparedness of teachers, including provisions for higher  
3 education faculty involved with teacher preparation to spend time  
4 teaching in K-12 schools; and ~~((e))~~ (b) articulation and transfer  
5 activities to smooth the transfer of students from K-12 to higher  
6 education, or from the community colleges to four-year institutions.  
7 After June 30, 1993, and each biennium thereafter, the board shall  
8 determine funding priorities for collaborative proposals for the  
9 biennium in consultation with the governor, the legislature, the office  
10 of the superintendent of public instruction, the state board for  
11 community and technical colleges ~~((education))~~, the ~~((state board for~~  
12 ~~vocational))~~ work force training and education coordinating board,  
13 higher education institutions, educational associations, and business  
14 and community groups consistent with state-wide needs;

15 (4) To solicit grant proposals and provide information to the  
16 institutions of higher education about the program; and

17 (5) To establish reporting, monitoring, and dissemination  
18 requirements for the recipients of the grants.

19 **Sec. 110.** RCW 28C.04.420 and 1983 1st ex.s. c 21 s 4 are each  
20 amended to read as follows:

21 The commission may, subject to appropriation from the legislature  
22 or from funds made available from any other public or private source  
23 and pursuant to rules adopted by the commission, provide job skills  
24 grants to educational institutions. The job skills grants shall be  
25 used exclusively for programs which are consistent with the job skills  
26 program. A job skills grant may be awarded only after:

27 (1) Receipt of an application from an educational institution which  
28 contains a proposal for a program of skills training and education,  
29 including a description of the program, the type of skills training or  
30 education to be provided, a statement of the total cost of the program  
31 and a breakdown of the costs associated with equipment, personnel,  
32 facilities, and materials, a statement of the employment needs for the  
33 program and evidence in support thereof, demonstrates that the program  
34 does not unnecessarily duplicate existing programs in the area and is  
35 provided at a reasonable cost, a statement of the technical assistance  
36 and financial support for the program received or to be received from  
37 business and industry, and such other information as the commission  
38 requests; and

1 (2) The commission, based on the application submitted by the  
2 educational institution and such additional investigation as the staff  
3 of the commission shall make, finds that:

4 (a) The program is within the scope of the job skills program under  
5 this chapter and may reasonably be expected to succeed and thereby  
6 increase employment within the state;

7 (b) Provision has been made to use any available alternative  
8 funding from local, state, and federal sources;

9 (c) The job skills grant will only be used to cover the costs  
10 associated with the program;

11 (d) The program will not unnecessarily duplicate existing programs  
12 and could not be provided by another educational institution more  
13 effectively or efficiently;

14 (e) The program involves an area of skills training and education  
15 for which there is a demonstrable need;

16 (f) The applicant has made provisions for the use of existing  
17 federal and state resources for student financial assistance;

18 (g) The job skills grant is essential to the success of the program  
19 as the resources of the applicant are inadequate to attract the  
20 technical assistance and financial support necessary for the program  
21 from business and industry;

22 (h) The commitment of financial support from business and industry  
23 shall be equal to or greater than the amount of the requested job  
24 skills grant;

25 (i) Binding commitments have been made to the commission by the  
26 applicant for adequate reporting of information and data regarding the  
27 program to the commission, particularly information concerning the  
28 recruitment and employment of trainees and students, and including a  
29 requirement for an annual or other periodic audit of the books of the  
30 applicant directly related to the program, and for such control on the  
31 part of the commission as it considers prudent over the management of  
32 the program, so as to protect the use of public funds, including, in  
33 the discretion of the commission and without limitation, right of  
34 access to financial and other records of the applicant directly related  
35 to the programs;

36 (j) Provision has been made by the applicant to work, in  
37 cooperation with the employment security department, to identify and  
38 screen potential trainees and that provision has been made by the  
39 applicant of persons who are victims of economic dislocation and

1 persons from ((minority and)) economically disadvantaged groups to  
2 participate in the program; and

3 (k) Binding commitments have been made to the commission by the  
4 applicant for compliance with the monitoring and evaluation rules of  
5 the commission.

6 **Sec. 111.** RCW 28C.18.060 and 1993 c 280 s 17 are each amended to  
7 read as follows:

8 The board, in cooperation with the operating agencies of the state  
9 training system shall:

10 (1) Concentrate its major efforts on planning, coordination  
11 evaluation, policy analysis, and recommending improvements to the  
12 state's training system.

13 (2) Advocate for the state training system and for meeting the  
14 needs of employers and the work force for work force education and  
15 training.

16 (3) Establish and maintain an inventory of the programs of the  
17 state training system, and related state programs, and perform a  
18 biennial assessment of the vocational education, training, and adult  
19 basic education and literacy needs of the state; identify ongoing and  
20 strategic education needs; and assess the extent to which employment,  
21 training, vocational and basic education, rehabilitation services, and  
22 public assistance services represent a consistent, integrated approach  
23 to meet such needs.

24 (4) Develop and maintain a state comprehensive plan for work force  
25 training and education, including but not limited to, goals,  
26 objectives, and priorities for the state training system, and review  
27 the state training system for consistency with the state comprehensive  
28 plan. In developing the state comprehensive plan for work force  
29 training and education, the board shall use, but shall not be limited  
30 to: Economic, labor market, and populations trends reports in office  
31 of financial management forecasts; joint office of financial management  
32 and employment security department labor force, industry employment,  
33 and occupational forecasts; the results of scientifically based  
34 outcome, net-impact and cost-benefit evaluations; the needs of  
35 employers as evidenced in formal employer surveys and other employer  
36 input; and the needs of program participants and workers as evidenced  
37 in formal surveys and other input from program participants and the  
38 labor community.

1 (5) In consultation with the higher education coordinating board,  
2 review and make recommendations to the office of financial management  
3 and the legislature on operating and capital facilities budget requests  
4 for operating agencies of the state training system for purposes of  
5 consistency with the state comprehensive plan for work force training  
6 and education.

7 (6) Provide for coordination among the different operating agencies  
8 of the state training system at the state level and at the regional  
9 level.

10 (7) Develop a consistent and reliable data base on vocational  
11 education enrollments, costs, program activities, and job placements  
12 from publicly funded vocational education programs in this state.

13 (8) Establish standards for data collection and maintenance for the  
14 operating agencies of the state training system in a format that is  
15 accessible to use by the board. The board shall require a minimum of  
16 common core data to be collected by each operating agency of the state  
17 training system.

18 The board shall develop requirements for minimum common core data  
19 in consultation with the office of financial management and the  
20 operating agencies of the training system.

21 (9) Establish minimum standards for program evaluation for the  
22 operating agencies of the state training system, including, but not  
23 limited to, the use of common survey instruments and procedures for  
24 measuring perceptions of program participants and employers of program  
25 participants, and monitor such program evaluation.

26 (10) Every two years administer scientifically based outcome  
27 evaluations of the state training system, including, but not limited  
28 to, surveys of program participants, surveys of employers of program  
29 participants, and matches with employment security department payroll  
30 and wage files. Every five years administer scientifically based net-  
31 impact and cost-benefit evaluations of the state training system.

32 (11) In cooperation with the employment security department,  
33 provide for the improvement and maintenance of quality and utility in  
34 occupational information and forecasts for use in training system  
35 planning and evaluation. Improvements shall include, but not be  
36 limited to, development of state-based occupational change factors  
37 involving input by employers and employees, and delineation of skill  
38 and training requirements by education level associated with current  
39 and forecasted occupations.

1 (12) Provide for the development of common course description  
2 formats, common reporting requirements, and common definitions for  
3 operating agencies of the training system.

4 (13) Provide for effectiveness and efficiency reviews of the state  
5 training system.

6 (14) In cooperation with the higher education coordinating board,  
7 facilitate transfer of credit policies and agreements between  
8 institutions of the state training system, and encourage articulation  
9 agreements for programs encompassing two years of secondary work force  
10 education and two years of postsecondary work force education.

11 (15) In cooperation with the higher education coordinating board,  
12 facilitate transfer of credit policies and agreements between private  
13 training institutions and institutions of the state training system.

14 (16) Participate in the development of coordination criteria for  
15 activities under the job training partnership act with related programs  
16 and services provided by state and local education and training  
17 agencies.

18 (17) Make recommendations to the commission of student assessment,  
19 the state board of education, and the superintendent of public  
20 instruction, concerning basic skill competencies and essential core  
21 competencies for K-12 education. Basic skills for this purpose shall  
22 be reading, writing, computation, speaking, and critical thinking,  
23 essential core competencies for this purpose shall be English, math,  
24 science/technology, history, geography, and critical thinking. The  
25 board shall monitor the development of and provide advice concerning  
26 secondary curriculum which integrates vocational and academic  
27 education.

28 (18) Establish and administer programs for marketing and outreach  
29 to businesses and potential program participants.

30 (19) Facilitate the location of support services, including but not  
31 limited to, child care, financial aid, career counseling, and job  
32 placement services, for students and trainees at institutions in the  
33 state training system, and advocate for support services for trainees  
34 and students in the state training system.

35 (20) Facilitate private sector assistance for the state training  
36 system, including but not limited to: Financial assistance, rotation  
37 of private and public personnel, and vocational counseling.

1 (21) Facilitate programs for school-to-work transition that combine  
2 classroom education and on-the-job training in industries and  
3 occupations without a significant number of apprenticeship programs.

4 ~~((22) ((Encourage and assess progress for the equitable  
5 representation of racial and ethnic minorities, women, and people with  
6 disabilities among the students, teachers, and administrators of the  
7 state training system. Equitable, for this purpose, shall mean  
8 substantially proportional to their percentage of the state population  
9 in the geographic area served. This function of the board shall in no  
10 way lessen more stringent state or federal requirements for  
11 representation of racial and ethnic minorities, women, and people with  
12 disabilities.~~

13 ~~((23))~~ Participate in the planning and policy development of  
14 governor set-aside grants under P.L. 97-300, as amended.

15 ~~((24))~~ (23) Administer veterans' programs, licensure of private  
16 vocational schools, the job skills program, and the Washington award  
17 for vocational excellence.

18 ~~((25))~~ (24) Allocate funding from the state job training trust  
19 fund.

20 ~~((26))~~ (25) Work with the director of community, trade, and  
21 economic development to ensure coordination between work force training  
22 priorities and that department's economic development efforts.

23 ~~((27))~~ (26) Adopt rules as necessary to implement this chapter.

24 The board may delegate to the director any of the functions of this  
25 section.

26 **Sec. 112.** RCW 35.22.620 and 1993 c 198 s 9 are each amended to  
27 read as follows:

28 (1) As used in this section, the term "public works" means as  
29 defined in RCW 39.04.010.

30 (2) A first class city may have public works performed by contract  
31 pursuant to public notice and call for competitive bids. As limited by  
32 subsection (3) of this section, a first class city may have public  
33 works performed by city employees in any annual or biennial budget  
34 period equal to a dollar value not exceeding ten percent of the public  
35 works construction budget, including any amount in a supplemental  
36 public works construction budget, over the budget period. The amount  
37 of public works that a first class city has a county perform for it

1 under RCW 35.77.020 shall be included within this ten percent  
2 limitation.

3 If a first class city has public works performed by public  
4 employees in any budget period that are in excess of this ten percent  
5 limitation, the amount in excess of the permitted amount shall be  
6 reduced from the otherwise permitted amount of public works that may be  
7 performed by public employees for that city in its next budget period.  
8 Twenty percent of the motor vehicle fuel tax distributions to that city  
9 shall be withheld if two years after the year in which the excess  
10 amount of work occurred, the city has failed to so reduce the amount of  
11 public works that it has performed by public employees. The amount so  
12 withheld shall be distributed to the city when it has demonstrated in  
13 its reports to the state auditor that the amount of public works it has  
14 performed by public employees has been so reduced.

15 Whenever a first class city has had public works performed in any  
16 budget period up to the maximum permitted amount for that budget  
17 period, all remaining public works within that budget period shall be  
18 done by contract pursuant to public notice and call for competitive  
19 bids.

20 The state auditor shall report to the state treasurer any first  
21 class city that exceeds this amount and the extent to which the city  
22 has or has not reduced the amount of public works it has performed by  
23 public employees in subsequent years.

24 (3) In addition to the percentage limitation provided in subsection  
25 (2) of this section, a first class city with a population in excess of  
26 one hundred fifty thousand shall not have public employees perform a  
27 public works project in excess of fifty thousand dollars if more than  
28 a single craft or trade is involved with the public works project, or  
29 a public works project in excess of twenty-five thousand dollars if  
30 only a single craft or trade is involved with the public works project  
31 or the public works project is street signalization or street lighting.  
32 In addition to the percentage limitation provided in subsection (2) of  
33 this section, a first class city with a population of one hundred fifty  
34 thousand or less shall not have public employees perform a public works  
35 project in excess of thirty-five thousand dollars if more than one  
36 craft or trade is involved with the public works project, or a public  
37 works project in excess of twenty thousand dollars if only a single  
38 craft or trade is involved with the public works project or the public  
39 works project is street signalization or street lighting. A public

1 works project means a complete project. The restrictions in this  
2 subsection do not permit the division of the project into units of work  
3 or classes of work to avoid the restriction on work that may be  
4 performed by day labor on a single project.

5 (4) In addition to the accounting and record-keeping requirements  
6 contained in RCW 39.04.070, every first class city annually shall  
7 prepare a report for the state auditor indicating the total public  
8 works construction budget and supplemental public works construction  
9 budget for that year, the total construction costs of public works  
10 performed by public employees for that year, and the amount of public  
11 works that is performed by public employees above or below ten percent  
12 of the total construction budget. However, if a city budgets on a  
13 biennial basis, this annual report shall indicate the amount of public  
14 works that is performed by public employees within the current biennial  
15 period that is above or below ten percent of the total biennial  
16 construction budget.

17 After September 1, 1987, each first class city with a population of  
18 one hundred fifty thousand or less shall use the form required by RCW  
19 43.09.205 to account and record costs of public works in excess of five  
20 thousand dollars that are not let by contract.

21 (5) The cost of a separate public works project shall be the costs  
22 of materials, supplies, equipment, and labor on the construction of  
23 that project. The value of the public works budget shall be the value  
24 of all the separate public works projects within the budget.

25 (6) When any emergency shall require the immediate execution of  
26 such public work, upon the finding of the existence of such emergency  
27 by the authority having power to direct such public work to be done and  
28 duly entered of record, publication of description and estimate may be  
29 made within seven days after the commencement of the work. Within two  
30 weeks of the finding that such an emergency existed, the city council  
31 shall adopt a resolution certifying the existence of this emergency  
32 situation.

33 (7) In lieu of the procedures of subsections (2) and (6) of this  
34 section, a first class city may use a small works roster process and  
35 award contracts for public works projects with an estimated value of  
36 one hundred thousand dollars or less as provided in RCW 39.04.155.

37 (~~Whenever possible, the city shall invite at least one proposal~~  
38 ~~from a minority or woman contractor who shall otherwise qualify under~~  
39 ~~this section.))~~

1 (8) The allocation of public works projects to be performed by city  
2 employees shall not be subject to a collective bargaining agreement.

3 (9) This section does not apply to performance-based contracts, as  
4 defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A  
5 RCW.

6 (10) Nothing in this section shall prohibit any first class city  
7 from allowing for preferential purchase of products made from recycled  
8 materials or products that may be recycled or reused.

9 **Sec. 113.** RCW 35.23.352 and 1994 c 273 s 9 and 1994 c 81 s 18 are  
10 each reenacted and amended to read as follows:

11 (1) Any second class city or any town may construct any public  
12 works, as defined in RCW 39.04.010, by contract or day labor without  
13 calling for bids therefor whenever the estimated cost of the work or  
14 improvement, including cost of materials, supplies and equipment will  
15 not exceed the sum of thirty thousand dollars if more than one craft or  
16 trade is involved with the public works, or twenty thousand dollars if  
17 a single craft or trade is involved with the public works or the public  
18 works project is street signalization or street lighting. A public  
19 works project means a complete project. The restrictions in this  
20 subsection do not permit the division of the project into units of work  
21 or classes of work to avoid the restriction on work that may be  
22 performed by day labor on a single project.

23 Whenever the cost of the public work or improvement, including  
24 materials, supplies and equipment, will exceed these figures, the same  
25 shall be done by contract. All such contracts shall be let at public  
26 bidding upon publication of notice calling for sealed bids upon the  
27 work. The notice shall be published in the official newspaper, or a  
28 newspaper of general circulation most likely to bring responsive bids,  
29 at least thirteen days prior to the last date upon which bids will be  
30 received. The notice shall generally state the nature of the work to  
31 be done that plans and specifications therefor shall then be on file in  
32 the city or town hall for public inspections, and require that bids be  
33 sealed and filed with the council or commission within the time  
34 specified therein. Each bid shall be accompanied by a bid proposal  
35 deposit in the form of a cashier's check, postal money order, or surety  
36 bond to the council or commission for a sum of not less than five  
37 percent of the amount of the bid, and no bid shall be considered unless  
38 accompanied by such bid proposal deposit. The council or commission of

1 the city or town shall let the contract to the lowest responsible  
2 bidder or shall have power by resolution to reject any or all bids and  
3 to make further calls for bids in the same manner as the original call.

4 When the contract is let then all bid proposal deposits shall be  
5 returned to the bidders except that of the successful bidder which  
6 shall be retained until a contract is entered into and a bond to  
7 perform the work furnished, with surety satisfactory to the council or  
8 commission, in accordance with RCW 39.08.030. If the bidder fails to  
9 enter into the contract in accordance with his or her bid and furnish  
10 a bond within ten days from the date at which he or she is notified  
11 that he or she is the successful bidder, the check or postal money  
12 order and the amount thereof shall be forfeited to the council or  
13 commission or the council or commission shall recover the amount of the  
14 surety bond.

15 If no bid is received on the first call the council or commission  
16 may readvertise and make a second call, or may enter into a contract  
17 without any further call or may purchase the supplies, material or  
18 equipment and perform the work or improvement by day labor.

19 (2) The allocation of public works projects to be performed by city  
20 or town employees shall not be subject to a collective bargaining  
21 agreement.

22 (3) In lieu of the procedures of subsection (1) of this section, a  
23 second class city or a town may use the small works roster process  
24 provided in RCW 39.04.155 to award public works contracts with an  
25 estimated value of one hundred thousand dollars or less.

26 ~~((Whenever possible, the city or town shall invite at least one  
27 proposal from a minority or woman contractor who shall otherwise  
28 qualify under this section.))~~

29 (4) The form required by RCW 43.09.205 shall be to account and  
30 record costs of public works in excess of five thousand dollars that  
31 are not let by contract.

32 (5) The cost of a separate public works project shall be the costs  
33 of the materials, equipment, supplies, and labor on that construction  
34 project.

35 (6) Any purchase of supplies, material, or equipment, except for  
36 public work or improvement, where the cost thereof exceeds seven  
37 thousand five hundred dollars shall be made upon call for bids.

38 (7) Bids shall be called annually and at a time and in the manner  
39 prescribed by ordinance for the publication in a newspaper of general

1 circulation in the city or town of all notices or newspaper  
2 publications required by law. The contract shall be awarded to the  
3 lowest responsible bidder.

4 (8) For advertisement and formal sealed bidding to be dispensed  
5 with as to purchases between seven thousand five hundred and fifteen  
6 thousand dollars, the council or commission must authorize by  
7 resolution, use of the uniform procedure provided in RCW 39.04.190.

8 (9) These requirements for purchasing may be waived by resolution  
9 of the city or town council or commission which declared that the  
10 purchase is clearly and legitimately limited to a single source or  
11 supply within the near vicinity, or the materials, supplies, equipment,  
12 or services are subject to special market conditions, and recites why  
13 this situation exists. Such actions are subject to RCW 39.30.020.

14 (10) This section does not apply to performance-based contracts, as  
15 defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A  
16 RCW.

17 (11) Nothing in this section shall prohibit any second class city  
18 or any town from allowing for preferential purchase of products made  
19 from recycled materials or products that may be recycled or reused.

20 **Sec. 114.** RCW 35.82.075 and 1989 c 363 s 6 are each amended to  
21 read as follows:

22 (1) In addition to any other powers authorized in RCW 35.82.070, an  
23 authority may establish a small works roster consisting of all  
24 qualified contractors who have requested to be included on the roster  
25 and are, where required by law, properly licensed or registered to  
26 perform such work in the state of Washington.

27 (2) The small works roster may make distinctions between  
28 contractors based on the nature of the work the contractor is qualified  
29 to perform. At least once every year, the authority shall advertise in  
30 a newspaper of general circulation, in the authority's area of  
31 operation, the existence of the small works roster and shall add to the  
32 roster those contractors who request to be included on the roster.

33 (3) The commissioners of the authority shall establish uniform  
34 procedures to prequalify contractors for inclusion on the small works  
35 roster and a procedure for securing telephone or written quotations  
36 from contractors on the small works roster to assure establishment of  
37 a competitive price and for awarding contracts to the lowest  
38 responsible bidder.

1 (4) Construction, repair, or alteration projects estimated to cost  
2 less than forty thousand dollars are exempt from the requirement that  
3 contracts be awarded after advertisement and competitive bid as defined  
4 in RCW 39.04.010. In lieu of advertisement and competitive bid, the  
5 authority shall solicit at least five quotations, confirmed in writing,  
6 from contractors in a manner that will equitably distribute  
7 opportunities among contractors on the small works roster for the  
8 category of job type involved. Whenever possible, the authority shall  
9 invite at least one proposal from ((a minority or woman contractor, or  
10 from)) a contractor that employs, or commits to employ, residents of  
11 housing owned or managed by the authority, who shall otherwise qualify  
12 under this section. Such solicitations shall include an estimate of  
13 the scope and nature of the work to be performed, and materials and  
14 equipment to be furnished.

15 (5) Immediately after an award is made, the bid quotations obtained  
16 shall be recorded, open to public inspection, and available by  
17 telephone request.

18 (6) The breaking-down of any public work or improvement into units,  
19 or accomplishing any public work or improvement by phases, for the  
20 purpose of avoiding the minimum dollar amount for bidding, is contrary  
21 to public policy and is prohibited.

22 (7) No authority under chapter 42.17 RCW shall be required to make  
23 financial information required to be provided by the prequalification  
24 procedure for inclusion on the small works roster available for public  
25 inspection or copying.

26 **Sec. 115.** RCW 39.04.150 and 1994 c 264 s 12 and 1994 c 243 s 2 are  
27 each reenacted and amended to read as follows:

28 (1) As used in this section, "agency" means the department of  
29 general administration, the department of fish and wildlife, the  
30 department of natural resources, and the state parks and recreation  
31 commission.

32 (2) In addition to any other power or authority that an agency may  
33 have, each agency, alone or in concert, may establish a small works  
34 roster consisting of all qualified contractors who have requested to be  
35 included on the roster.

36 (3) The small works roster may make distinctions between  
37 contractors based on the geographic areas served and the nature of the  
38 work the contractor is qualified to perform. At least once every year,

1 the agency shall advertise in a newspaper of general circulation the  
2 existence of the small works roster and shall add to the roster those  
3 contractors who request to be included on the roster.

4 (4) Construction, repair, or alteration projects estimated to cost  
5 less than one hundred thousand dollars are exempt from the requirement  
6 that the contracts be awarded after advertisement and competitive bid  
7 as defined by RCW 39.04.010. In lieu of advertisement and competitive  
8 bid, the agency shall solicit at least five quotations, confirmed in  
9 writing, from contractors chosen from the small works roster for the  
10 category of job type involved and shall award the work to the party  
11 with the lowest quotation or reject all quotations. If the agency does  
12 not receive at least two responsive quotations for a particular  
13 project, then the project shall be advertised and competitively bid.  
14 The agency shall solicit quotations from contractors selected randomly  
15 from the small works roster in a manner which will equitably distribute  
16 the opportunity for these contracts among contractors on the roster.  
17 (~~The agency shall invite at least one proposal each from a certified~~  
18 ~~minority and a certified women-owned contractor who shall otherwise~~  
19 ~~qualify to perform such work.)) Immediately after an award is made,  
20 the bid quotations obtained shall be recorded, open to public  
21 inspection, and available by telephone request. If the work is  
22 executed by competitive bid, the agency shall invite at least one  
23 proposal each from a certified minority and a certified women-owned  
24 contractor who shall otherwise qualify to perform such work.~~

25 (5) The breaking down of any public work or improvement into units  
26 or accomplishing any public work or improvement by phases for the  
27 purpose of avoiding the minimum dollar amount for bidding is contrary  
28 to public policy and is prohibited.

29 (6) The director of general administration shall adopt by rule a  
30 procedure to prequalify contractors for inclusion on the small works  
31 roster. Each agency shall follow the procedure adopted by the director  
32 of general administration. No agency shall be required to make  
33 available for public inspection or copying under chapter 42.17 RCW  
34 financial information required to be provided by the prequalification  
35 procedure.

36 (7) An agency may adopt by rule procedures to implement this  
37 section which shall not be inconsistent with the procedures adopted by  
38 the director of the department of general administration pursuant to  
39 subsection (6) of this section.

1       **Sec. 116.** RCW 39.04.220 and 1994 c 80 s 2 are each amended to read  
2 as follows:

3       (1) In addition to currently authorized methods of public works  
4 contracting, and in lieu of the requirements of RCW 39.04.010 and  
5 39.04.020 through 39.04.060, capital projects funded for over ten  
6 million dollars authorized by the legislature for the department of  
7 corrections to construct or repair facilities may be accomplished under  
8 contract using the general contractor/construction manager method  
9 described in this section. In addition, the general contractor/  
10 construction manager method may be used for up to two demonstration  
11 projects under ten million dollars for the department of corrections.  
12 Each demonstration project shall aggregate capital projects authorized  
13 by the legislature at a single site to total no less than three million  
14 dollars with the approval of the office of financial management. The  
15 department of general administration shall present its plan for the  
16 aggregation of projects under each demonstration project to the  
17 oversight advisory committee established under subsection (2) of this  
18 section prior to soliciting proposals for general contractor/  
19 construction manager services for the demonstration project.

20       (2) For the purposes of this section, "general contractor/  
21 construction manager" means a firm with which the department of general  
22 administration has selected and negotiated a maximum allowable  
23 construction cost to be guaranteed by the firm, after competitive  
24 selection through a formal advertisement, and competitive bids to  
25 provide services during the design phase that may include life-cycle  
26 cost design considerations, value engineering, scheduling, cost  
27 estimating, constructability, alternative construction options for cost  
28 savings, and sequencing of work, and to act as the construction manager  
29 and general contractor during the construction phase. The department  
30 of general administration shall establish an independent oversight  
31 advisory committee with representatives of interest groups with an  
32 interest in this subject area, the department of corrections, and the  
33 private sector, to review selection and contracting procedures and  
34 contracting documents. The oversight advisory committee shall discuss  
35 and review the progress of the demonstration projects. The general  
36 contractor/construction manager method is limited to projects  
37 authorized on or before July 1, 1997.

38       (3) Contracts for the services of a general contractor/construction  
39 manager awarded under the authority of this section shall be awarded

1 through a competitive process requiring the public solicitation of  
2 proposals for general contractor/construction manager services.  
3 (~~Minority and women enterprise total project goals shall be specified~~  
4 ~~in the bid instructions to the general contractor/construction manager~~  
5 ~~finalists.~~) The director of general administration is authorized to  
6 include an incentive clause in any contract awarded under this section  
7 for savings of either time or cost or both from that originally  
8 negotiated. No incentives granted shall exceed five percent of the  
9 maximum allowable construction cost. The director of general  
10 administration or his or her designee shall establish a committee to  
11 evaluate the proposals considering such factors as: Ability of  
12 professional personnel; past performance in negotiated and complex  
13 projects; ability to meet time and budget requirements; location;  
14 recent, current, and projected work loads of the firm; and the concept  
15 of their proposal. After the committee has selected the most qualified  
16 finalists, these finalists shall submit sealed bids for the percent  
17 fee, which is the percentage amount to be earned by the general  
18 contractor/construction manager as overhead and profit, on the  
19 estimated maximum allowable construction cost and the fixed amount for  
20 the detailed specified general conditions work. The maximum allowable  
21 construction cost may be negotiated between the department of general  
22 administration and the selected firm after the scope of the project is  
23 adequately determined to establish a guaranteed contract cost for which  
24 the general contractor/construction manager will provide a performance  
25 and payment bond. The guaranteed contract cost includes the fixed  
26 amount for the detailed specified general conditions work, the  
27 negotiated maximum allowable construction cost, the percent fee on the  
28 negotiated maximum allowable construction cost, and sales tax. If the  
29 department of general administration is unable to negotiate a  
30 satisfactory maximum allowable construction cost with the firm selected  
31 that the department of general administration determines to be fair,  
32 reasonable, and within the available funds, negotiations with that firm  
33 shall be formally terminated and the department of general  
34 administration shall negotiate with the next low bidder and continue  
35 until an agreement is reached or the process is terminated. If the  
36 maximum allowable construction cost varies more than fifteen percent  
37 from the bid estimated maximum allowable construction cost due to  
38 requested and approved changes in the scope by the state, the percent  
39 fee shall be renegotiated. All subcontract work shall be competitively

1 bid with public bid openings. (~~Specific contract requirements for~~  
2 ~~women and minority enterprise participation shall be specified in each~~  
3 ~~subcontract bid package that exceeds ten percent of the department's~~  
4 ~~estimated project cost.~~) All subcontractors who bid work over two  
5 hundred thousand dollars shall post a bid bond and the awarded  
6 subcontractor shall provide a performance and payment bond for their  
7 contract amount if required by the general contractor/construction  
8 manager. Bidding on subcontract work by the general contractor/  
9 construction manager or its subsidiaries is prohibited. The general  
10 contractor/construction manager may negotiate with the low-responsive  
11 bidder only in accordance with RCW 39.04.015 or, if unsuccessful in  
12 such negotiations, rebid.

13 (4) If the project is completed for less than the agreed upon  
14 maximum allowable construction cost, any savings not otherwise  
15 negotiated as part of an incentive clause shall accrue to the state.  
16 If the project is completed for more than the agreed upon maximum  
17 allowable construction cost, excepting increases due to any contract  
18 change orders approved by the state, the additional cost shall be the  
19 responsibility of the general contractor/construction manager.

20 (5) The powers and authority conferred by this section shall be  
21 construed as in addition and supplemental to powers or authority  
22 conferred by any other law, and nothing contained herein shall be  
23 construed as limiting any other powers or authority of the department  
24 of general administration. However, all actions taken pursuant to the  
25 powers and authority granted to the director or the department of  
26 general administration under this section may only be taken with the  
27 concurrence of the department of corrections.

28 **Sec. 117.** RCW 39.10.050 and 1994 c 132 s 5 are each amended to  
29 read as follows:

30 (1) Notwithstanding any other provision of law, and after complying  
31 with RCW 39.10.030, the following public bodies may utilize the design-  
32 build procedure of public works contracting for public works projects  
33 authorized under this section: The state department of general  
34 administration; the University of Washington; Washington State  
35 University; every city with a population greater than one hundred fifty  
36 thousand; and every county with a population greater than four hundred  
37 fifty thousand. For the purposes of this section, "design-build  
38 procedure" means a contract between a public body and another party in

1 which the party agrees to both design and build the structure,  
2 facility, or other item specified in the contract.

3 (2) Public bodies authorized under this section may utilize the  
4 design-build procedure for public works projects valued over ten  
5 million dollars where:

6 (a) The construction activities are highly specialized and a  
7 design-build approach is critical in developing the construction  
8 methodology;

9 (b) The project design is repetitive in nature and is an incidental  
10 part of the installation or construction; or

11 (c) The program elements of the project design are simple and do  
12 not involve complex functional interrelationships.

13 (3) The state department of general administration may use the  
14 design-build procedure authorized in subsection (2)(c) of this section  
15 for one project.

16 (4) Contracts for design-build services shall be awarded through a  
17 competitive process utilizing public solicitation of proposals for  
18 design-build services. The public body shall publish at least once in  
19 a legal newspaper of general circulation published in or as near as  
20 possible to that part of the county in which the public work will be  
21 done, a notice of its request for proposals for design-build services  
22 and the availability and location of the request for proposal  
23 documents. The request for proposal documents shall include:

24 (a) A detailed description of the project including programmatic,  
25 performance, and technical requirements and specifications, functional  
26 and operational elements, and minimum and maximum net and gross areas  
27 of any building;

28 (b) The reasons for using the design-build procedure;

29 (c) A description of the qualifications, if any, to be required of  
30 the proposer;

31 (d) A description of the process the public body will use to  
32 evaluate qualifications and proposals, including evaluation factors and  
33 the relative weight of factors. Evaluation factors shall include, but  
34 not be limited to: Proposal price; ability of professional personnel;  
35 past performance on similar projects; ability to meet time and budget  
36 requirements; ability to provide a performance and payment bond for the  
37 project; recent, current, and projected work loads of the firm; and the  
38 concept of the proposal;

39 (e) The form of the contract to be awarded;

1 (f) The maximum allowable construction cost (~~and minority and~~  
2 ~~women enterprise total project goals~~);

3 (g) The amount to be paid to finalists submitting best and final  
4 proposals who are not awarded a design-build contract; and

5 (h) Other information relevant to the project.

6 (5) The public body shall establish a committee to evaluate the  
7 proposals based on the factors, weighting, and process identified in  
8 the request for proposals. Based on its evaluation, the public body  
9 shall select not fewer than three nor more than five finalists to  
10 submit best and final proposals. Best and final proposals shall be  
11 evaluated and scored based on the factors, weighting, and process  
12 identified in the initial request for proposals. Final proposals may  
13 not be considered if the proposal cost is greater than the maximum  
14 allowable construction cost identified in the initial request for  
15 proposals.

16 (6) The public body shall initiate negotiations with the firm  
17 submitting the highest scored final proposal. If the public body is  
18 unable to execute a contract with that firm, negotiations with that  
19 firm may be suspended or terminated and the public body may proceed to  
20 negotiate with the next highest scored firm. Public bodies shall  
21 continue in accordance with this procedure until a contract agreement  
22 is reached or the selection process is terminated. The public body  
23 may, in its sole discretion, reject all proposals. The finalist  
24 awarded the contract shall provide a performance and payment bond for  
25 the contracted amount. The public body shall provide appropriate  
26 honorarium payments to finalists submitting best and final proposals  
27 who are not awarded a design-build contract. Honorarium payments shall  
28 be sufficient to generate meaningful competition among potential  
29 proposers on design-build projects.

30 **Sec. 118.** RCW 39.10.060 and 1994 c 132 s 6 are each amended to  
31 read as follows:

32 (1) Notwithstanding any other provision of law, and after complying  
33 with RCW 39.10.030, the following public bodies may utilize the general  
34 contractor/construction manager procedure of public works contracting  
35 for public works projects authorized under subsection (2) of this  
36 section: The state department of general administration; the  
37 University of Washington; Washington State University; every city with  
38 a population greater than one hundred fifty thousand; every county with

1 a population greater than four hundred fifty thousand; and every port  
2 district with a population greater than five hundred thousand. For the  
3 purposes of this section, "general contractor/construction manager"  
4 means a firm with which a public body has selected and negotiated a  
5 maximum allowable construction cost to be guaranteed by the firm, after  
6 competitive selection through formal advertisement and competitive  
7 bids, to provide services during the design phase that may include  
8 life-cycle cost design considerations, value engineering, scheduling,  
9 cost estimating, constructability, alternative construction options for  
10 cost savings, and sequencing of work, and to act as the construction  
11 manager and general contractor during the construction phase.

12 (2) Public bodies authorized under this section may utilize the  
13 general contractor/construction manager procedure for public works  
14 projects valued over ten million dollars where:

15 (a) Implementation of the project involves complex scheduling  
16 requirements;

17 (b) The project involves construction at an existing facility which  
18 must continue to operate during construction; or

19 (c) The involvement of the general contractor/construction manager  
20 during the design stage is critical to the success of the project.

21 (3) Contracts for the services of a general contractor/construction  
22 manager under this section shall be awarded through a competitive  
23 process requiring the public solicitation of proposals for general  
24 contractor/construction manager services. ~~((Minority and women  
25 business enterprise total project goals shall be specified in the  
26 public solicitation of proposals and the bid instructions to the  
27 general contractor/construction manager finalists.))~~ A public body is  
28 authorized to include an incentive clause in any contract awarded under  
29 this section for savings of either time or cost or both from that  
30 originally negotiated. No incentives granted shall exceed five percent  
31 of the maximum allowable construction cost. A public body shall  
32 establish a committee to evaluate the proposals considering such  
33 factors as: Ability of professional personnel; past performance in  
34 negotiated and complex projects; ability to meet time and budget  
35 requirements; location; recent, current, and projected work loads of  
36 the firm; and the concept of their proposal. After the committee has  
37 selected the most qualified finalists, these finalists shall submit  
38 sealed bids for the percent fee, which is the percentage amount to be  
39 earned by the general contractor/construction manager as overhead and

1 profit, on the estimated maximum allowable construction cost and the  
2 fixed amount for the detailed specified general conditions work. The  
3 maximum allowable construction cost may be negotiated between the  
4 public body and the selected firm after the scope of the project is  
5 adequately determined to establish a guaranteed contract cost for which  
6 the general contractor/construction manager will provide a performance  
7 and payment bond. The guaranteed contract cost includes the fixed  
8 amount for the detailed specified general conditions work, the  
9 negotiated maximum allowable construction cost, the percent fee on the  
10 negotiated maximum allowable construction cost, and sales tax. If the  
11 public body is unable to negotiate a satisfactory maximum allowable  
12 construction cost with the firm selected that the public body  
13 determines to be fair, reasonable, and within the available funds,  
14 negotiations with that firm shall be formally terminated and the public  
15 body shall negotiate with the next low bidder and continue until an  
16 agreement is reached or the process is terminated. If the maximum  
17 allowable construction cost varies more than fifteen percent from the  
18 bid estimated maximum allowable construction cost due to requested and  
19 approved changes in the scope by the public body, the percent fee shall  
20 be renegotiated. All subcontract work shall be competitively bid with  
21 public bid openings. (~~Specific contract requirements for women and  
22 minority enterprise participation shall be specified in each  
23 subcontract bid package that exceeds ten percent of the public body's  
24 estimated project cost.~~) All subcontractors who bid work over two  
25 hundred thousand dollars shall post a bid bond and all subcontractors  
26 who are awarded a contract over two hundred thousand dollars shall  
27 provide a performance and payment bond for their contract amount. All  
28 other subcontractors shall provide a performance and payment bond if  
29 required by the general contractor/construction manager. Bidding on  
30 subcontract work by the general contractor/construction manager or its  
31 subsidiaries is prohibited. The general contractor/construction  
32 manager may negotiate with the low-responsive bidder in accordance with  
33 RCW 39.10.080 or, if unsuccessful in such negotiations, rebid.

34 (4) If the project is completed for less than the agreed upon  
35 maximum allowable construction cost, any savings not otherwise  
36 negotiated as part of an incentive clause shall accrue to the public  
37 body. If the project is completed for more than the agreed upon  
38 maximum allowable construction cost, excepting increases due to any  
39 contract change orders approved by the public body, the additional cost

1 shall be the responsibility of the general contractor/construction  
2 manager.

3 **Sec. 119.** RCW 39.80.040 and 1981 c 61 s 4 are each amended to read  
4 as follows:

5 In the procurement of architectural and engineering services, the  
6 agency shall encourage firms engaged in the lawful practice of their  
7 profession to submit annually a statement of qualifications and  
8 performance data. The agency shall evaluate current statements of  
9 qualifications and performance data on file with the agency, together  
10 with those that may be submitted by other firms regarding the proposed  
11 project, and shall conduct discussions with one or more firms regarding  
12 anticipated concepts and the relative utility of alternative methods of  
13 approach for furnishing the required services and then shall select  
14 therefrom, based upon criteria established by the agency, the firm  
15 deemed to be the most highly qualified to provide the services required  
16 for the proposed project. (~~Such agency procedures and guidelines  
17 shall include a plan to insure that minority and women owned firms are  
18 afforded the maximum practicable opportunity to compete for and obtain  
19 public contracts for services. The level of participation by minority  
20 and women owned firms shall be consistent with their general  
21 availability within the professional communities involved.~~)

22 **Sec. 120.** RCW 43.19.1906 and 1995 c 269 s 1404 are each amended to  
23 read as follows:

24 Insofar as practicable, all purchases and sales shall be based on  
25 competitive bids, and a formal sealed bid procedure shall be used as  
26 standard procedure for all purchases and contracts for purchases and  
27 sales executed by the state purchasing and material control director  
28 and under the powers granted by RCW 43.19.190 through 43.19.1939. This  
29 requirement also applies to purchases and contracts for purchases and  
30 sales executed by agencies, including educational institutions, under  
31 delegated authority granted in accordance with provisions of RCW  
32 43.19.190 or under RCW 28B.10.029. However, formal sealed bidding is  
33 not necessary for:

34 (1) Emergency purchases made pursuant to RCW 43.19.200 if the  
35 sealed bidding procedure would prevent or hinder the emergency from  
36 being met appropriately;

1 (2) Purchases not exceeding thirty-five thousand dollars, or  
2 subsequent limits as calculated by the office of financial management:  
3 PROVIDED, That the state director of general administration shall  
4 establish procedures to assure that purchases made by or on behalf of  
5 the various state agencies shall not be made so as to avoid the thirty-  
6 five thousand dollar bid limitation, or subsequent bid limitations as  
7 calculated by the office of financial management: PROVIDED FURTHER,  
8 That the state purchasing and material control director is authorized  
9 to reduce the formal sealed bid limits of thirty-five thousand dollars,  
10 or subsequent limits as calculated by the office of financial  
11 management, to a lower dollar amount for purchases by individual state  
12 agencies if considered necessary to maintain full disclosure of  
13 competitive procurement or otherwise to achieve overall state  
14 efficiency and economy in purchasing and material control. Quotations  
15 from four hundred dollars to thirty-five thousand dollars, or  
16 subsequent limits as calculated by the office of financial management,  
17 shall be secured from at least three vendors to assure establishment of  
18 a competitive price and may be obtained by telephone or written  
19 quotations, or both. (~~The agency shall invite at least one quotation~~  
20 ~~each from a certified minority and a certified women owned vendor who~~  
21 ~~shall otherwise qualify to perform such work.)) Immediately after the  
22 award is made, the bid quotations obtained shall be recorded and open  
23 to public inspection and shall be available by telephone inquiry. A  
24 record of competition for all such purchases from four hundred dollars  
25 to thirty-five thousand dollars, or subsequent limits as calculated by  
26 the office of financial management, shall be documented for audit  
27 purposes. Purchases up to four hundred dollars may be made without  
28 competitive bids based on buyer experience and knowledge of the market  
29 in achieving maximum quality at minimum cost: PROVIDED, That this four  
30 hundred dollar direct buy limit without competitive bids may be  
31 increased incrementally as required to a maximum of eight hundred  
32 dollars, if warranted by increases in purchasing costs due to  
33 inflationary trends;~~

34 (3) Purchases which are clearly and legitimately limited to a  
35 single source of supply and purchases involving special facilities,  
36 services, or market conditions, in which instances the purchase price  
37 may be best established by direct negotiation;

38 (4) Purchases of insurance and bonds by the risk management office  
39 under RCW 43.19.1935;

1 (5) Purchases and contracts for vocational rehabilitation clients  
2 of the department of social and health services: PROVIDED, That this  
3 exemption is effective only when the state purchasing and material  
4 control director, after consultation with the director of the division  
5 of vocational rehabilitation and appropriate department of social and  
6 health services procurement personnel, declares that such purchases may  
7 be best executed through direct negotiation with one or more suppliers  
8 in order to expeditiously meet the special needs of the state's  
9 vocational rehabilitation clients;

10 (6) Purchases by universities for hospital operation or biomedical  
11 teaching or research purposes and by the state purchasing and material  
12 control director, as the agent for state hospitals as defined in RCW  
13 72.23.010, and for health care programs provided in state correctional  
14 institutions as defined in RCW 72.65.010(3) and veterans' institutions  
15 as defined in RCW 72.36.010 and 72.36.070, made by participating in  
16 contracts for materials, supplies, and equipment entered into by  
17 nonprofit cooperative hospital group purchasing organizations;

18 (7) Purchases by institutions of higher education not exceeding  
19 thirty-five thousand dollars: PROVIDED, That for purchases between two  
20 thousand five hundred dollars and thirty-five thousand dollars  
21 quotations shall be secured from at least three vendors to assure  
22 establishment of a competitive price and may be obtained by telephone  
23 or written quotations, or both. For purchases between two thousand  
24 five hundred dollars and thirty-five thousand dollars, each institution  
25 of higher education shall invite at least one quotation each from a  
26 certified minority and a certified women-owned vendor who shall  
27 otherwise qualify to perform such work. A record of competition for  
28 all such purchases made from two thousand five hundred to thirty-five  
29 thousand dollars shall be documented for audit purposes; and

30 (8) Beginning on July 1, 1995, and on July 1 of each succeeding  
31 odd-numbered year, the dollar limits specified in this section shall be  
32 adjusted as follows: The office of financial management shall  
33 calculate such limits by adjusting the previous biennium's limits by  
34 the appropriate federal inflationary index reflecting the rate of  
35 inflation for the previous biennium. Such amounts shall be rounded to  
36 the nearest one hundred dollars.

37 **Sec. 121.** RCW 43.20A.685 and 1981 c 151 s 2 are each amended to  
38 read as follows:

1 (1) The initial members of the council shall be appointed by the  
2 governor to staggered terms such that approximately one-third of the  
3 members serve terms of one year, one-third serve terms of two years,  
4 and one-third serve terms of three years. Thereafter, members of the  
5 council shall be appointed by the governor to terms of three years,  
6 except in the case of a vacancy, in which event appointment shall be  
7 for the remainder of the unexpired term for which the vacancy occurs.  
8 No member of the council may serve more than two consecutive three-year  
9 terms. One member shall be appointed from each state-designated  
10 planning and service area from a list of names transmitted by each area  
11 agency on aging advisory council, such list including the names of all  
12 persons nominated within the planning and service area together with  
13 the area agency on aging advisory council's recommendations. The  
14 governor shall appoint one additional member from names submitted by  
15 the association of Washington cities and one additional member from  
16 names submitted by the Washington state association of counties. In  
17 addition, the governor may appoint not more than five at large members,  
18 in order to ensure that rural areas (those areas outside of a standard  
19 metropolitan statistical area)((~~minority populations~~)) and those  
20 individuals with special skills which could assist the state council  
21 are represented. The members of the state council on aging shall  
22 elect, at the council's initial meeting and at the council's first  
23 meeting each year, one member to serve as chairperson of the council  
24 and another member to serve as secretary of the council.

25 (2) The speaker of the house of representatives and the president  
26 of the senate shall each appoint two nonvoting members to the council;  
27 one from each of the two largest caucuses in each house. The terms of  
28 the members so appointed shall be for approximately two years and the  
29 terms shall expire before the first day of the legislative session in  
30 odd-numbered years. They shall be compensated by their respective  
31 houses as provided under RCW 44.04.120, as now or hereafter amended.

32 (3) With the exception of the members from the Washington state  
33 association of cities, the Washington state association of counties,  
34 and the nonvoting legislative members, all members of the council shall  
35 be at least fifty-five years old.

36 **Sec. 122.** RCW 43.31.085 and 1993 c 512 s 3 and 1993 c 280 s 40 are  
37 each reenacted and amended to read as follows:

38 The business assistance center shall:

1 (1) Serve as the state's lead agency and advocate for the  
2 development and conservation of businesses.

3 (2) Coordinate the delivery of state programs to assist businesses.

4 (3) Provide comprehensive referral services to businesses requiring  
5 government assistance.

6 (4) Serve as the business ombudsman within state government and  
7 advise the governor and the legislature of the need for new legislation  
8 to improve the effectiveness of state programs to assist businesses.

9 (5) Aggressively promote business awareness of the state's business  
10 programs and distribute information on the services available to  
11 businesses.

12 (6) Develop, in concert with local economic development and  
13 business assistance organizations, coordinated processes that  
14 complement both state and local activities and services.

15 (7) Work with other federal, state, and local agencies and  
16 organizations to ensure that business assistance services including  
17 small business, trade services, and distressed area programs are  
18 provided in a coordinated and cost-effective manner.

19 ~~(8) ((Provide or contract for technical assistance to minority and  
20 women-owned business enterprises in a variety of areas, including, but  
21 not limited to, marketing, finance, bidding and estimating assistance,  
22 public contracting assistance, and management.~~

23 ~~(9))~~ In collaboration with the child care coordinating committee  
24 in the department of social and health services, prepare and  
25 disseminate information on child care options for employers and the  
26 existence of the program. As much as possible, and through interagency  
27 agreements where necessary, such information should be included in the  
28 routine communications to employers from (a) the department of revenue,  
29 (b) the department of labor and industries, (c) the employment security  
30 department, (d) the department of community, trade, and economic  
31 development, (e) the small business development center, and (f) the  
32 department of social and health services.

33 ~~((10))~~ (9) In collaboration with the child care coordinating  
34 committee in the department of social and health services, compile  
35 information on and facilitate employer access to individuals, firms,  
36 organizations, and agencies that provide technical assistance to  
37 employers to enable them to develop and support child care services or  
38 facilities.

1       (~~(11)~~) (10) Actively seek public and private money to support the  
2 child care facility fund described in RCW 43.31.502, staff and assist  
3 the child care facility fund committee as described in RCW 43.31.504,  
4 and work to promote applications to the committee for loan guarantees,  
5 loans, and grants.

6       **Sec. 123.** RCW 43.31.425 and 1991 c 272 s 20 are each amended to  
7 read as follows:

8       The Hanford area economic investment fund committee staffed by the  
9 local associate development organization is hereby established.

10       (1) The committee shall have eleven members. The governor shall  
11 appoint the members, in consultation with the Hanford area associate  
12 development organization and Hanford area elected officials, subject to  
13 the following requirements:

14       (a) All members shall either reside or be employed within the  
15 Hanford area.

16       (b) The committee shall have a balanced membership representing one  
17 member each from the elected leadership of Benton county, Franklin  
18 county, the city of Richland, the city of Kennewick, the city of Pasco,  
19 a Hanford area port district, the labor community, and four members  
20 from the Hanford area business and financial community.

21       (~~(c) Careful consideration shall be given to assure minority  
22 representation on the committee.~~)

23       (2) Each member appointed by the governor shall serve a term of  
24 three years, except that of the members first appointed, four shall  
25 serve two-year terms and four shall serve one-year terms. A person  
26 appointed to fill a vacancy of a member shall be appointed in a like  
27 manner and shall serve for only the unexpired term. A member is  
28 eligible for reappointment. A member may be removed by the governor  
29 for cause.

30       (3) The governor shall designate a member of the committee as its  
31 chairperson. The committee may elect such other officers as it deems  
32 appropriate. Six members of the committee constitute a quorum and six  
33 affirmative votes are necessary for the transaction of business or the  
34 exercise of any power or function of the committee.

35       (4) The members shall serve without compensation, but are entitled  
36 to reimbursement for actual and necessary expenses incurred in the  
37 performance of official duties in accordance with RCW 43.03.050 and  
38 43.03.060.

1 (5) Members shall not be liable to the state, to the fund, or to  
2 any other person as a result of their activities, whether ministerial  
3 or discretionary, as members except for willful dishonesty or  
4 intentional violations of law. The department may purchase liability  
5 insurance for members and may indemnify these persons against the  
6 claims of others.

7 **Sec. 124.** RCW 43.60A.080 and 1995 c 25 s 1 are each amended to  
8 read as follows:

9 (1) There is hereby created a veterans affairs advisory committee  
10 which shall serve in an advisory capacity to the governor and the  
11 director of the department of veterans affairs. The committee shall be  
12 composed of seventeen members to be appointed by the governor, and  
13 shall consist of the following:

14 (a) One representative of the Washington soldiers' home and colony  
15 at Orting and one representative of the Washington veterans' home at  
16 Retsil. Each home's resident council may nominate up to three  
17 individuals whose names are to be forwarded by the director to the  
18 governor. In making the appointments, the governor shall consider  
19 these recommendations or request additional nominations.

20 (b) One representative each from the three congressionally  
21 chartered or nationally recognized veterans service organizations as  
22 listed in the current "Directory of Veterans Service Organizations"  
23 published by the United States department of veterans affairs with the  
24 largest number of active members in the state of Washington as  
25 determined by the director. The organizations' state commanders may  
26 each submit a list of three names to be forwarded to the governor by  
27 the director. In making the appointments, the governor shall consider  
28 these recommendations or request additional nominations.

29 (c) Ten members shall be chosen to represent those congressionally  
30 chartered or nationally recognized veterans service organizations  
31 listed in the directory under (b) of this subsection and having at  
32 least one active chapter within the state of Washington. Up to three  
33 nominations may be forwarded from each organization to the governor by  
34 the director. In making the appointments, the governor shall consider  
35 these recommendations or request additional nominations.

36 (d) Two members shall be veterans at large. Any individual or  
37 organization may nominate a veteran for an at-large position.  
38 Organizational affiliation shall not be a prerequisite for nomination

1 or appointment. All nominations for the at-large positions shall be  
2 forwarded by the director to the governor.

3 (e) No organization shall have more than one official  
4 representative on the committee at any one time.

5 (f) In making appointments to the committee, care shall be taken to  
6 ensure that members represent all geographical portions of the state  
7 (~~and minority viewpoints, and that the issues and views of concern to~~  
8 ~~women veterans are represented~~)).

9 (2) All members shall have terms of four years. In the case of a  
10 vacancy, appointment shall be only for the remainder of the unexpired  
11 term for which the vacancy occurs. No member may serve more than two  
12 consecutive terms, with vacancy appointments to an unexpired term not  
13 considered as a term. Members appointed before June 11, 1992, shall  
14 continue to serve until the expiration of their current terms; and  
15 then, subject to the conditions contained in this section, are eligible  
16 for reappointment.

17 (3) The committee shall adopt an order of business for conducting  
18 its meetings.

19 (4) The committee shall have the following powers and duties:

20 (a) To serve in an advisory capacity to the governor and the  
21 director on matters pertaining to the department of veterans affairs;

22 (b) To acquaint themselves fully with the operations of the  
23 department and recommend such changes to the governor and the director  
24 as they deem advisable.

25 (5) Members of the committee shall receive no compensation for the  
26 performance of their duties but shall receive a per diem allowance and  
27 mileage expense according to the provisions of chapter 43.03 RCW.

28 **Sec. 125.** RCW 43.163.020 and 1995 c 399 s 89 are each amended to  
29 read as follows:

30 The Washington economic development finance authority is  
31 established as a public body corporate and politic, with perpetual  
32 corporate succession, constituting an instrumentality of the state of  
33 Washington exercising essential governmental functions. The authority  
34 is a public body within the meaning of RCW 39.53.010.

35 The authority shall consist of (~~eighteen~~ ~~[seventeen]~~) seventeen  
36 members as follows: The director of the department of community,  
37 trade, and economic development, the director of the department of  
38 agriculture, the state treasurer, one member from each caucus in the

1 house of representatives appointed by the speaker of the house, one  
2 member from each caucus in the senate appointed by the president of the  
3 senate, and ten public members with (~~one representative of women-owned~~  
4 ~~businesses and one representative of minority-owned businesses and~~  
5 ~~with~~) at least three of the members residing east of the Cascades.  
6 The public members shall be residents of the state appointed by the  
7 governor on the basis of their interest or expertise in trade,  
8 agriculture or business finance or jobs creation and development. One  
9 of the public members shall be appointed by the governor as chair of  
10 the authority and shall serve as chair of the authority at the pleasure  
11 of the governor. The authority may select from its membership such  
12 other officers as it deems appropriate.

13 The term of the persons appointed by the governor as public members  
14 of the authority, including the public member appointed as chair, shall  
15 be four years from the date of appointment, except that the term of  
16 three of the initial appointees shall be for two years from the date of  
17 appointment and the term of four of the initial appointees shall be for  
18 three years from the date of appointment. The governor shall designate  
19 the appointees who will serve the two-year and three-year terms.

20 In the event of a vacancy on the authority due to death,  
21 resignation or removal of one of the public members, or upon the  
22 expiration of the term of one of the public members, the governor shall  
23 appoint a successor for the remainder of the unexpired term. If either  
24 of the state offices is abolished, the resulting vacancy on the  
25 authority shall be filled by the state officer who shall succeed  
26 substantially to the power and duties of the abolished office.

27 Any public member of the authority may be removed by the governor  
28 for misfeasance, malfeasance or willful neglect of duty after notice  
29 and a public hearing, unless such notice and hearing shall be expressly  
30 waived in writing by the affected public member.

31 The state officials serving in ex officio capacity may each  
32 designate an employee of their respective departments to act on their  
33 behalf in all respects with regard to any matter to come before the  
34 authority. Such designations shall be made in writing in such manner  
35 as is specified by the rules of the authority.

36 The members of the authority shall serve without compensation but  
37 shall be entitled to reimbursement, solely from the funds of the  
38 authority, for expenses incurred in the discharge of their duties under  
39 this chapter. The authority may borrow funds from the department for

1 the purpose of reimbursing members for expenses; however, the authority  
2 shall repay the department as soon as practicable.

3 A majority of the authority shall constitute a quorum.

4 **Sec. 126.** RCW 43.175.010 and 1987 c 348 s 6 are each amended to  
5 read as follows:

6 (1) There is established the governor's small business improvement  
7 council to consist of at least fifteen but not more than thirty  
8 members, including one member of each caucus in the house of  
9 representatives and the senate, to be appointed by the governor. In  
10 making the appointments, the governor shall consider the  
11 recommendations of business organizations and persons operating small  
12 businesses, and provide for the representation of (~~women or members of~~  
13 ~~minority groups, and~~) agribusiness concerns. The governor shall  
14 appoint ex officio nonvoting members to the council from the various  
15 state agencies with business assistance services or responsibilities.  
16 Members of the governor's small business improvement council shall be  
17 appointed for terms of four years, but the governor may modify the  
18 terms of the initial members as necessary to achieve staggered terms.

19 (2) Members of the governor's small business improvement council  
20 shall be reimbursed for travel expenses as provided in RCW 43.03.050  
21 and 43.03.060 subject to legislative appropriation.

22 (3) The office of the governor shall provide staff support and  
23 administrative assistance to the council.

24 **Sec. 127.** RCW 43.180.070 and 1983 c 161 s 7 are each amended to  
25 read as follows:

26 The commission shall adopt a general plan of housing finance  
27 objectives to be implemented by the commission during the period of the  
28 plan. The commission shall adopt a plan no later than December 15,  
29 1983. The commission may exercise the powers authorized under this  
30 chapter prior to the adoption of the initial plan. In developing the  
31 plan, the commission shall consider and set objectives for:

32 (1) The use of funds for single-family and multifamily housing;

33 (2) The use of funds for new construction, rehabilitation,  
34 including refinancing of existing debt, and home purchases;

35 (3) The housing needs of low-income and moderate-income persons and  
36 families, and of elderly or mentally or physically handicapped persons;

1 (4) The use of funds in coordination with federal, state, and local  
2 housing programs for low-income persons;

3 (5) The use of funds in urban, rural, suburban, and special areas  
4 of the state;

5 (6) The use of financing assistance to stabilize and upgrade  
6 declining urban neighborhoods;

7 (7) The use of financing assistance for economically depressed  
8 areas(~~(, areas of minority concentration, reservations,)~~) and in  
9 mortgage-deficient areas;

10 (8) The geographical distribution of bond proceeds so that the  
11 benefits of the housing programs provided under this chapter will be  
12 available to address demand on a fair basis throughout the state;

13 (9) The use of financing assistance for implementation of cost-  
14 effective energy efficiency measures in dwellings.

15 The plan shall include an estimate of the amount of bonds the  
16 commission will issue during the term of the plan and how bond proceeds  
17 will be expended.

18 The plan shall be adopted by resolution of the commission following  
19 at least one public hearing thereon, notice of which shall be made by  
20 mailing to the clerk of the governing body of each county and by  
21 publication in the Washington State Register no more than forty and no  
22 less than twenty days prior to the hearing. A draft of the plan shall  
23 be made available not less than thirty days prior to any such public  
24 hearing. At least every two years, the commission shall report to the  
25 legislature regarding implementation of the plan.

26 Prior to December 31, 1983, the commission shall submit the plan to  
27 the chief clerk of the house and secretary of the senate for  
28 transmittal to and review by the appropriate standing committees. The  
29 commission may periodically update the plan. Proposed changes of the  
30 plan shall be submitted to the chief clerk of the house and secretary  
31 of the senate for transmittal to and review by the appropriate standing  
32 committees. This submittal of proposed changes shall occur at least  
33 fourteen days before final adoption of the changes by the commission.

34 The commission shall adopt rules designed to result in the use of  
35 bond proceeds in a manner consistent with the plan. These rules shall  
36 be adopted and in full force and effect by February 1, 1984. The  
37 commission may periodically update its rules.

38 The commission is not required to adopt a plan or rules for the use  
39 of the proceeds of bonds issued prior to February, 1984. This section

1 is designed to deal only with the use of bond proceeds and nothing in  
2 this section shall be construed as a limitation on the commission's  
3 authority to issue bonds.

4 **Sec. 128.** RCW 43.220.070 and 1995 c 399 s 112 are each amended to  
5 read as follows:

6 (1) Conservation corps members shall be unemployed residents of the  
7 state between eighteen and twenty-five years of age at the time of  
8 enrollment who are citizens or lawful permanent residents of the United  
9 States. The age requirements may be waived for corps leaders and  
10 specialists with special leadership or occupational skills; such  
11 members shall be given special responsibility for providing leadership,  
12 character development, and sense of community responsibility to the  
13 corps members, groups, and work crews to which they are assigned.  
14 (~~The upper age requirement may be waived for residents who have a~~  
15 ~~sensory or mental handicap. Special effort shall be made to recruit~~  
16 ~~minority and disadvantaged youth who meet selection criteria of the~~  
17 ~~conservation corps.)) Preference shall be given to youths residing in  
18 areas, both urban and rural, in which there exists substantial  
19 unemployment exceeding the state average unemployment rate.~~

20 (2) The legislature finds that people with developmental  
21 disabilities would benefit from experiencing a meaningful work  
22 experience, and learning the value of labor and of membership in a  
23 productive society.

24 The legislature urges state agencies that are participating in the  
25 Washington conservation corps program to consider for enrollment in the  
26 program people who have developmental disabilities, as defined in RCW  
27 71A.10.020.

28 If an agency chooses to enroll people with developmental  
29 disabilities in its Washington conservation corps program, the agency  
30 may apply to the United States department of labor, employment  
31 standards administration for a special subminimum wage certificate in  
32 order to be allowed to pay enrollees with developmental disabilities  
33 according to their individual levels of productivity.

34 (3) Corps members shall not be considered state employees. Other  
35 provisions of law relating to civil service, hours of work, rate of  
36 compensation, sick leave, unemployment compensation, state retirement  
37 plans, and vacation leave do not apply to the Washington conservation

1 corps except for the crew leaders, who shall be project employees, and  
2 the administrative and supervisory personnel.

3 (4) Enrollment shall be for a period of six months which may be  
4 extended for an additional six months by mutual agreement of the corps  
5 and the corps member. Corps members shall be reimbursed at the minimum  
6 wage rate established by state or federal law, whichever is higher:  
7 PROVIDED, That if agencies elect to run a residential program, the  
8 appropriate costs for room and board shall be deducted from the corps  
9 member's paycheck as provided in chapter 43.220 RCW.

10 (5) Corps members are to be available at all times for emergency  
11 response services coordinated through the department of community,  
12 trade, and economic development or other public agency. Duties may  
13 include sandbagging and flood cleanup, search and rescue, and other  
14 functions in response to emergencies.

15 **Sec. 129.** RCW 43.330.050 and 1993 c 280 s 7 are each amended to  
16 read as follows:

17 The department shall be responsible for promoting community and  
18 economic development within the state by assisting the state's  
19 communities to increase the quality of life of their citizens and their  
20 economic vitality, and by assisting the state's businesses to maintain  
21 and increase their economic competitiveness, while maintaining a  
22 healthy environment. Community and economic development efforts shall  
23 include: Efforts to increase economic opportunity; local planning to  
24 manage growth; the promotion and provision of affordable housing and  
25 housing-related services; providing public infrastructure; business and  
26 trade development; assisting firms and industrial sectors to increase  
27 their competitiveness; (~~fostering the development of minority and  
28 women-owned businesses;~~) facilitating technology development,  
29 transfer, and diffusion; community services and advocacy for low-income  
30 persons; and public safety efforts. The department shall have the  
31 following general functions and responsibilities:

32 (1) Provide advisory assistance to the governor, other state  
33 agencies, and the legislature on community and economic development  
34 matters and issues;

35 (2) Assist the governor in coordinating the activities of state  
36 agencies that have an impact on local government and communities;

1 (3) Cooperate with the legislature and the governor in the  
2 development and implementation of strategic plans for the state's  
3 community and economic development efforts;

4 (4) Solicit private and federal grants for economic and community  
5 development programs and administer such programs in conjunction with  
6 other programs assigned to the department by the governor or the  
7 legislature;

8 (5) Cooperate with and provide technical and financial assistance  
9 to local governments, businesses, and community-based organizations  
10 serving the communities of the state for the purpose of aiding and  
11 encouraging orderly, productive, and coordinated development of the  
12 state, and, unless stipulated otherwise, give additional consideration  
13 to local communities and individuals with the greatest relative need  
14 and the fewest resources;

15 (6) Participate with other states or subdivisions thereof in  
16 interstate programs and assist cities, counties, municipal  
17 corporations, governmental conferences or councils, and regional  
18 planning commissions to participate with other states and provinces or  
19 their subdivisions;

20 (7) Hold public hearings and meetings to carry out the purposes of  
21 this chapter;

22 (8) Conduct research and analysis in furtherance of the state's  
23 economic and community development efforts including maintenance of  
24 current information on market, demographic, and economic trends as they  
25 affect different industrial sectors, geographic regions, and  
26 communities with special economic and social problems in the state; and

27 (9) Develop a schedule of fees for services where appropriate.

28 **Sec. 130.** RCW 47.28.030 and 1984 c 194 s 1 are each amended to  
29 read as follows:

30 A state highway shall be constructed, altered, repaired, or  
31 improved, and improvements located on property acquired for right of  
32 way purposes may be repaired or renovated pending the use of such right  
33 of way for highway purposes, by contract or state forces. The work or  
34 portions thereof may be done by state forces when the estimated costs  
35 thereof is less than thirty thousand dollars: PROVIDED, That when  
36 delay of performance of such work would jeopardize a state highway or  
37 constitute a danger to the traveling public, the work may be done by  
38 state forces when the estimated cost thereof is less than fifty

1 thousand dollars. When the department of transportation determines to  
2 do the work by state forces, it shall enter a statement upon its  
3 records to that effect, stating the reasons therefor. To enable a  
4 larger number of small businesses(~~(, and minority, and women~~  
5 ~~contractors~~)) to effectively compete for highway department contracts,  
6 the department may adopt rules providing for bids and award of  
7 contracts for the performance of work, or furnishing equipment,  
8 materials, supplies, or operating services whenever any work is to be  
9 performed and the engineer's estimate indicates the cost of the work  
10 would not exceed fifty thousand dollars. The rules adopted under this  
11 section:

12 (1) Shall provide for competitive bids to the extent that  
13 competitive sources are available except when delay of performance  
14 would jeopardize life or property or inconvenience the traveling  
15 public; and

16 (2) Need not require the furnishing of a bid deposit nor a  
17 performance bond, but if a performance bond is not required then  
18 progress payments to the contractor may be required to be made based on  
19 submittal of paid invoices to substantiate proof that disbursements  
20 have been made to laborers, materialmen, mechanics, and subcontractors  
21 from the previous partial payment; and

22 (3) May establish prequalification standards and procedures as an  
23 alternative to those set forth in RCW 47.28.070, but the  
24 prequalification standards and procedures under RCW 47.28.070 shall  
25 always be sufficient.

26 (~~The department of transportation shall comply with such goals and~~  
27 ~~rules as may be adopted by the office of minority and women's business~~  
28 ~~enterprises to implement chapter 39.19 RCW with respect to contracts~~  
29 ~~entered into under this chapter. The department may adopt such rules~~  
30 ~~as may be necessary to comply with the rules adopted by the office of~~  
31 ~~minority and women's business enterprises under chapter 39.19 RCW.))~~

32 **Sec. 131.** RCW 49.60.120 and 1993 c 510 s 6 and 1993 c 69 s 4 are  
33 each reenacted and amended to read as follows:

34 The commission shall have the functions, powers and duties:

35 (1) To appoint an executive director and chief examiner, and such  
36 investigators, examiners, clerks, and other employees and agents as it  
37 may deem necessary, fix their compensation within the limitations  
38 provided by law, and prescribe their duties.

1 (2) To obtain upon request and utilize the services of all  
2 governmental departments and agencies.

3 (3) To adopt, promulgate, amend, and rescind suitable rules and  
4 regulations to carry out the provisions of this chapter, and the  
5 policies and practices of the commission in connection therewith.

6 (4) To receive, impartially investigate, and pass upon complaints  
7 alleging unfair practices as defined in this chapter.

8 (5) To issue such publications and such results of investigations  
9 and research as in its judgment will tend to promote good will and  
10 minimize or eliminate discrimination because of sex, race, creed,  
11 color, national origin, marital status, age, or the presence of any  
12 sensory, mental, or physical disability, or the use of a trained guide  
13 dog or service dog by a disabled person.

14 (6) To make such technical studies as are appropriate to effectuate  
15 the purposes and policies of this chapter and to publish and distribute  
16 the reports of such studies.

17 (7) To cooperate and act jointly or by division of labor with the  
18 United States or other states, with other Washington state agencies,  
19 commissions, and other government entities, and with political  
20 subdivisions of the state of Washington and their respective human  
21 rights agencies to carry out the purposes of this chapter. However,  
22 the powers which may be exercised by the commission under this  
23 subsection permit investigations and complaint dispositions only if the  
24 investigations are designed to reveal, or the complaint deals only  
25 with, allegations which, if proven, would constitute unfair practices  
26 under this chapter. The commission may perform such services for these  
27 agencies and be reimbursed therefor.

28 ~~((8) To foster good relations between minority and majority  
29 population groups of the state through seminars, conferences,  
30 educational programs, and other intergroup relations activities.))~~

31 **Sec. 132.** RCW 50.65.250 and 1993 sp.s. c 7 s 5 are each amended to  
32 read as follows:

33 (1) Program volunteers shall be selected from among qualified  
34 individuals submitting applications for full-time service at such time,  
35 in such form, and containing such information as may be necessary to  
36 evaluate the suitability of each individual for service, and available  
37 placements. The commissioner or the commissioner's designee shall  
38 review the application of each individual who applies in conformance

1 with selection criteria established by the commissioner after  
2 consultation with the council, and who, on the basis of the information  
3 provided in the application, is determined to be suitable to serve as  
4 a volunteer under the Washington serves program.

5 (2) Within available funds, volunteers may be placed with any  
6 public or private nonprofit organization, program, or project that  
7 qualifies to accept program volunteers according to the rules and  
8 application procedures established by the commissioner. Work shall  
9 benefit the community or state at-large and may include but is not  
10 limited to programs, projects, or activities that:

11 (a) Address the problems of jobless, homeless, hungry, illiterate,  
12 or functionally illiterate persons, and low-income youths;

13 (b) Provide support and a special focus on those project activities  
14 that address the needs of the unemployed and those in need of job  
15 training or retraining;

16 (c) Address significant health care problems, including services to  
17 homeless individuals and other low-income persons, especially children,  
18 through prevention and treatment;

19 (d) Meet the health, education, welfare, or related needs of low-  
20 income persons, particularly children and low-income ((minority))  
21 communities;

22 (e) Provide care or rehabilitation services to the mentally ill,  
23 developmentally disabled, or other persons with disabilities;

24 (f) Address the educational and education-related needs of  
25 children, youth, families, and young adults within public educational  
26 institutions or related programs;

27 (g) Address alcohol and drug abuse prevention, education, and  
28 related activities; and

29 (h) Seek to enhance, improve, or restore the environment or that  
30 educate or advocate for a sustainable environment.

31 (3) Every reasonable effort shall be made to place participants in  
32 programs, projects, or activities of their choice if the agencies,  
33 programs, or activities are consistent with the intent and purposes of  
34 the Washington serves program, if there is mutual agreement between the  
35 agency, program, or activity and the volunteer, and if the volunteer's  
36 service is consistent with the intent and purpose of the program and  
37 would benefit the community or the state as a whole.

1       **Sec. 133.** RCW 50.67.020 and 1991 c 238 s 15 are each amended to  
2 read as follows:

3       (1) Current members of the Washington state job training  
4 coordinating council appointed pursuant to P.L. 97-300, as amended,  
5 shall serve as the state council for purposes of this chapter until new  
6 appointments are made consistent with this section.

7       (2) New appointments to the state council shall be made by July 1,  
8 1991. Members of the Washington state job training council shall be  
9 appointed by the governor as required by federal law and shall be  
10 representative of the population of the state (~~with regard to sex,~~  
11 ~~race, ethnic background,~~) and geographical distribution. To the  
12 maximum extent feasible, the governor shall give consideration to  
13 providing overlapping membership with the membership of the work force  
14 training and education coordinating board. One voting member of the  
15 council shall be a representative of the administrators for the service  
16 delivery areas established under P.L. 97-300. One voting member of the  
17 council shall be a representative of the private industry councils  
18 established under P.L. 97-300.

19       (3) The Washington state job training coordinating council shall  
20 provide staff and allocate funds to the work force training and  
21 education coordinating board, as appropriate, to carry out the  
22 overlapping functions of the two bodies.

23       **Sec. 134.** RCW 53.08.120 and 1993 c 198 s 13 are each amended to  
24 read as follows:

25       All material required by a port district may be procured in the  
26 open market or by contract and all work ordered may be done by contract  
27 or day labor. All such contracts for work, the estimated cost of which  
28 exceeds one hundred thousand dollars, shall be let at public bidding  
29 upon notice published in a newspaper of general circulation in the  
30 district at least thirteen days before the last date upon which bids  
31 will be received, calling for sealed bids upon the work, plans and  
32 specifications for which shall then be on file in the office of the  
33 commission for public inspection. The same notice may call for bids on  
34 such work or material based upon plans and specifications submitted by  
35 the bidder.

36       Each port district shall maintain a small works roster, as provided  
37 in RCW 39.04.155, and may use the small works roster process to award  
38 contracts in lieu of calling for sealed bids whenever work is done by

1 contract, the estimated cost of which is one hundred thousand dollars  
2 or less. (~~Whenever possible, the managing official shall invite at  
3 least one proposal from a minority contractor who shall otherwise  
4 qualify under this section.~~)

5 When awarding such a contract for work, when utilizing proposals  
6 from the small works roster, the managing official shall give weight to  
7 the contractor submitting the lowest and best proposal(~~(, and whenever  
8 it would not violate the public interest, such contracts shall be  
9 distributed equally among contractors, including minority contractors,  
10 on the small works roster)~~)).

11 **Sec. 135.** RCW 70.96A.070 and 1994 c 231 s 2 are each amended to  
12 read as follows:

13 Pursuant to the provisions of RCW 43.20A.360, there shall be a  
14 citizens advisory council composed of not less than seven nor more than  
15 fifteen members. It is the intent of the legislature that the citizens  
16 advisory council broadly represent citizens who have been recipients of  
17 voluntary or involuntary treatment for alcoholism or other drug  
18 addiction and who have been in recovery from chemical dependency for a  
19 minimum of two years. To meet this intent, at least two-thirds of the  
20 council's members shall be former recipients of these services and not  
21 employed in an occupation relating to alcoholism or drug addiction.  
22 The remaining members shall be broadly representative of the community,  
23 shall include representation from business and industry, organized  
24 labor, and the judiciary, (~~(and minority groups,)~~) chosen for their  
25 demonstrated concern with alcoholism and other drug addiction problems.  
26 Members shall be appointed by the secretary. In addition to advising  
27 the department in carrying out the purposes of this chapter, the  
28 council shall develop and propose to the secretary for his or her  
29 consideration the rules for the implementation of the chemical  
30 dependency program of the department. Rules and policies governing  
31 treatment programs shall be developed in collaboration among the  
32 council, department staff, local government, and administrators of  
33 voluntary and involuntary treatment programs. The secretary shall  
34 thereafter adopt such rules that, in his or her judgment properly  
35 implement the chemical dependency program of the department consistent  
36 with the welfare of those to be served, the legislative intent, and the  
37 public good.

1       **Sec. 136.** RCW 70.96A.300 and 1989 c 270 s 15 are each amended to  
2 read as follows:

3       (1) A county or combination of counties acting jointly by  
4 agreement, referred to as "county" in this chapter, may create an  
5 alcoholism and other drug addiction board. This board may also be  
6 designated as a board for other related purposes.

7       (2) The board shall be composed of not less than seven nor more  
8 than fifteen members, who shall be chosen for their demonstrated  
9 concern for alcoholism and other drug addiction problems. Members of  
10 the board shall be representative of the community(~~(,)~~) and shall  
11 include at least one-quarter recovered alcoholics or other recovered  
12 drug addicts(~~(, and shall include minority group representation)~~). No  
13 member may be a provider of alcoholism and other drug addiction  
14 treatment services. No more than four elected or appointed city or  
15 county officials may serve on the board at the same time. Members of  
16 the board shall serve three-year terms and hold office until their  
17 successors are appointed and qualified. They shall not be compensated  
18 for the performance of their duties as members of the board, but may be  
19 reimbursed for travel expenses.

20       (3) The alcoholism and other drug addiction board shall:

21       (a) Conduct public hearings and other investigations to determine  
22 the needs and priorities of county citizens;

23       (b) Prepare and recommend to the county legislative authority for  
24 approval, all plans, budgets, and applications by the county to the  
25 department and other state agencies on behalf of the county alcoholism  
26 and other drug addiction program;

27       (c) Monitor the implementation of the alcoholism and other drug  
28 addiction plan and evaluate the performance of the alcoholism and drug  
29 addiction program at least annually;

30       (d) Advise the county legislative authority and county alcoholism  
31 and other drug addiction program coordinator on matters relating to the  
32 alcoholism and other drug addiction program, including prevention and  
33 education;

34       (e) Nominate individuals to the county legislative authority for  
35 the position of county alcoholism and other drug addiction program  
36 coordinator. The nominees should have training and experience in the  
37 administration of alcoholism and other drug addiction services and  
38 shall meet the minimum qualifications established by rule of the  
39 department;

1 (f) Carry out other duties that the department may prescribe by  
2 rule.

3 **Sec. 137.** RCW 72.23.025 and 1992 c 230 s 1 are each amended to  
4 read as follows:

5 (1) It is the intent of the legislature to improve the quality of  
6 service at state hospitals, eliminate overcrowding, and more  
7 specifically define the role of the state hospitals. The legislature  
8 intends that eastern and western state hospitals shall become clinical  
9 centers for handling the most complicated long-term care needs of  
10 patients with a primary diagnosis of mental disorder. Over the next  
11 six years, their involvement in providing short-term, acute care, and  
12 less complicated long-term care shall be diminished in accordance with  
13 the revised responsibilities for mental health care under chapter 71.24  
14 RCW. To this end, the legislature intends that funds appropriated for  
15 mental health programs, including funds for regional support networks  
16 and the state hospitals be used for persons with primary diagnosis of  
17 mental disorder. The legislature finds that establishment of the  
18 eastern state hospital board, the western state hospital board, and  
19 institutes for the study and treatment of mental disorders at both  
20 eastern state hospital and western state hospital will be instrumental  
21 in implementing the legislative intent.

22 (2)(a) The eastern state hospital board and the western state  
23 hospital board are each established. Members of the boards shall be  
24 appointed by the governor with the consent of the senate. Each board  
25 shall include:

26 (i) The director of the institute for the study and treatment of  
27 mental disorders established at the hospital;

28 (ii) One family member of a current or recent hospital resident;

29 (iii) One consumer of services;

30 (iv) One community mental health service provider;

31 (v) Two citizens with no financial or professional interest in  
32 mental health services;

33 (vi) One representative of the regional support network in which  
34 the hospital is located;

35 (vii) One representative from the staff who is a physician;

36 (viii) One representative from the nursing staff;

37 (ix) One representative from the other professional staff; and

38 (x) One representative from the nonprofessional staff(~~;~~ and

1       ~~(xi) One representative of a minority community)).~~

2       (b) At least one representative listed in (a) (viii), (ix), or (x)  
3 of this subsection shall be a union member.

4       (c) Members shall serve four-year terms. Members of the board  
5 shall be reimbursed for travel expenses as provided in RCW 43.03.050  
6 and 43.03.060 and shall receive compensation as provided in RCW  
7 43.03.240.

8       (3) The boards established under this section shall:

9       (a) Monitor the operation and activities of the hospital;

10       (b) Review and advise on the hospital budget;

11       (c) Make recommendations to the governor and the legislature for  
12 improving the quality of service provided by the hospital;

13       (d) Monitor and review the activities of the hospital in  
14 implementing the intent of the legislature set forth in this section;

15       (e) Report periodically to the governor and the legislature on the  
16 implementation of the legislative intent set forth in this section; and

17       (f) Consult with the secretary regarding persons the secretary may  
18 select as the superintendent of the hospital whenever a vacancy occurs.

19       (4)(a) There is established at eastern state hospital and western  
20 state hospital, institutes for the study and treatment of mental  
21 disorders. The institutes shall be operated by joint operating  
22 agreements between state colleges and universities and the department  
23 of social and health services. The institutes are intended to conduct  
24 training, research, and clinical program development activities that  
25 will directly benefit mentally ill persons receiving treatment in  
26 Washington state by performing the following activities:

27       (i) Promote recruitment and retention of highly qualified  
28 professionals at the state hospitals and community mental health  
29 programs;

30       (ii) Improve clinical care by exploring new, innovative, and  
31 scientifically based treatment models for persons presenting  
32 particularly difficult and complicated clinical syndromes;

33       (iii) Provide expanded training opportunities for existing staff at  
34 the state hospitals and community mental health programs;

35       (iv) Promote bilateral understanding of treatment orientation,  
36 possibilities, and challenges between state hospital professionals and  
37 community mental health professionals.

38       (b) To accomplish these purposes the institutes may, within funds  
39 appropriated for this purpose:

1 (i) Enter joint operating agreements with state universities or  
2 other institutions of higher education to accomplish the placement and  
3 training of students and faculty in psychiatry, psychology, social  
4 work, occupational therapy, nursing, and other relevant professions at  
5 the state hospitals and community mental health programs;

6 (ii) Design and implement clinical research projects to improve the  
7 quality and effectiveness of state hospital services and operations;

8 (iii) Enter into agreements with community mental health service  
9 providers to accomplish the exchange of professional staff between the  
10 state hospitals and community mental health service providers;

11 (iv) Establish a student loan forgiveness and conditional  
12 scholarship program to retain qualified professionals at the state  
13 hospitals and community mental health providers when the secretary has  
14 determined a shortage of such professionals exists.

15 (c) Notwithstanding any other provisions of law to the contrary,  
16 the institutes may enter into agreements with the department or the  
17 state hospitals which may involve changes in staffing necessary to  
18 implement improved patient care programs contemplated by this section.

19 (d) The institutes are authorized to seek and accept public or  
20 private gifts, grants, contracts, or donations to accomplish their  
21 purposes under this section.

22 **Sec. 138.** RCW 74.13.031 and 1995 c 191 s 1 are each amended to  
23 read as follows:

24 The department shall have the duty to provide child welfare  
25 services as defined in RCW 74.13.020, and shall:

26 (1) Develop, administer, supervise, and monitor a coordinated and  
27 comprehensive plan that establishes, aids, and strengthens services for  
28 the protection and care of homeless, runaway, dependent, or neglected  
29 children.

30 (2) Develop a recruiting plan for recruiting an adequate number of  
31 prospective adoptive and foster homes, both regular and specialized,  
32 i.e. homes for children of ethnic minority, (~~including Indian homes~~  
33 ~~for Indian children,~~) sibling groups, handicapped and emotionally  
34 disturbed, and annually submit the plan for review to the house and  
35 senate committees on social and health services. The plan shall  
36 include a section entitled "Foster Home Turn-Over, Causes and  
37 Recommendations."

1 (3) Investigate complaints of neglect, abuse, or abandonment of  
2 children, and on the basis of the findings of such investigation, offer  
3 child welfare services in relation to the problem to such parents,  
4 legal custodians, or persons serving in loco parentis, and/or bring the  
5 situation to the attention of an appropriate court, or another  
6 community agency: PROVIDED, That an investigation is not required of  
7 nonaccidental injuries which are clearly not the result of a lack of  
8 care or supervision by the child's parents, legal custodians, or  
9 persons serving in loco parentis. If the investigation reveals that a  
10 crime may have been committed, the department shall notify the  
11 appropriate law enforcement agency.

12 (4) Offer, on a voluntary basis, family reconciliation services to  
13 families who are in conflict.

14 (5) Monitor out-of-home placements, on a timely and routine basis,  
15 to assure the safety, well-being, and quality of care being provided is  
16 within the scope of the intent of the legislature as defined in RCW  
17 74.13.010 and 74.15.010, and annually submit a report delineating the  
18 results to the house and senate committees on social and health  
19 services.

20 (6) Have authority to accept custody of children from parents and  
21 to accept custody of children from juvenile courts, where authorized to  
22 do so under law, to provide child welfare services including placement  
23 for adoption, and to provide for the physical care of such children and  
24 make payment of maintenance costs if needed. Except where required by  
25 Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency  
26 which receives children for adoption from the department shall  
27 discriminate on the basis of race, creed, or color when considering  
28 applications in their placement for adoption.

29 (7) Have authority to provide temporary shelter to children who  
30 have run away from home and who are admitted to crisis residential  
31 centers.

32 (8) Have authority to purchase care for children; and shall follow  
33 in general the policy of using properly approved private agency  
34 services for the actual care and supervision of such children insofar  
35 as they are available, paying for care of such children as are accepted  
36 by the department as eligible for support at reasonable rates  
37 established by the department.

38 (9) Establish a children's services advisory committee which shall  
39 assist the secretary in the development of a partnership plan for

1 utilizing resources of the public and private sectors, and advise on  
2 all matters pertaining to child welfare, licensing of child care  
3 agencies, adoption, and services related thereto. At least one member  
4 shall represent the adoption community.

5 (10) Have authority to provide continued foster care or group care  
6 for individuals from eighteen through twenty years of age to enable  
7 them to complete their high school or vocational school program.

8 ~~((11) Have authority within funds appropriated for foster care  
9 services to purchase care for Indian children who are in the custody of  
10 a federally recognized Indian tribe or tribally licensed child placing  
11 agency pursuant to parental consent, tribal court order, or state  
12 juvenile court order; and the purchase of such care shall be subject to  
13 the same eligibility standards and rates of support applicable to other  
14 children for whom the department purchases care.))~~

15 Notwithstanding any other provision of RCW 13.32A.170 through  
16 13.32A.200 and 74.13.032 through 74.13.036, or of this section all  
17 services to be provided by the department of social and health services  
18 under subsections (4), (6), and (7) of this section, subject to the  
19 limitations of these subsections, may be provided by any program  
20 offering such services funded pursuant to Titles II and III of the  
21 federal juvenile justice and delinquency prevention act of 1974.

22 **Sec. 139.** RCW 75.30.470 and 1994 c 260 s 19 are each amended to  
23 read as follows:

24 The director may reduce the landing requirements established under  
25 RCW 75.30.350 upon the recommendation of an advisory review board  
26 established under RCW 75.30.050, but the director may not entirely  
27 waive the landing requirement. The advisory review board may recommend  
28 a reduction of the landing requirement in individual cases if in the  
29 board's judgment, extenuating circumstances prevented achievement of  
30 the landing requirement. The director shall adopt rules governing the  
31 operation of the advisory review board and defining "extenuating  
32 circumstances." Extenuating circumstances may include situations in  
33 which a person had a vessel under construction such that qualifying  
34 landings could not be made. ~~((In defining extenuating circumstances,  
35 special consideration shall be given to individuals who can provide  
36 evidence of lack of access to capital based on past discrimination due  
37 to race, creed, color, sex, national origin, or disability.))~~

1        NEW SECTION.    **Sec. 140.**    The following acts or parts of acts are  
2 each repealed:

3        (1) RCW 28A.415.200 and 1989 c 146 s 1;

4        (2) RCW 28A.415.205 and 1991 c 238 s 75 & 1989 c 146 s 2;

5        (3) RCW 28A.625.200 and 1989 c 66 s 1 & 1984 c 265 s 1;

6        (4) RCW 28A.625.210 and 1990 c 286 s 1, 1989 c 66 s 2, & 1984 c 265  
7 s 2;

8        (5) RCW 28A.625.230 and 1984 c 265 s 4;

9        (6) RCW 28A.625.240 and 1990 c 33 s 521 & 1984 c 265 s 5;

10       (7) RCW 28B.50.305 and 1991 c 238 s 93;

11       (8) RCW 28B.50.306 and 1991 c 238 s 100;

12       (9) RCW 28B.50.307 and 1991 c 238 s 101;

13       (10) RCW 28B.108.005 and 1990 c 287 s 1;

14       (11) RCW 28B.108.010 and 1991 c 228 s 10 & 1990 c 287 s 2;

15       (12) RCW 28B.108.020 and 1990 c 287 s 3;

16       (13) RCW 28B.108.030 and 1991 c 228 s 11 & 1990 c 287 s 4;

17       (14) RCW 28B.108.040 and 1990 c 287 s 5;

18       (15) RCW 28B.108.050 and 1991 sp.s. c 13 s 107 & 1990 c 287 s 6;

19       (16) RCW 28B.108.060 and 1993 c 372 s 1, 1991 sp.s. c 13 s 110, &  
20 1990 c 287 s 7;

21       (17) RCW 28B.108.070 and 1993 c 372 s 2, 1991 c 228 s 12, & 1990 c  
22 287 s 8;

23       (18) RCW 39.19.010 and 1987 c 328 s 1 & 1983 c 120 s 1;

24       (19) RCW 39.19.020 and 1987 c 328 s 2 & 1983 c 120 s 2;

25       (20) RCW 39.19.030 and 1989 c 175 s 85, 1987 c 328 s 3, & 1983 c  
26 120 s 3;

27       (21) RCW 39.19.041 and 1995 c 269 s 1302;

28       (22) RCW 39.19.050 and 1983 c 120 s 5;

29       (23) RCW 39.19.060 and 1993 c 512 s 9 & 1983 c 120 s 6;

30       (24) RCW 39.19.070 and 1994 c 15 s 1, 1987 c 328 s 4, & 1983 c 120  
31 s 7;

32       (25) RCW 39.19.080 and 1987 c 328 s 5 & 1983 c 120 s 8;

33       (26) RCW 39.19.090 and 1987 c 328 s 6 & 1983 c 120 s 9;

34       (27) RCW 39.19.100 and 1987 c 328 s 12;

35       (28) RCW 39.19.110 and 1987 c 328 s 13;

36       (29) RCW 39.19.120 and 1987 c 328 s 7;

37       (30) RCW 39.19.140 and 1987 c 328 s 9;

38       (31) RCW 39.19.150 and 1987 c 328 s 10;

39       (32) RCW 39.19.160 and 1987 c 328 s 11;

1 (33) RCW 39.19.170 and 1993 c 512 s 10;  
2 (34) RCW 39.19.200 and 1993 c 195 s 1;  
3 (35) RCW 39.19.210 and 1993 c 195 s 2;  
4 (36) RCW 39.19.220 and 1993 c 195 s 3;  
5 (37) RCW 39.19.230 and 1993 c 195 s 4;  
6 (38) RCW 39.19.910 and 1983 c 120 s 21;  
7 (39) RCW 39.19.920 and 1983 c 120 s 18;  
8 (40) RCW 39.19.921 and 1987 c 328 s 17;  
9 (41) RCW 39.23.005 and 1975 c 20 s 1;  
10 (42) RCW 39.23.010 and 1975 c 20 s 2;  
11 (43) RCW 39.23.020 and 1977 ex.s. c 10 s 1 & 1975 c 20 s 3;  
12 (44) RCW 43.19.520 and 1974 ex.s. c 40 s 1;  
13 (45) RCW 43.19.525 and 1974 ex.s. c 40 s 2;  
14 (46) RCW 43.19.530 and 1977 ex.s. c 10 s 2 & 1974 ex.s. c 40 s 3;  
15 (47) RCW 43.19.534 and 1993 sp.s. c 20 s 1 & 1986 c 94 s 2;  
16 (48) RCW 43.19.536 and 1983 c 120 s 13;  
17 (49) RCW 43.31.0925 and 1993 c 572 s 7;  
18 (50) RCW 43.31.093 and 1995 c 399 s 71 & 1993 c 512 s 6;  
19 (51) RCW 43.43.015 and 1985 c 365 s 4;  
20 (52) RCW 43.60A.120 and 1991 c 55 s 3;  
21 (53) RCW 43.63A.690 and 1993 c 512 s 31;  
22 (54) RCW 43.86A.060 and 1993 c 512 s 30;  
23 (55) RCW 43.86A.070 and 1993 c 512 s 34;  
24 (56) RCW 43.168.150 and 1993 c 512 s 13;  
25 (57) RCW 43.172.005 and 1993 c 512 s 1;  
26 (58) RCW 43.172.010 and 1993 c 512 s 2;  
27 (59) RCW 43.172.011 and 1995 c 399 s 96 & 1993 c 512 s 16;  
28 (60) RCW 43.172.020 and 1995 c 399 s 97 & 1993 c 512 s 17;  
29 (61) RCW 43.172.030 and 1993 c 512 s 18;  
30 (62) RCW 43.172.040 and 1993 c 512 s 19;  
31 (63) RCW 43.172.050 and 1993 c 512 s 20;  
32 (64) RCW 43.172.060 and 1993 c 512 s 21;  
33 (65) RCW 43.172.070 and 1993 c 512 s 22;  
34 (66) RCW 43.172.080 and 1993 c 512 s 23;  
35 (67) RCW 43.172.090 and 1993 c 512 s 24;  
36 (68) RCW 43.172.100 and 1993 c 512 s 25;  
37 (69) RCW 43.172.110 and 1993 c 512 s 26;  
38 (70) RCW 43.172.120 and 1993 c 512 s 27;  
39 (71) RCW 43.172.900 and 1993 c 512 s 38;

1 (72) RCW 43.172.901 and 1993 c 512 s 40;  
2 (73) RCW 43.172.902 and 1993 c 512 s 41;  
3 (74) RCW 43.172.903 and 1993 c 512 s 42;  
4 (75) RCW 43.210.130 and 1993 c 512 s 5;  
5 (76) RCW 49.04.100 and 1995 c 67 s 7, 1990 c 72 s 1, 1985 c 6 s 17,  
6 & 1969 ex.s. c 183 s 2;  
7 (77) RCW 49.04.110 and 1990 c 72 s 2 & 1969 ex.s. c 183 s 3;  
8 (78) RCW 49.04.120 and 1990 c 72 s 3 & 1969 ex.s. c 183 s 4;  
9 (79) RCW 49.04.130 and 1990 c 72 s 4 & 1969 ex.s. c 183 s 5;  
10 (80) RCW 49.74.005 and 1985 c 365 s 7;  
11 (81) RCW 49.74.010 and 1985 c 365 s 8;  
12 (82) RCW 49.74.020 and 1993 c 281 s 57 & 1985 c 365 s 9;  
13 (83) RCW 49.74.030 and 1993 c 281 s 58 & 1985 c 365 s 10;  
14 (84) RCW 49.74.040 and 1985 c 365 s 11;  
15 (85) RCW 49.74.050 and 1985 c 365 s 12;  
16 (86) RCW 70.38.220 and 1991 c 271 s 1; and  
17 (87) RCW 74.13.109 and 1990 c 285 s 7, 1985 c 7 s 135, 1982 c 118  
18 s 4, 1979 ex.s. c 67 s 8, & 1971 ex.s. c 63 s 4.

19 **PART II**

20 **PUBLIC EMPLOYMENT BASED UPON MERIT**

21 NEW SECTION. **Sec. 201.** (1) Except as provided under section 202  
22 of this act, all employees of a public agency shall be recruited or  
23 solicited, hired, and promoted using a bona fide merit system of  
24 employment utilizing objective scientific methodologies in the  
25 development and administration of employment competency measurements.

26 Public agencies shall prescribe and enforce objective scientific  
27 methodologies in the development and administration of employment  
28 competency measurements. To help eliminate wide variances in the  
29 implementation of this policy by public agencies and to enhance  
30 expectations on the part of citizens, interjurisdictional cooperation  
31 and assistance in developing and administering employment competency  
32 measurements is encouraged and, ultimately, a substantially state-wide  
33 uniform system is a preferred objective.

34 (2) All recruiting, hiring, and promotion decisions by a public  
35 agency must be based primarily on each employer's interest in applicant  
36 competence. Employers who formally incorporate objective competency  
37 measurements and engage in open competition must be certified as bona

1 fide merit systems. Bona fide merit systems must be provided technical  
2 assistance from the state in the development and administration of  
3 their competency measurements.

4 (3) Merit system certification must be granted to public agency  
5 employers who engage in open competition with objective measurement of  
6 the work behaviors that comprise the job's total performance domain.  
7 The total performance domain for a work activity must be defined  
8 behaviorally through observation and judgment using results produced  
9 with published operations of the job element method and the critical  
10 incident technique.

11 (4) Fair and valid representation of the total performance domain  
12 is achieved by following behavioral facts produced in the construction  
13 of interest and willingness inventories, forced-choice evaluations, and  
14 critical incident tests. Other valid measures of work behavior may be  
15 developed or selected to represent documented elements of the work.  
16 Such measures must be reasonably weighted with the willingness  
17 inventories, forced-choice evaluations, and critical incident tests  
18 produced directly from the job analysis results.

19 (5) Public agencies may not use race, sex, color, ethnicity,  
20 national origin, religion, age, disability, or status as a sexual  
21 minority as a criterion for giving preferences in recruitment, hiring,  
22 or promotion. Public agencies who use such criterion shall cease such  
23 practices and be assisted by the state in establishing a certified  
24 merit system. Public agencies who continue to engage in uncertified,  
25 preferential employment practices are subject to prosecution by the  
26 state under state and federal law. The state shall seek merit system  
27 certification as part of proper and just relief.

28 (6) Separate lists or registers that are based upon employment with  
29 the existing agency or division, employment within a civil service  
30 system, or employment for the state or local unit of government may not  
31 be used for recruitment, hiring, or promotion.

32 NEW SECTION. **Sec. 202.** (1) The provisions of section 201 of this  
33 act apply to all persons employed by a state agency, including persons  
34 employed under civil service systems and others who are exempt,  
35 unclassified, or are not employed under a civil service system, but do  
36 not apply to: (a) The chief clerk and any partisan employees of the  
37 house of representatives; (b) the secretary of the senate and any  
38 partisan employees of the senate; (c) elected officials; (d) up to

1 twenty employees of any elected official of the executive department,  
2 other than the governor; and (e) up to fifty employees of the governor.

3 (2) The provisions of section 201 of this act apply to all persons  
4 employed by a unit of local government with ten or more full-time  
5 equivalent employees, including persons employed under civil service  
6 systems and others who are exempt, unclassified, or not employed under  
7 a civil service system, but do not apply to any elected official or  
8 appointed official. Any unit of local government with less than ten  
9 full-time equivalent employees may choose to establish a merit system  
10 of employment under the provisions of section 201 of this act.

11 NEW SECTION. **Sec. 203.** The department of personnel shall develop  
12 merit systems of employment for state agencies under the provisions of  
13 section 201 of this act, that include altering a civil service system  
14 of employment to include such provisions and establishing new merit  
15 systems of employment for state agency employees who are not employed  
16 under a civil service system of employment. The department of  
17 personnel shall provide guidance to units of local government in  
18 developing merit systems of employment described under section 201 of  
19 this act.

20 NEW SECTION. **Sec. 204.** Unless the context clearly applies  
21 otherwise, the definitions in this section apply throughout this  
22 chapter.

23 (1) "Public agency" means any state agency or unit of local  
24 government.

25 (2) "State agency" means an office, department, board, commission,  
26 or other separate unit or division, however designated, of the state  
27 government, including, but not limited to, the supreme court, court of  
28 appeals, house of representatives, senate, office of the governor,  
29 office of every elected official of the executive department, education  
30 service districts, and institutions of higher education.

31 (3) "Unit of local government" means a county, city, town, school  
32 district, library district, port district, public utility district,  
33 irrigation district, or other municipal or quasi-municipal corporation,  
34 and includes separate divisions or agencies within any local  
35 government, such as the superior court and district court of a county  
36 or municipal court of a city or town.

1       **Sec. 205.** RCW 41.06.010 and 1980 c 118 s 1 are each amended to  
2 read as follows:

3       The general purpose of this chapter is to establish for the state  
4 a system of personnel administration based on merit principles and  
5 scientific methods governing the appointment, promotion, transfer,  
6 layoff, recruitment, retention, classification and pay plan, removal,  
7 discipline, training and career development, and welfare of its civil  
8 employees, and other incidents of state employment. All appointments  
9 and promotions to positions, and retention therein, in the state  
10 service, shall be made on the basis of policies ((hereinafter))  
11 specified in this chapter and chapter 41.-- RCW (sections 201 through  
12 204 of this act).

13       **Sec. 206.** RCW 41.06.020 and 1993 c 281 s 19 are each amended to  
14 read as follows:

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

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

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

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

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

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

36       (6) "Noncompetitive service" means all positions in the classified  
37 service for which a competitive examination is not required.

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

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

11 (9) "Training" means activities designed to develop job-related  
12 knowledge and skills of employees.

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

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

20 ~~((12)))~~ "Institutions of higher education" means the University of  
21 Washington, Washington State University, Central Washington University,  
22 Eastern Washington University, Western Washington University, The  
23 Evergreen State College, and the various state community colleges.

24 ~~((13)))~~ (12) "Related boards" means the state board for community  
25 and technical colleges; and such other boards, councils, and  
26 commissions related to higher education as may be established.

27 **Sec. 207.** RCW 41.06.150 and 1995 2nd sp.s. c 18 s 911 are each  
28 amended to read as follows:

29 The board shall adopt rules, consistent with the purposes and  
30 provisions of this chapter, as now or hereafter amended, and with the  
31 best standards of personnel administration, regarding the basis and  
32 procedures based upon policies enunciated under chapter 41.-- RCW  
33 (sections 201 through 204 of this act) to be followed for:

34 (1) The reduction, dismissal, suspension, or demotion of an  
35 employee;

36 (2) Certification of names for vacancies, including departmental  
37 promotions, with the number of names equal to six more names than there  
38 are vacancies to be filled, such names representing applicants rated

1 highest on eligibility lists: PROVIDED, That when other applicants  
2 have scores equal to the lowest score among the names certified, their  
3 names shall also be certified;

4 (3) Examinations for all positions in the competitive and  
5 noncompetitive service;

6 (4) Appointments;

7 (5) Training and career development;

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

12 (7) Transfers;

13 (8) Sick leaves and vacations;

14 (9) Hours of work;

15 (10) Layoffs when necessary and subsequent reemployment, both  
16 according to seniority;

17 (11) Determination of appropriate bargaining units within any  
18 agency: PROVIDED, That in making such determination the board shall  
19 consider the duties, skills, and working conditions of the employees,  
20 the history of collective bargaining by the employees and their  
21 bargaining representatives, the extent of organization among the  
22 employees, and the desires of the employees;

23 (12) Certification and decertification of exclusive bargaining  
24 representatives: PROVIDED, That after certification of an exclusive  
25 bargaining representative and upon the representative's request, the  
26 director shall hold an election among employees in a bargaining unit to  
27 determine by a majority whether to require as a condition of employment  
28 membership in the certified exclusive bargaining representative on or  
29 after the thirtieth day following the beginning of employment or the  
30 date of such election, whichever is the later, and the failure of an  
31 employee to comply with such a condition of employment constitutes  
32 cause for dismissal: PROVIDED FURTHER, That no more often than once in  
33 each twelve-month period after expiration of twelve months following  
34 the date of the original election in a bargaining unit and upon  
35 petition of thirty percent of the members of a bargaining unit the  
36 director shall hold an election to determine whether a majority wish to  
37 rescind such condition of employment: PROVIDED FURTHER, That for  
38 purposes of this clause, membership in the certified exclusive  
39 bargaining representative is satisfied by the payment of monthly or

1 other periodic dues and does not require payment of initiation,  
2 reinstatement, or any other fees or fines and includes full and  
3 complete membership rights: AND PROVIDED FURTHER, That in order to  
4 safeguard the right of nonassociation of public employees, based on  
5 bona fide religious tenets or teachings of a church or religious body  
6 of which such public employee is a member, such public employee shall  
7 pay to the union, for purposes within the program of the union as  
8 designated by such employee that would be in harmony with his or her  
9 individual conscience, an amount of money equivalent to regular union  
10 dues minus any included monthly premiums for union-sponsored insurance  
11 programs, and such employee shall not be a member of the union but is  
12 entitled to all the representation rights of a union member;

13 (13) Agreements between agencies and certified exclusive bargaining  
14 representatives providing for grievance procedures and collective  
15 negotiations on all personnel matters over which the appointing  
16 authority of the appropriate bargaining unit of such agency may  
17 lawfully exercise discretion;

18 (14) Written agreements may contain provisions for payroll  
19 deductions of employee organization dues upon authorization by the  
20 employee member and for the cancellation of such payroll deduction by  
21 the filing of a proper prior notice by the employee with the appointing  
22 authority and the employee organization: PROVIDED, That nothing  
23 contained herein permits or grants to any employee the right to strike  
24 or refuse to perform his or her official duties;

25 (15) Adoption and revision of a comprehensive classification plan  
26 for all positions in the classified service, based on investigation and  
27 analysis of the duties and responsibilities of each such position. The  
28 board shall not adopt job classification revisions or class studies  
29 unless implementation of the proposed revision or study will result in  
30 net cost savings, increased efficiencies, or improved management of  
31 personnel or services, and the proposed revision or study has been  
32 approved by the director of financial management in accordance with  
33 chapter 43.88 RCW. Beginning July 1, 1995, through June 30, 1997:

34 (a) The board may approve the implementation of salary increases  
35 resulting from adjustments to the classification plan during the 1995-  
36 97 fiscal biennium only if:

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

1 (ii) The implementation will take effect on July 1, 1996, and the  
2 total net cost of all such actions approved by the board for  
3 implementation during the 1995-97 fiscal biennium does not exceed the  
4 amounts specified by the legislature specifically for this purpose; or

5 (iii) The implementation is a result of emergent conditions.  
6 Emergent conditions are defined as newly mandated programs for which  
7 moneys are not appropriated, establishment of positions necessary for  
8 the preservation of the public health, safety, or general welfare, and  
9 related issues which do not exceed \$250,000 of the moneys identified in  
10 section 718(2), chapter 18, Laws of 1995 2nd sp. sess.

11 (b) The board may approve the implementation of salary increases  
12 resulting from adjustments to the classification plan for  
13 implementation in the 1997-99 fiscal biennium only if the  
14 implementation will not result in additional net costs or the  
15 implementation has been approved by the legislature in the omnibus  
16 appropriations act or other legislation.

17 (c) The board shall approve only those salary increases resulting  
18 from adjustments to the classification plan if they are due to  
19 documented recruitment and retention difficulties, salary compression  
20 or inversion, increased duties and responsibilities, or inequities.  
21 For these purposes, inequities are defined as similar work assigned to  
22 different job classes with a salary disparity greater than 7.5 percent.

23 (d) Adjustments made to the higher education hospital special pay  
24 plan are exempt from (a) through (c) of this subsection;

25 (16) Allocation and reallocation of positions within the  
26 classification plan;

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

37 (18) Increment increases within the series of steps for each pay  
38 grade based on length of service for all employees whose standards of

1 performance are such as to permit them to retain job status in the  
2 classified service;

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

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

31 (21) Assuring persons who are or have been employed in classified  
32 positions before July 1, 1993, will be eligible for employment,  
33 reemployment, transfer, and promotion in respect to classified  
34 positions covered by this chapter;

35 ~~((22) Affirmative action in appointment, promotion, transfer,  
36 recruitment, training, and career development; development and  
37 implementation of affirmative action goals and timetables; and  
38 monitoring of progress against those goals and timetables.~~

1       ~~The board shall consult with the human rights commission in the~~  
2 ~~development of rules pertaining to affirmative action. The department~~  
3 ~~of personnel shall transmit a report annually to the human rights~~  
4 ~~commission which states the progress each state agency has made in~~  
5 ~~meeting affirmative action goals and timetables.))~~

6       **Sec. 208.** RCW 41.06.500 and 1993 c 281 s 9 are each amended to  
7 read as follows:

8       (1) Except as provided in RCW 41.06.070, notwithstanding any other  
9 provisions of this chapter, the director is authorized to adopt, after  
10 consultation with state agencies and employee organizations, rules for  
11 managers as defined in RCW 41.06.022. These rules shall not apply to  
12 managers employed by institutions of higher education or related boards  
13 or whose positions are exempt. The rules shall govern recruitment,  
14 appointment, classification and allocation of positions, examination,  
15 training and career development, hours of work, probation,  
16 certification, compensation, transfer, ~~((affirmative—action,))~~  
17 promotion, layoff, reemployment, performance appraisals, discipline,  
18 and any and all other personnel practices for managers. These rules  
19 shall be separate from rules adopted by the board for other employees,  
20 but shall be subject to the requirements of chapter 41.-- RCW (sections  
21 201 through 204 of this act), and to the extent that the rules adopted  
22 apply only to managers shall take precedence over rules adopted by the  
23 board, and are not subject to review by the board.

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

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

29       (b) Creation of a compensation system consistent with the policy  
30 set forth in RCW 41.06.150(17). The system shall provide flexibility  
31 in setting and changing salaries;

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

37       (d) Strengthening management training and career development  
38 programs that build critical management knowledge, skills, and

1 abilities; focusing on managing and valuing workplace diversity;  
2 empowering employees by enabling them to share in workplace decision  
3 making and to be innovative, willing to take risks, and able to accept  
4 and deal with change; promoting a workplace where the overall focus is  
5 on the recipient of the government services and how these services can  
6 be improved; and enhancing mobility and career advancement  
7 opportunities;

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

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

16 (g) Facilitating decentralized and regional administration.

17 **Sec. 209.** RCW 41.08.040 and 1993 c 47 s 4 are each amended to read  
18 as follows:

19 Immediately after appointment the commission shall organize by  
20 electing one of its members chair and hold regular meetings at least  
21 once a month, and such additional meetings as may be required for the  
22 proper discharge of their duties.

23 They shall appoint a secretary and chief examiner, who shall keep  
24 the records of the commission, preserve all reports made to it,  
25 superintend and keep a record of all examinations held under its  
26 direction, and perform such other duties as the commission may  
27 prescribe.

28 The secretary and chief examiner shall be appointed as a result of  
29 competitive examination which examination may be either original and  
30 open to all properly qualified citizens of the city, town or  
31 municipality, or promotional and limited to persons already in the  
32 service of the fire department or of the fire department and other  
33 departments of said city, town or municipality, as the commission may  
34 decide. The secretary and chief examiner may be subject to suspension,  
35 reduction or discharge in the same manner and subject to the same  
36 limitations as are provided in the case of members of the fire  
37 department. It shall be the duty of the civil service commission:

1 (1) To make suitable rules and regulations not inconsistent with  
2 the provisions of this chapter and chapter 41.-- RCW (sections 201  
3 through 204 of this act). Such rules and regulations shall provide in  
4 detail the manner in which examinations may be held, and appointments,  
5 promotions, transfers, reinstatements, demotions, suspensions and  
6 discharges shall be made, and may also provide for any other matters  
7 connected with the general subject of personnel administration, and  
8 which may be considered desirable to further carry out the general  
9 purposes of this chapter, or which may be found to be in the interest  
10 of good personnel administration. Such rules and regulations may be  
11 changed from time to time. The rules and regulations and any  
12 amendments thereof shall be printed, mimeographed or multigraphed for  
13 free public distribution. Such rules and regulations may be changed  
14 from time to time.

15 (2) All tests shall be practical, and shall consist only of  
16 subjects which will fairly determine the capacity of persons examined  
17 to perform duties of the position to which appointment is to be made,  
18 and may include tests of physical fitness and/or of manual skill.

19 (3) The rules and regulations adopted by the commission shall  
20 provide for a credit in accordance with RCW 41.04.010 in favor of all  
21 applicants for appointment under civil service, who, in time of war, or  
22 in any expedition of the armed forces of the United States, have served  
23 in and been honorably discharged from the armed forces of the United  
24 States, including the army, navy, and marine corps (~~and the American~~  
25 ~~Red Cross~~). These credits apply to entrance examinations only.

26 (4) The commission shall make investigations concerning and report  
27 upon all matters touching the enforcement and effect of the provisions  
28 of this chapter, and the rules and regulations prescribed hereunder;  
29 inspect all institutions, departments, offices, places, positions and  
30 employments affected by this chapter, and ascertain whether this  
31 chapter and all such rules and regulations are being obeyed. Such  
32 investigations may be made by the commission or by any commissioner  
33 designated by the commission for that purpose. Not only must these  
34 investigations be made by the commission as aforesaid, but the  
35 commission must make like investigation on petition of a citizen, duly  
36 verified, stating that irregularities or abuses exist, or setting forth  
37 in concise language, in writing, the necessity for such investigation.  
38 In the course of such investigation the commission or designated  
39 commissioner, or chief examiner, shall have the power to administer

1 oaths, subpoena and require the attendance of witnesses and the  
2 production by them of books, papers, documents and accounts  
3 appertaining to the investigation and also to cause the deposition of  
4 witnesses residing within or without the state to be taken in the  
5 manner prescribed by law for like depositions in civil actions in the  
6 superior court; and the oaths administered hereunder and the subpoenas  
7 issued hereunder shall have the same force and effect as the oaths  
8 administered by a superior court judge in his or her judicial capacity;  
9 and the failure upon the part of any person so subpoenaed to comply  
10 with the provisions of this section shall be deemed a violation of this  
11 chapter, and punishable as such.

12 (5) All hearings and investigations before the commission, or  
13 designated commissioner, or chief examiner, shall be governed by this  
14 chapter and by rules of practice and procedure to be adopted by the  
15 commission, and in the conduct thereof neither the commission, nor  
16 designated commissioner shall be bound by the technical rules of  
17 evidence. No informality in any proceedings or hearing, or in the  
18 manner of taking testimony before the commission or designated  
19 commissioner, shall invalidate any order, decision, rule or regulation  
20 made, approved or confirmed by the commission: PROVIDED, HOWEVER, That  
21 no order, decision, rule or regulation made by any designated  
22 commissioner conducting any hearing or investigation alone shall be of  
23 any force or effect whatsoever unless and until concurred in by at  
24 least one of the other two members.

25 (6) To hear and determine appeals or complaints respecting the  
26 administrative work of the personnel department; appeals upon the  
27 allocation of positions; the rejection of an examination, and such  
28 other matters as may be referred to the commission.

29 (7) Establish and maintain in card or other suitable form a roster  
30 of officers and employees.

31 (8) Provide for, formulate and hold competitive tests to determine  
32 the relative qualifications of persons who seek employment in any class  
33 or position and as a result thereof establish eligible lists for the  
34 various classes of positions, and to provide that persons laid off  
35 because of curtailment of expenditures, reduction in force, and for  
36 like causes, head the list in the order of their seniority, to the end  
37 that they shall be the first to be reemployed.

38 (9) When a vacant position is to be filled, to certify to the  
39 appointing authority, on written request, the name of the person

1 highest on the eligible list for the class. If there are no such  
2 lists, to authorize provisional or temporary appointment list of such  
3 class. Such temporary or provisional appointment shall not continue  
4 for a period longer than four months; nor shall any person receive more  
5 than one provisional appointment or serve more than four months as a  
6 provisional appointee in any one fiscal year.

7 (10) Keep such records as may be necessary for the proper  
8 administration of this chapter.

9 **Sec. 210.** RCW 41.12.040 and 1993 c 47 s 5 are each amended to read  
10 as follows:

11 Immediately after appointment the commission shall organize by  
12 electing one of its members chair and hold regular meetings at least  
13 once a month, and such additional meetings as may be required for the  
14 proper discharge of their duties.

15 They shall appoint a secretary and chief examiner, who shall keep  
16 the records for the commission, preserve all reports made to it,  
17 superintend and keep a record of all examinations held under its  
18 direction, and perform such other duties as the commission may  
19 prescribe.

20 The secretary and chief examiner shall be appointed as a result of  
21 competitive examination which examination may be either original and  
22 open to all properly qualified citizens of the city, town, or  
23 municipality, or promotional and limited to persons already in the  
24 service of the police department or of the police department and other  
25 departments of the city, town, or municipality, as the commission may  
26 decide. The secretary and chief examiner may be subject to suspension,  
27 reduction, or discharge in the same manner and subject to the same  
28 limitations as are provided in the case of members of the police  
29 department. It shall be the duty of the civil service commission:

30 (1) To make suitable rules and regulations not inconsistent with  
31 the provisions of this chapter and chapter 41.-- RCW (sections 201  
32 through 204 of this act). Such rules and regulations shall provide in  
33 detail the manner in which examinations may be held, and appointments,  
34 promotions, transfers, reinstatements, demotions, suspensions, and  
35 discharges shall be made, and may also provide for any other matters  
36 connected with the general subject of personnel administration, and  
37 which may be considered desirable to further carry out the general  
38 purposes of this chapter, or which may be found to be in the interest

1 of good personnel administration. Such rules and regulations may be  
2 changed from time to time. The rules and regulations and any  
3 amendments thereof shall be printed, mimeographed, or multigraphed for  
4 free public distribution. Such rules and regulations may be changed  
5 from time to time;

6 (2) All tests shall be practical, and shall consist only of  
7 subjects which will fairly determine the capacity of persons examined  
8 to perform duties of the position to which appointment is to be made,  
9 and may include tests of physical fitness and/or of manual skill;

10 (3) The rules and regulations adopted by the commission shall  
11 provide for a credit in accordance with RCW 41.04.010 in favor of all  
12 applicants for appointment under civil service, who, in time of war, or  
13 in any expedition of the armed forces of the United States, have served  
14 in and been honorably discharged from the armed forces of the United  
15 States, including the army, navy, and marine corps and the American Red  
16 Cross. These credits apply to entrance examinations only;

17 (4) The commission shall make investigations concerning and report  
18 upon all matters touching the enforcement and effect of the provisions  
19 of this chapter, and the rules and regulations prescribed hereunder;  
20 inspect all institutions, departments, offices, places, positions, and  
21 employments affected by this chapter, and ascertain whether this  
22 chapter and all such rules and regulations are being obeyed. Such  
23 investigations may be made by the commission or by any commissioner  
24 designated by the commission for that purpose. Not only must these  
25 investigations be made by the commission, but the commission must make  
26 like investigation on petition of a citizen, duly verified, stating  
27 that irregularities or abuses exist, or setting forth in concise  
28 language, in writing, the necessity for such investigation. In the  
29 course of such investigation the commission or designated commissioner,  
30 or chief examiner, shall have the power to administer oaths, subpoena  
31 and require the attendance of witnesses and the production by them of  
32 books, papers, documents, and accounts appertaining to the  
33 investigation, and also to cause the deposition of witnesses residing  
34 within or without the state to be taken in the manner prescribed by law  
35 for like depositions in civil actions in the superior court; and the  
36 oaths administered hereunder and the subpoenas issued hereunder shall  
37 have the same force and effect as the oaths administered by a superior  
38 court judge in his or her judicial capacity; and the failure upon the  
39 part of any person so subpoenaed to comply with the provisions of this

1 section shall be deemed a violation of this chapter, and punishable as  
2 such;

3 (5) Hearings and Investigations: How conducted. All hearings and  
4 investigations before the commission, or designated commissioner, or  
5 chief examiner, shall be governed by this chapter and by rules of  
6 practice and procedure to be adopted by the commission, and in the  
7 conduct thereof neither the commission, nor designated commissioner  
8 shall be bound by the technical rules of evidence. No informality in  
9 any proceedings or hearing, or in the manner of taking testimony before  
10 the commission or designated commissioner, shall invalidate any order,  
11 decision, rule or regulation made, approved or confirmed by the  
12 commission: PROVIDED, HOWEVER, That no order, decision, rule or  
13 regulation made by any designated commissioner conducting any hearing  
14 or investigation alone shall be of any force or effect whatsoever  
15 unless and until concurred in by at least one of the other two members;

16 (6) To hear and determine appeals or complaints respecting the  
17 administrative work of the personnel department; appeals upon the  
18 allocation of positions; the rejection of an examination, and such  
19 other matters as may be referred to the commission;

20 (7) Establish and maintain in card or other suitable form a roster  
21 of officers and employees;

22 (8) Provide for, formulate and hold competitive tests to determine  
23 the relative qualifications of persons who seek employment in any class  
24 or position and as a result thereof establish eligible lists for the  
25 various classes of positions, and to provide that persons laid off  
26 because of curtailment of expenditures, reduction in force, and for  
27 like causes, head the list in the order of their seniority, to the end  
28 that they shall be the first to be reemployed;

29 (9) When a vacant position is to be filled, to certify to the  
30 appointing authority, on written request, the name of the person  
31 highest on the eligible list for the class. If there are no such  
32 lists, to authorize provisional or temporary appointment list of such  
33 class. Such temporary or provisional appointment shall not continue  
34 for a period longer than four months; nor shall any person receive more  
35 than one provisional appointment or serve more than four months as  
36 provisional appointee in any one fiscal year;

37 (10) Keep such records as may be necessary for the proper  
38 administration of this chapter.

1       **Sec. 211.** RCW 41.14.060 and 1979 ex.s. c 153 s 2 are each amended  
2 to read as follows:

3       It shall be the duty of the civil service commission:

4       (1) To make suitable rules and regulations not inconsistent with  
5 the provisions ((hereof)) of this chapter and chapter 41.-- RCW  
6 (sections 201 through 204 of this act). Such rules and regulations  
7 shall provide in detail the manner in which examinations may be held,  
8 and appointments, promotions, reallocations, transfers, reinstatements,  
9 demotions, suspensions, and discharges shall be made, and may also  
10 provide for any other matters connected with the general subject of  
11 personnel administration, and which may be considered desirable to  
12 further carry out the general purposes of this chapter, or which may be  
13 found to be in the interest of good personnel administration. The  
14 rules and regulations and any amendments thereof shall be printed,  
15 mimeographed, or multigraphed for free public distribution. Such rules  
16 and regulations may be changed from time to time.

17       (2) To give practical tests which shall consist only of subjects  
18 which will fairly determine the capacity of persons examined to perform  
19 duties of the position to which appointment is to be made. Such tests  
20 may include tests of physical fitness or manual skill or both.

21       (3) To make investigations concerning and report upon all matters  
22 touching the enforcement and effect of the provisions of this chapter,  
23 and the rules and regulations prescribed hereunder; to inspect all  
24 departments, offices, places, positions, and employments affected by  
25 this chapter, and ascertain whether this chapter and all such rules and  
26 regulations are being obeyed. Such investigations may be made by the  
27 commission or by any commissioner designated by the commission for that  
28 purpose. Not only must these investigations be made by the commission  
29 as aforesaid, but the commission must make like investigation on  
30 petition of a citizen, duly verified, stating that irregularities or  
31 abuses exist, or setting forth in concise language, in writing, the  
32 necessity for such investigation. In the course of such investigation  
33 the commission or designated commissioner, or chief examiner, may  
34 administer oaths, subpoena and require the attendance of witnesses and  
35 the production by them of books, papers, documents, and accounts  
36 appertaining to the investigation and also cause the deposition of  
37 witnesses residing within or without the state to be taken in the  
38 manner prescribed by law for like depositions in civil actions in the  
39 superior court; and the oaths administered and the subpoenas issued

1 hereunder shall have the same force and effect as the oaths  
2 administered and subpoenas issued by a superior court judge in his  
3 judicial capacity; and the failure of any person so subpoenaed to  
4 comply with the provisions of this section shall be deemed a violation  
5 of this chapter, and punishable as such.

6 (4) To conduct hearings and investigations in accordance with this  
7 chapter and by the rules of practice and procedure adopted by the  
8 commission, and in the conduct thereof neither the commission, nor  
9 designated commissioner shall be bound by technical rules of evidence.  
10 No informality in any proceedings or hearing, or in the manner of  
11 taking testimony before the commission or designated commissioner,  
12 shall invalidate any order, decision, rule, or regulation made,  
13 approved, or confirmed by the commission: PROVIDED, That no order,  
14 decision, rule, or regulation made by any designated commissioner  
15 conducting any hearing or investigation alone shall be of any force or  
16 effect whatsoever unless and until concurred in by at least one of the  
17 other two members.

18 (5) To hear and determine appeals or complaints respecting the  
19 allocation of positions, the rejection of an examinee, and such other  
20 matters as may be referred to the commission.

21 (6) To provide for, formulate, and hold competitive tests to  
22 determine the relative qualifications of persons who seek employment in  
23 any class or position and as a result thereof establish eligible lists  
24 for the various classes of positions, and provide that persons laid  
25 off, or who have accepted voluntary demotion in lieu of layoff, because  
26 of curtailment of expenditures, reduction in force, and for like  
27 causes, head the list in the order of their seniority, to the end that  
28 they shall be the first to be reemployed or reinstated in their former  
29 job class.

30 (7) To certify to the appointing authority, when a vacant position  
31 is to be filled, on written request, the names of the three persons  
32 highest on the eligible list for the class. If there is no such list,  
33 to authorize a provisional or temporary appointment list for such  
34 class. Such temporary provisional appointment shall not continue for  
35 a period longer than four months; nor shall any person receive more  
36 than one provisional appointment or serve more than four months as  
37 provisional appointee in any one fiscal year.

38 (8) To keep such records as may be necessary for the proper  
39 administration of this chapter.



- 1 (16) RCW 43.117.040 and 1982 c 68 s 1, 1981 c 338 s 16, 1975-'76  
2 2nd ex.s. c 34 s 131, & 1974 ex.s. c 140 s 4;  
3 (17) RCW 43.117.050 and 1974 ex.s. c 140 s 5;  
4 (18) RCW 43.117.060 and 1974 ex.s. c 140 s 6;  
5 (19) RCW 43.117.070 and 1995 c 67 s 5 & 1974 ex.s. c 140 s 7;  
6 (20) RCW 43.117.080 and 1995 c 67 s 6 & 1974 ex.s. c 140 s 8;  
7 (21) RCW 43.117.090 and 1974 ex.s. c 140 s 9;  
8 (22) RCW 43.117.100 and 1974 ex.s. c 140 s 10; and  
9 (23) RCW 43.117.900 and 1974 ex.s. c 140 s 11.

10 **PART IV**  
11 **MISCELLANEOUS**

12 NEW SECTION. **Sec. 401.** A new section is added to chapter 43.06  
13 RCW to read as follows:

14 A telephone line shall be maintained in the governor's office that  
15 will accept toll-free calls from anywhere in the state to receive  
16 complaints regarding violations of section 101 of this act or chapter  
17 41.-- RCW (sections 201 through 204 of this act).

18 NEW SECTION. **Sec. 402.** A new section is added to chapter 41.04  
19 RCW to read as follows:

20 Any employee of a state agency, as defined in section 204 of this  
21 act, or unit of local government, as defined in section 204 of this  
22 act, who violates the provisions of section 101 or 201 of this act is  
23 subject to a proceeding resulting in the termination of his or her  
24 employment.

25 NEW SECTION. **Sec. 403.** A new section is added to chapter 29.82  
26 RCW to read as follows:

27 A violation of the provisions of section 101 or 201 of this act  
28 shall constitute a recallable offense under the provisions of Article  
29 I, section 33, of the state Constitution, if committed by an elected  
30 official subject to potential recall.

31 NEW SECTION. **Sec. 404.** A new section is added to chapter 2.28 RCW  
32 to read as follows:

33 A violation of the provisions of section 101 or 201 of this act  
34 shall constitute an impeachable offense under the provisions of Article

1 IV, section 1, of the state Constitution, if committed by a judge of a  
2 court of record.

3 NEW SECTION. **Sec. 405.** A new section is added to chapter 9.91 RCW  
4 to read as follows:

5 Any person who shall knowingly and willfully violate the provisions  
6 of section 101 or 201 of this act is guilty of a misdemeanor.

7 NEW SECTION. **Sec. 406.** A new section is added to chapter 49.60  
8 RCW to read as follows:

9 Neither the state of Washington, nor a unit of local government, as  
10 defined in section 204 of this act, shall deny any right expressly  
11 guaranteed by the Constitution of the United States or the state  
12 Constitution.

13 NEW SECTION. **Sec. 407.** The provisions of this act are to be  
14 liberally construed to effectuate the policies and purposes of this  
15 act. In the event of conflict between this act and any other  
16 provisions of law, the provisions of this act shall govern.

17 NEW SECTION. **Sec. 408.** If any provision of this act or its  
18 application to any person or circumstance is held invalid, the  
19 remainder of the act or the application of the provision to other  
20 persons or circumstances is not affected.

21 NEW SECTION. **Sec. 409.** Part headings and the table of contents  
22 used in this act do not constitute part of the law.

23 NEW SECTION. **Sec. 410.** Sections 201 through 204 of this act shall  
24 constitute a new chapter in Title 41 RCW.

25 NEW SECTION. **Sec. 411.** This act is necessary for the immediate  
26 preservation of the public peace, health, or safety, or support of the  
27 state government and its existing public institutions, and shall take  
28 effect immediately, except sections 201 through 211 of this act which  
29 shall take effect July 1, 1996.

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