
HOUSE BILL 1482

State of Washington

56th Legislature

1999 Regular Session

By Representatives Alexander, D. Schmidt, DeBolt, Van Luven, Clements, Carlson and Esser

Read first time 01/26/1999. Referred to Committee on State Government.

1 AN ACT Relating to public employment; amending RCW 41.06.030,
2 41.06.070, 41.06.110, 41.06.150, 41.06.152, 41.06.160, 41.06.167,
3 41.06.170, 41.06.170, 41.06.186, 41.06.196, 41.06.270, 41.06.350,
4 41.06.400, 41.06.410, 41.06.450, 41.06.475, 41.06.490, 41.06.500,
5 41.64.090, 28B.12.060, 34.05.030, 34.12.020, 41.50.804, 43.06.425,
6 43.33A.100, 49.46.010, 13.40.320, 39.29.006, 47.46.040, 72.09.100,
7 49.74.030, 49.74.040, 72.10.030, and 82.01.070; reenacting and amending
8 RCW 41.04.340; adding new sections to chapter 41.06 RCW; adding a new
9 section to chapter 28A.400 RCW; creating new sections; repealing RCW
10 41.64.010, 41.64.020, 41.64.030, 41.64.040, 41.64.050, 41.64.060,
11 41.64.070, 41.64.080, 41.64.090, 41.64.100, 41.64.110, 41.64.120,
12 41.64.130, 41.64.140, 41.64.910, 41.06.163, 41.06.165, 28A.400.285,
13 41.06.380, and 41.06.382; and providing effective dates.

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

15 NEW SECTION. **Sec. 1.** The legislature finds that there is a
16 significant benefit in providing government services through a
17 competitive system in which both public and private entities
18 participate. The legislature also finds that updating the state civil
19 service system and improving the system's classification of jobs to

1 more clearly distinguish between management and nonmanagement personnel
2 are needed to bring the system into the twenty-first century. The
3 legislature additionally finds that extending collective bargaining to
4 wages and conditions of employment and making state agencies
5 responsible for what they do rather than how they do it will improve
6 government accountability.

7 **Sec. 2.** RCW 41.06.030 and 1993 c 281 s 20 are each amended to read
8 as follows:

9 A department of personnel(~~(, governed by the Washington personnel~~
10 ~~resources board and administered by a director of personnel,)~~) is
11 hereby established as a separate agency within the state government.

12 **Sec. 3.** RCW 41.06.070 and 1998 c 245 s 40 are each amended to read
13 as follows:

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

15 (a) The members of the legislature or to any employee of, or
16 position in, the legislative branch of the state government including
17 members, officers, and employees of the legislative council, joint
18 legislative audit and review committee, statute law committee, and any
19 interim committee of the legislature;

20 (b) The justices of the supreme court, judges of the court of
21 appeals, judges of the superior courts or of the inferior courts, or to
22 any employee of, or position in the judicial branch of state
23 government;

24 (c) Officers, academic personnel, and employees of technical
25 colleges;

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

27 (e) Elective officers of the state;

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

29 (g) In the departments of employment security and social and health
30 services, the director and the director's confidential secretary; in
31 all other departments, the executive head of which is an individual
32 appointed by the governor, the director, his or her confidential
33 secretary, and his or her statutory assistant directors;

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

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

1 (ii) If the members of the board, commission, or committee serve on
2 a part-time basis and there is a statutory executive officer: The
3 secretary of the board, commission, or committee; the chief executive
4 officer of the board, commission, or committee; and the confidential
5 secretary of the chief executive officer of the board, commission, or
6 committee;

7 (iii) If the members of the board, commission, or committee serve
8 on a full-time basis: The chief executive officer or administrative
9 officer as designated by the board, commission, or committee; and a
10 confidential secretary to the chair of the board, commission, or
11 committee;

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

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

17 (j) Assistant attorneys general;

18 (k) Commissioned and enlisted personnel in the military service of
19 the state;

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

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

25 (n) Officers and employees of the Washington state fruit
26 commission;

27 (o) Officers and employees of the Washington state apple
28 advertising commission;

29 (p) Officers and employees of the Washington state dairy products
30 commission;

31 (q) Officers and employees of the Washington tree fruit research
32 commission;

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

34 (s) Officers and employees of any commission formed under chapter
35 15.66 RCW;

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

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

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

3 (~~(w)~~) (v) Executive assistants for personnel administration and
4 labor relations in all state agencies employing such executive
5 assistants including but not limited to all departments, offices,
6 commissions, committees, boards, or other bodies subject to the
7 provisions of this chapter and this subsection shall prevail over any
8 provision of law inconsistent herewith unless specific exception is
9 made in such law;

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

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

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

19 ~~(aa)~~) (y) Staff employed by the department of community, trade,
20 and economic development to administer energy policy functions and
21 manage energy site evaluation council activities under RCW
22 43.21F.045(2)(m);

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

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

29 (a) Members of the governing board of each institution of higher
30 education and related boards, all presidents, vice-presidents, and
31 their confidential secretaries, administrative, and personal
32 assistants; deans, directors, and chairs; academic personnel; and
33 executive heads of major administrative or academic divisions employed
34 by institutions of higher education; principal assistants to executive
35 heads of major administrative or academic divisions; other managerial
36 or professional employees in an institution or related board having
37 substantial responsibility for directing or controlling program
38 operations and accountable for allocation of resources and program
39 results, or for the formulation of institutional policy, or for

1 carrying out personnel administration or labor relations functions,
2 legislative relations, public information, development, senior computer
3 systems and network programming, or internal audits and investigations;
4 and any employee of a community college district whose place of work is
5 one which is physically located outside the state of Washington and who
6 is employed pursuant to RCW 28B.50.092 and assigned to an educational
7 program operating outside of the state of Washington;

8 ~~((Student, part-time, or temporary employees, and part-time
9 professional consultants, as defined by the Washington personnel
10 resources board, employed by institutions of higher education and
11 related boards;~~

12 ~~((e)))~~ The governing board of each institution, and related boards,
13 may also exempt from this chapter classifications involving research
14 activities, counseling of students, extension or continuing education
15 activities, graphic arts or publications activities requiring
16 prescribed academic preparation or special training as determined by
17 the board: PROVIDED, That no nonacademic employee engaged in office,
18 clerical, maintenance, or food and trade services may be exempted by
19 the board under this provision;

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

22 (3) In addition to the exemptions specifically provided by this
23 chapter, the ~~((Washington personnel resources board))~~ director of
24 personnel may provide for further exemptions pursuant to the following
25 procedures. The governor or other appropriate elected official may
26 submit requests for exemption to the ~~((Washington personnel resources~~
27 ~~board))~~ director of personnel stating the reasons for requesting such
28 exemptions. The ~~((Washington personnel resources board))~~ director of
29 personnel shall hold a public hearing, after proper notice, on requests
30 submitted pursuant to this subsection. If the ~~((board))~~ director of
31 personnel determines that the position for which exemption is requested
32 is one involving substantial responsibility for the formulation of
33 basic agency or executive policy or one involving directing and
34 controlling program operations of an agency or a major administrative
35 division thereof, the ~~((Washington personnel resources board))~~ director
36 of personnel shall grant the request and such determination shall be
37 final as to any decision made before July 1, 1993. The total number of
38 additional exemptions permitted under this subsection shall not exceed
39 one percent of the number of employees in the classified service not

1 including employees of institutions of higher education and related
2 boards for those agencies not directly under the authority of any
3 elected public official other than the governor, and shall not exceed
4 a total of twenty-five for all agencies under the authority of elected
5 public officials other than the governor.

6 The salary and fringe benefits of all positions presently or
7 hereafter exempted except for the chief executive officer of each
8 agency, full-time members of boards and commissions, administrative
9 assistants and confidential secretaries in the immediate office of an
10 elected state official, and the personnel listed in subsections (1)(j)
11 through ~~((v), (y), (z),)~~ (u) and (x) and (2) of this section, shall
12 be determined by the ~~((Washington personnel resources board))~~ director
13 of personnel. However, beginning with changes proposed for the 1997-99
14 fiscal biennium, changes to the classification plan affecting exempt
15 salaries must meet the same provisions for classified salary increases
16 resulting from adjustments to the classification plan as outlined in
17 RCW 41.06.152.

18 Any person holding a classified position subject to the provisions
19 of this chapter shall, when and if such position is subsequently
20 exempted from the application of this chapter, be afforded the
21 following rights: If such person previously held permanent status in
22 another classified position, such person shall have a right of
23 reversion to the highest class of position previously held, or to a
24 position of similar nature and salary.

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

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

32 **Sec. 4.** RCW 41.06.110 and 1993 c 281 s 25 are each amended to read
33 as follows:

34 (1) There is hereby created a Washington personnel resources board
35 composed of three members appointed by the governor, subject to
36 confirmation by the senate. The members of the personnel board serving
37 June 30, 1993, shall be the members of the Washington personnel
38 resources board, and they shall complete their terms as under the

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

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

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

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

29 **Sec. 5.** RCW 41.06.150 and 1996 c 319 s 2 are each amended to read
30 as follows:

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

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

37 (2) Certification of names for vacancies, including departmental
38 promotions(~~(, with the number of names equal to six more names than~~

1 ~~there are vacancies to be filled, such names representing applicants~~
2 ~~rated highest on eligibility lists: PROVIDED, That when other~~
3 ~~applicants have scores equal to the lowest score among the names~~
4 ~~certified, their names shall also be certified));~~

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

7 (4) Appointments;

8 (5) Training and career development;

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

13 (7) Transfers;

14 (8) Sick leaves and vacations;

15 (9) Hours of work;

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

18 (11) Collective bargaining, including:

19 (a) Determination of appropriate bargaining units within any
20 agency(~~(: PROVIDED, That)~~). In making such determination the
21 ((board)) director shall consider the duties, skills, and working
22 conditions of the employees, the history of collective bargaining by
23 the employees and their bargaining representatives, the extent of
24 organization among the employees, and the desires of the employees.
25 Employees who are members of the Washington management service may not
26 be included in a bargaining unit;

27 ~~((12))~~ (b) Certification and decertification of exclusive
28 bargaining representatives(~~(: PROVIDED, That)~~) subject to the
29 following:

30 (i) After certification of an exclusive bargaining representative
31 and upon the representative's request, the director shall hold an
32 election among employees in a bargaining unit to determine by a
33 majority whether to require as a condition of employment membership in
34 the certified exclusive bargaining representative on or after the
35 thirtieth day following the beginning of employment or the date of such
36 election, whichever is the later, and the failure of an employee to
37 comply with such a condition of employment constitutes cause for
38 dismissal(~~(: PROVIDED FURTHER, That)~~);

1 (ii) No more often than once in each twelve-month period after
2 expiration of twelve months following the date of the original election
3 in a bargaining unit and upon petition of thirty percent of the members
4 of a bargaining unit the director shall hold an election to determine
5 whether a majority wish to rescind such condition of employment(~~(+~~
6 ~~PROVIDED FURTHER, That))~~);

7 (iii) For purposes of this (~~clause~~) subsection, membership in the
8 certified exclusive bargaining representative is satisfied by the
9 payment of monthly or other periodic dues and does not require payment
10 of initiation, reinstatement, or any other fees or fines and includes
11 full and complete membership rights(~~(+ AND PROVIDED FURTHER, That in~~
12 ~~order))~~); and

13 (iv) To safeguard the right of nonassociation of public employees,
14 based on bona fide religious tenets or teachings of a church or
15 religious body of which such public employee is a member, such public
16 employee shall pay to the union, for purposes within the program of the
17 union as designated by such employee that would be in harmony with his
18 or her individual conscience, an amount of money equivalent to regular
19 union dues minus any included monthly premiums for union-sponsored
20 insurance programs, and such employee shall not be a member of the
21 union but is entitled to all the representation rights of a union
22 member;

23 (~~(13)~~) (c)(i) Agreements between agencies and certified exclusive
24 bargaining representatives providing for grievance procedures and
25 collective negotiations (~~(on all personnel matters over which the~~
26 ~~appointing authority of the appropriate bargaining unit of such agency~~
27 ~~may lawfully exercise discretion)) with respect to wages, hours, and
28 terms and conditions of employment, except that collective negotiation
29 is not permitted on the following subjects:~~

30 (A) Any retirement system or retirement benefit;

31 (B) Health care benefits or other employee insurance benefits,
32 except for the dollar amount expended on behalf of each employee for
33 health care benefits, subject to (e)(i)(A) of this subsection;

34 (C) Management rights;

35 (D) An agency's decision to purchase services by contract; or

36 (E) Rules adopted under this chapter.

37 (ii) Grievance procedures must specify that an employee who has a
38 right to appeal an issue under this chapter or to contest the issue
39 through the agreement's grievance procedure must specify an election of

1 remedies. The election of remedies must require the employee to pursue
2 the entire issue through the grievance procedure or through the appeal
3 process, but not both. Any employee, when fully reinstated, shall be
4 guaranteed all employee rights and benefits, including back pay, sick
5 leave, vacation accrual, and retirement and federal old age, survivors,
6 and disability insurance act credits, but without back pay for any
7 period of suspension.

8 (iii) If a new collective bargaining agreement is concluded after
9 the termination date of the previous collective bargaining agreement
10 between the employer and an employee organization representing the same
11 employees, the effective date of the new collective bargaining
12 agreement may be the day after the termination of the previous
13 collective bargaining agreement, and all benefits included in the new
14 collective bargaining agreement, including wage or salary increases,
15 may accrue beginning with that effective date.

16 (iv) Except as otherwise provided in this chapter, if a conflict
17 exists between an executive order or agency policy relating to wages,
18 hours, and terms and conditions of employment and a collective
19 bargaining agreement negotiated under this subsection, the collective
20 bargaining agreement shall prevail. A provision of a collective
21 bargaining agreement that conflicts with a rule adopted under this
22 chapter or a statute is invalid and unenforceable.

23 (v) For the purposes of this subsection, "management rights"
24 includes, in addition to all powers, duties, and rights established by
25 constitutional provision or statute, at least the following:

26 (A) The functions and programs of the agency, the use of
27 technology, and the structure of the organization;

28 (B) The agency's budget and the size of the agency work force,
29 including determining the financial basis for layoffs;

30 (C) The right to direct and supervise employees; and

31 (D) The right to take whatever actions are deemed necessary to
32 carry out the mission of the state and its agencies during emergencies;

33 ((14)) (d) Authorization for written agreements ((may)) to
34 contain provisions for payroll deductions of employee organization dues
35 upon authorization by the employee member and for the cancellation of
36 such payroll deduction by the filing of a proper prior notice by the
37 employee with the appointing authority and the employee organization((
38 PROVIDED, That))i

1 (e) Procedures for negotiating collective bargaining agreements,
2 subject to the following:

3 (i)(A) Except for institutions of higher education, the agency
4 shall be represented by the governor or governor's designee for the
5 purpose of negotiating compensation and fringe benefit provisions.
6 Negotiations regarding the dollar amount expended on behalf of each
7 employee for health care benefits must be conducted in one coalition of
8 all the exclusive bargaining representatives subject to this section
9 and any provision agreed to shall be included in all collective
10 bargaining agreements negotiated by the parties.

11 (B) For negotiations with institutions of higher education, the
12 governing board of an institution of higher education may elect to have
13 its compensation and fringe benefit negotiations conducted by the
14 governor or governor's designee;

15 (ii)(A) After ratification of a tentative agreement by the
16 exclusive bargaining representative, the compensation and fringe
17 benefit provisions in the tentative agreement must be submitted by the
18 governor to the joint committee on employment relations, which shall
19 consist of the following members: Two members with leadership
20 positions in the house of representatives, representing each of the two
21 largest caucuses; two members of the house appropriations committee, or
22 successor committee, representing each of the two largest caucuses; two
23 members with leadership positions in the senate, representing each of
24 the two largest caucuses; and two members of the senate ways and means
25 committee, or successor committee, representing each of the two largest
26 caucuses. If the joint committee does not approve the submission, the
27 tentative agreement must be returned to the parties for renegotiation.
28 If the joint committee approves the submission, the governor shall
29 submit a request for funds necessary to implement the compensation and
30 fringe benefit provisions of the tentative agreement within ten days of
31 the date on which the committee approved the submission or, if the
32 legislature is not in session, within ten days after the legislature
33 next convenes. Requests for funds necessary to implement the
34 provisions of tentative agreements negotiated by institutions of higher
35 education shall not be submitted to the joint committee unless such
36 requests:

37 (I) Have been submitted to the director of the office of financial
38 management before September 1st of the year they are negotiated; and

1 (II) Have been certified by the director of the office of financial
2 management as being feasible financially for the state.

3 (B) The legislature must approve or reject the submission of the
4 request for funds as a whole. If the legislature rejects or fails to
5 act on the submission, the submission may be returned, on the joint
6 committee's request, to the joint committee. If no request is made by
7 the joint committee within ten days of the legislature's rejection or
8 failure to act, either party may reopen all or part of the agreement.

9 (C) If, after the compensation and fringe benefit provisions of an
10 agreement are approved by the legislature, a significant revenue
11 shortfall occurs resulting in reduced appropriations, both parties
12 shall immediately enter into collective negotiations for a mutually
13 agreed upon modification of the agreement; and

14 (iii) Collective negotiations regarding compensation and fringe
15 benefits must first commence no later than October 1, 2000, for two-
16 year collective bargaining agreements that, subject to legislative
17 ratification under this subsection, are to become effective July 1,
18 2001. For subsequent agreements, negotiations regarding compensation
19 and fringe benefits must commence by October 1st of each even-numbered
20 year for two-year collective bargaining agreements to become effective
21 the following July 1st, subject to legislative ratification under this
22 subsection.

23 (f) Nothing contained ((herein)) in this chapter:

24 (i) Permits or grants to any employee the right to strike or refuse
25 to perform his or her official duties; or

26 (ii) Authorizes the director or the board to arbitrate any matter
27 relating to the negotiation of collective bargaining agreements;

28 ((+15+)) (12) Adoption and revision of a comprehensive
29 classification plan for all positions in the classified service, based
30 on investigation and analysis of the duties and responsibilities of
31 each such position.

32 (a) The ((board)) director shall not adopt job classification
33 revisions or class studies unless implementation of the proposed
34 revision or study will result in net cost savings, increased
35 efficiencies, or improved management of personnel or services, and the
36 proposed revision or study has been approved by the director of
37 financial management in accordance with chapter 43.88 RCW.

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

1 (i) The board may approve the implementation of salary increases
2 resulting from adjustments to the classification plan during the 1995-
3 97 fiscal biennium only if:

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

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

11 (C) The implementation is a result of emergent conditions.
12 Emergent conditions are defined as emergency situations requiring the
13 establishment of positions necessary for the preservation of the public
14 health, safety, or general welfare, which do not exceed \$250,000 of the
15 moneys identified in section 718(2), chapter 18, Laws of 1995 2nd sp.
16 sess.

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

25 (c) Reclassifications, class studies, and salary adjustments to be
26 implemented during the 1997-99 and subsequent fiscal biennia are
27 governed by (a) of this subsection and RCW 41.06.152;

28 (~~(16)~~) (13) Allocation and reallocation of positions within the
29 classification plan;

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

1 (~~(18)~~) (15) Increment increases within the series of steps for
2 each pay grade based on length of service for all employees whose
3 standards of performance are such as to permit them to retain job
4 status in the classified service;

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

27 (~~(20)~~) (17) Permitting agency heads to delegate the authority to
28 appoint, reduce, dismiss, suspend, or demote employees within their
29 agencies if such agency heads do not have specific statutory authority
30 to so delegate: PROVIDED, That the (~~board~~) director may not
31 authorize such delegation to any position lower than the head of a
32 major subdivision of the agency;

33 (~~(21)~~) (18) Assuring persons who are or have been employed in
34 classified positions before July 1, 1993, will be eligible for
35 employment, reemployment, transfer, and promotion in respect to
36 classified positions covered by this chapter;

37 (~~(22)~~) (19) Affirmative action in appointment, promotion,
38 transfer, recruitment, training, and career development; development

1 and implementation of affirmative action goals and timetables; and
2 monitoring of progress against those goals and timetables.

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

8 **Sec. 6.** RCW 41.06.152 and 1996 c 319 s 1 are each amended to read
9 as follows:

10 (1) The board shall adopt only those job classification revisions,
11 class studies, and salary adjustments under RCW 41.06.150(15) that:

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

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

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

28 Before the department of personnel's biennial budget request is due
29 to the office of financial management, the board shall prioritize
30 requests for reclassifications, class studies, and salary adjustments
31 for the next fiscal biennium. The board shall prioritize according to
32 such criteria as are developed by the board consistent with RCW
33 41.06.150(~~(15)~~) (12)(a).

34 The board shall submit the prioritized list to the governor's
35 office and the fiscal committees of the house of representatives and
36 senate at the same time the department of personnel's biennial budget
37 request is submitted. The office of financial management shall review

1 the biennial cost of each proposed salary adjustment on the board's
2 prioritized list.

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

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

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

21 (1) In preparing classification and salary schedules as set forth
22 in RCW 41.06.150 (~~(as now or hereafter amended)~~), the department of
23 personnel shall give full consideration to prevailing rates in other
24 public employment and in private employment in this state. (~~For this~~
25 ~~purpose~~) The department shall (~~(undertake comprehensive salary and~~
26 ~~fringe benefit surveys, with such surveys to be conducted in the year~~
27 ~~prior to the convening of every other one hundred five day regular~~
28 ~~session of the state legislature. In the year prior to the convening~~
29 ~~of each one hundred five day regular session during which a~~
30 ~~comprehensive salary and fringe benefit survey is not conducted, the~~
31 ~~department shall plan and conduct a trend salary and fringe benefit~~
32 ~~survey. This survey shall measure average salary and fringe benefit~~
33 ~~movement for broad occupational groups which has occurred since the~~
34 ~~last comprehensive salary and fringe benefit survey was conducted. The~~
35 ~~results of each comprehensive and trend salary and fringe benefit~~
36 ~~survey)) use an appropriate mix of data gathered from surveys conducted~~
37 ~~by the department and from surveys conducted by other entities to~~
38 ~~determine the prevailing rates. The prevailing rate results shall be~~

1 (~~completed and~~) forwarded by September (~~30~~) 30th of each even-
2 numbered year with a recommended state salary schedule to the governor
3 and director of financial management for their use in preparing budgets
4 to be submitted to the succeeding legislature. (~~A copy of the data~~
5 ~~and supporting documentation shall be furnished by the department of~~
6 ~~personnel~~) The information shall also be forwarded to the standing
7 committees for appropriations of the senate and house of
8 representatives.

9 (~~In the case of comprehensive salary and fringe benefit surveys,~~
10 ~~the department shall furnish the following supplementary data in~~
11 ~~support of its recommended salary schedule:~~

12 (1) ~~A total dollar figure which reflects the recommended increase~~
13 ~~or decrease in state salaries as a direct result of the specific salary~~
14 ~~and fringe benefit survey that has been conducted and which is~~
15 ~~categorized to indicate what portion of the increase or decrease is~~
16 ~~represented by salary survey data and what portion is represented by~~
17 ~~fringe benefit survey data;~~

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

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

30 (4) ~~A supplemental salary schedule which indicates the additional~~
31 ~~salary to be paid state employees for hazardous duties or other~~
32 ~~considerations requiring extra compensation under specific~~
33 ~~circumstances. Additional compensation for these circumstances shall~~
34 ~~not be included in the basic salary schedule but shall be maintained as~~
35 ~~a separate pay schedule for purposes of full disclosure and visibility;~~
36 ~~and~~

37 (5) ~~A supplemental salary schedule which indicates those cases~~
38 ~~where the board determines that prevailing rates do not provide similar~~
39 ~~salaries for positions that require or impose similar responsibilities,~~

1 judgment, knowledge, skills, and working conditions. This
2 supplementary salary schedule shall contain proposed salary adjustments
3 necessary to eliminate any such dissimilarities in compensation.
4 Additional compensation needed to eliminate such salary dissimilarities
5 shall not be included in the basic salary schedule but shall be
6 maintained as a separate salary schedule for purposes of full
7 disclosure and visibility.

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

12 (2) Salary and fringe benefit survey information collected from
13 private employers which identifies a specific employer with the salary
14 and fringe benefit rates which that employer pays to its employees
15 shall not be subject to public disclosure under chapter 42.17 RCW.

16 ((The first comprehensive salary and fringe benefit survey required
17 by this section shall be completed and forwarded to the governor and
18 the director of financial management by September 30, 1986. The first
19 trend salary and fringe benefit survey required by this section shall
20 be completed and forwarded to the governor and the director of
21 financial management by September 30, 1988.))

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

24 The department of personnel shall undertake comprehensive
25 compensation surveys for officers and entry-level officer candidates of
26 the Washington state patrol, with such surveys to be conducted in the
27 year prior to the convening of every other one hundred five day regular
28 session of the state legislature. ((In the year prior to the convening
29 of each one hundred five day regular session during which a
30 comprehensive compensation survey is not conducted, the department
31 shall conduct a trend compensation survey. This survey shall measure
32 average compensation movement which has occurred since the last
33 comprehensive compensation survey was conducted. The results of each
34 comprehensive and trend survey shall be completed and forwarded by
35 September 30th, after review and preparation of recommendations by the
36 chief of the Washington state patrol, to the governor and director of
37 financial management for their use in preparing budgets to be submitted
38 to the succeeding legislature. A copy of the data and supporting

1 documentation shall be furnished by the department of personnel to the
2 legislative transportation committee and the standing committees for
3 appropriations of the senate and house of representatives. The office
4 of financial management shall analyze the survey results and conduct
5 investigations which may be necessary to arbitrate differences between
6 interested parties regarding the accuracy of collected survey data and
7 the use of such data for salary adjustment.

8 Surveys conducted by the department of personnel for the Washington
9 state patrol shall be undertaken in a manner consistent with
10 statistically accurate sampling techniques, including comparisons of
11 medians, base ranges, and weighted averages of salaries. The surveys
12 shall compare competitive labor markets of law enforcement officers.
13 This service performed by the department of personnel shall be on a
14 reimbursable basis in accordance with the provisions of RCW 41.06.080.

15 A comprehensive compensation survey plan and the recommendations of
16 the chief of the Washington state patrol shall be submitted jointly by
17 the department of personnel and the Washington state patrol to the
18 director of financial management, the legislative transportation
19 committee, the committee on ways and means of the senate, and the
20 committee on appropriations of the house of representatives six months
21 before the beginning of each periodic survey.))

22 NEW SECTION. **Sec. 9.** (1)(a) This chapter does not prohibit any
23 agency, as defined in RCW 41.06.020, or institution of higher
24 education, as defined in RCW 28B.10.016, or related board, from
25 purchasing services by contract with individuals, nonprofit
26 organizations, businesses, or other entities.

27 (b) An agency or institution of higher education that intends to
28 purchase services by contract must notify an exclusive bargaining
29 representative who represents any employee whose employment status will
30 be directly affected by the contract. The exclusive bargaining
31 representative shall have the right to offer alternatives to the
32 proposed contract and such alternatives must be considered by the
33 agency or institution of higher education in making the final decision
34 to contract for services. This subsection (1)(b) does not apply to the
35 purchase of services or to any contracting for services that was
36 authorized by law before the effective date of this section.

37 (2) Any provision contrary to or in conflict with this section in
38 a collective bargaining agreement in effect on the effective date of

1 this section is not effective beyond the expiration date of the
2 agreement.

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

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

13 (2) Any employee who is reduced, dismissed, suspended, or demoted,
14 after completing his or her probationary period of service as provided
15 by the rules of the (~~board~~) director, or any employee who is
16 adversely affected by a violation of the state civil service law,
17 chapter 41.06 RCW, or rules adopted under it, shall have the right to
18 appeal (~~to the personnel appeals board created by RCW 41.64.010~~) not
19 later than thirty days after the effective date of such action to the
20 personnel appeals board. The employee shall be furnished with
21 specified charges in writing when a reduction, dismissal, suspension,
22 or demotion action is taken. Such appeal shall be in writing.

23 (3) Any employee whose position has been exempted after July 1,
24 1993, shall have the right to appeal (~~to the personnel appeals board~~
25 ~~created by RCW 41.64.010~~) not later than thirty days after the
26 effective date of such action to the personnel appeals board.

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

32 **Sec. 11.** RCW 41.06.170 and 1999 c . . . s 10 (section 10 of this
33 act) are each amended to read as follows:

34 (1) The director, in the adoption of rules governing suspensions
35 for cause, shall not authorize an appointing authority to suspend an
36 employee for more than fifteen calendar days as a single penalty or
37 more than thirty calendar days in any one calendar year as an

1 accumulation of several penalties. The director shall require that the
2 appointing authority give written notice to the employee not later than
3 one day after the suspension takes effect, stating the reasons for and
4 the duration thereof.

5 (2) Any employee who is reduced, dismissed, suspended, or demoted,
6 after completing his or her probationary period of service as provided
7 by the rules of the director, or any employee who is adversely affected
8 by a violation of the state civil service law, chapter 41.06 RCW, or
9 rules adopted under it, shall have the right to appeal, either
10 individually or through the employee's authorized representative, not
11 later than thirty days after the effective date of such action to the
12 Washington personnel ((appeals)) resources board. The employee shall
13 be furnished with specified charges in writing when a reduction,
14 dismissal, suspension, or demotion action is taken. Such appeal shall
15 be in writing. The board shall furnish the agency concerned with a
16 copy of the appeal in advance of the hearing. The board or hearings
17 officer will process an appeal, or a review of a hearings officer's
18 recommended decision, if any, as quickly as is feasible to provide
19 prompt resolution of the appeal.

20 (3) Any employee whose position has been exempted after July 1,
21 1993, shall have the right to appeal, either individually or through
22 the employee's authorized representative, not later than thirty days
23 after the effective date of such action to the Washington personnel
24 ((appeals)) resources board.

25 (4) An employee incumbent in a position at the time of its
26 allocation or reallocation, or the agency utilizing the position, may
27 appeal the allocation or reallocation to the Washington personnel
28 ((appeals)) resources board. Notice of such appeal must be filed in
29 writing within thirty days of the action from which appeal is taken.

30 (5) The board may consolidate two or more appeals when the cases
31 present issues appropriate for joint resolution.

32 (6) A decision of the Washington personnel resources board under
33 subsection (3) or (4) of this section is final and not subject to
34 appeal.

35 NEW SECTION. Sec. 12. (1) The board may appoint, following
36 consultation with employee organizations and employing agencies, one or
37 more hearings officers to conduct hearings and make recommended
38 decisions in accordance with rules adopted by the board. The hearings

1 officer shall conduct hearings in the same manner and shall have the
2 same authority as provided in hearings by the board. The recommended
3 decision must be forthwith served upon the parties and transmitted to
4 the board.

5 (2)(a) Within thirty days of service of the recommended decision of
6 a hearings officer, any party adversely affected may request the board
7 to review the recommended decision. The request for review must
8 include a statement of the issues to which the party takes exception.
9 The board's review is limited to the stated issues and the requesting
10 party is deemed to have waived all objections or irregularities not
11 specifically stated in the request. The requesting party must provide
12 written argument in support of the exceptions and may, at the
13 discretion of the board, provide oral argument. The board's decision
14 is subject to section 14 of this act.

15 (b) If a request for review of a hearings officer's decision is not
16 filed as required by this section, the recommended decision of the
17 hearings officer shall be adopted by the board as the board's decision.

18 NEW SECTION. **Sec. 13.** (1) Hearings on appeals under this chapter
19 shall be open to the public, except for cases in which the board
20 determines there is substantial reason for not having an open hearing
21 or in cases where the employee so requests, and shall be informal with
22 technical rules of evidence not applying to the proceedings except the
23 rules of privilege recognized by law. Both the employee and his or her
24 employing agency shall be notified reasonably in advance of the hearing
25 and may select representatives of their choosing, present and
26 cross-examine witnesses, and give evidence before the board.

27 (2) Members of the board or the executive secretary may, and shall
28 at the request of either party, issue subpoenas and subpoenas duces
29 tecum. All testimony shall be on oath administered by a member of the
30 board. The board shall certify to the superior court the facts of any
31 refusals to obey a subpoena, take the oath, or testify. The court
32 shall summarily hear the evidence on the refusal and, if the evidence
33 warrants, punish the refusal in the same manner and to the same extent
34 as for contempt committed before, or in connection with the proceedings
35 of, the court.

36 (3) The board shall prepare an official record of the hearing,
37 including all testimony, recorded manually or by mechanical device, and
38 exhibits, but the board may not be required to transcribe the record

1 unless requested by the employee, who shall be furnished with a
2 complete transcript upon payment of a reasonable charge. However,
3 payment of the cost of a transcript used on appeal shall await
4 determination of the appeal and shall be made by the employing agency
5 if the employee prevails.

6 NEW SECTION. **Sec. 14.** (1) Within sixty days after the conclusion
7 of an appeal hearing under this chapter, the board shall make and fully
8 record in its permanent records the following: (a) Findings of fact;
9 (b) conclusions of law when the construction of a rule, regulation, or
10 statute is in question; (c) reasons for the action taken; and (d) the
11 board's order based thereon. The order is final and not appealable to
12 court, except as provided in section 15 of this act.

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

16 NEW SECTION. **Sec. 15.** (1) Within thirty days after the mailing of
17 a recorded order under section 13 of this act, the employee may appeal
18 a decision and order of the board made under RCW 41.06.170(2) to the
19 superior court of Thurston county on one or more of the grounds that
20 the order was:

21 (a) Founded on or contained an error of law, which shall
22 specifically include error in construction or application of any
23 pertinent rules or regulations;

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

27 (c) Materially affected by unlawful procedure;

28 (d) Based on violation of any constitutional provision; or

29 (e) Arbitrary or capricious.

30 (2) The grounds for appeal shall be stated in a written notice of
31 appeal filed with the court, with copies thereof served on the director
32 of personnel or a member of his or her staff or a member of the board
33 and on the employing agency, all within the time stated.

34 (3) Within thirty days after service of a notice of appeal, or
35 within such further time as the court may allow, the board shall
36 transmit to the court a certified transcript, with exhibits, of the
37 hearing; but by stipulation between the employing agency and the

1 employee the transcript may be shortened, and either party unreasonably
2 refusing to stipulate to such limitation may be ordered by the court to
3 pay the additional cost involved. The court may require or permit
4 subsequent corrections or additions to the transcript.

5 NEW SECTION. **Sec. 16.** (1) The court shall review the hearing
6 without a jury on the basis of the transcript and exhibits, except that
7 in case of alleged irregularities in procedure before the board not
8 shown by the transcript the court may order testimony to be given
9 thereon. The court shall upon request by either party hear oral
10 argument and receive written briefs.

11 (2) The court may affirm the order of the board, remand the matter
12 for further proceedings before the board, or reverse or modify the
13 order if it finds that the objection thereto is well taken on any of
14 the grounds stated. Appellate review of the order of the superior
15 court may be sought as in other civil cases.

16 **Sec. 17.** RCW 41.06.186 and 1993 c 281 s 32 are each amended to
17 read as follows:

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

21 **Sec. 18.** RCW 41.06.196 and 1993 c 281 s 33 are each amended to
22 read as follows:

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

28 **Sec. 19.** RCW 41.06.270 and 1979 c 151 s 61 are each amended to
29 read as follows:

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

1 **Sec. 20.** RCW 41.06.350 and 1993 c 281 s 36 are each amended to
2 read as follows:

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

8 **Sec. 21.** RCW 41.06.400 and 1980 c 118 s 4 are each amended to read
9 as follows:

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

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

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

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

23 (c) Promote interagency sharing of resources for training and
24 career development;

25 (d) Monitor and review the impact of training and career
26 development programs to ensure that the responsibilities of the state
27 to provide equal employment opportunities are diligently carried out.
28 (~~The director shall report to the board the impact of training and~~
29 ~~career development programs on the fulfillment of such~~
30 ~~responsibilities.~~)

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

35 **Sec. 22.** RCW 41.06.410 and 1980 c 118 s 5 are each amended to read
36 as follows:

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

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

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

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

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

12 **Sec. 23.** RCW 41.06.450 and 1993 c 281 s 37 are each amended to
13 read as follows:

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

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

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

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

27 (2) Notwithstanding subsection (1) of this section, an agency may
28 retain information relating to employee misconduct or alleged
29 misconduct if:

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

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

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

1 **Sec. 24.** RCW 41.06.475 and 1993 c 281 s 38 are each amended to
2 read as follows:

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

8 **Sec. 25.** RCW 41.06.490 and 1990 c 204 s 3 are each amended to read
9 as follows:

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

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

16 (b) Provide for eligibility in the return-to-work program, for a
17 minimum of two years from the date the temporary disability commenced,
18 for any permanent employee who is receiving compensation under RCW
19 51.32.090 and who is, by reason of his or her temporary disability,
20 unable to return to his or her previous work, but who is physically
21 capable of carrying out work of a lighter or modified nature;

22 (c) Allow opportunity for return-to-work state-wide when
23 appropriate job classifications are not available in the agency that is
24 the appointing authority at the time of injury;

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

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

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

32 (g) Coordinate participation of applicable employee assistance
33 programs, as appropriate.

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

1 **Sec. 26.** RCW 41.06.500 and 1996 c 319 s 4 are each amended to read
2 as follows:

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

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

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

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

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

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

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

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

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

11 (g) Facilitating decentralized and regional administration.

12 **Sec. 27.** RCW 41.64.090 and 1993 c 281 s 41 are each amended to
13 read as follows:

14 (1) The board shall have jurisdiction to decide appeals filed on or
15 after July 1, 1981, and before July 1, 2001, of employees under the
16 jurisdiction of the Washington personnel resources board pursuant to
17 RCW 41.06.170(~~(, as now or hereafter amended)~~)).

18 (2) The board shall have jurisdiction to decide appeals filed on or
19 after July 1, 1993, and before July 1, 2001, of employees of
20 institutions of higher education and related boards under the
21 jurisdiction of the Washington personnel resources board pursuant to
22 RCW 41.06.170. An appeal under this subsection by an employee of an
23 institution of higher education or a related board shall be held in the
24 county in which the institution is located or the county in which the
25 person was employed when the appeal was filed.

26 NEW SECTION. **Sec. 28.** A new section is added to chapter 28A.400
27 RCW to read as follows:

28 (1)(a) A school district or educational service district may
29 purchase services by contract with individuals, nonprofit
30 organizations, businesses, or other entities.

31 (b) A school district or educational service district that intends
32 to purchase services by contract must notify any exclusive bargaining
33 representative who represents an employee whose employment status will
34 be directly affected by the contract. The exclusive bargaining
35 representative shall have the right to offer alternatives to the
36 proposed contract and such alternatives must be considered by the
37 school district or educational service district in making the final

1 decision to contract for services. This subsection (1)(b) does not
2 apply to:

3 (i) The purchase of services or to any contracting for services
4 that was authorized by law before the effective date of this section;
5 or

6 (ii) Temporary, nonongoing, or nonrecurring service contracts, or
7 contracts for services previously performed by employees in director or
8 supervisor, professional, or technical positions.

9 (2) Any provision contrary to or in conflict with this section in
10 a collective bargaining agreement in effect on the effective date of
11 this section is not effective beyond the expiration date of the
12 agreement.

13 **Sec. 29.** RCW 28B.12.060 and 1994 c 130 s 6 are each amended to
14 read as follows:

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

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

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

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

31 (b) Has been accepted for enrollment as at least a half-time
32 student at the eligible institution or, in the case of a student
33 already enrolled in and attending the eligible institution, is in good
34 standing and in at least half-time attendance there either as an
35 undergraduate, graduate or professional student; and

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

37 (3) Placing priority on providing:

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

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

7 (c) Off-campus community service placements;

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

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

12 (b) That all positions established which are comparable shall be
13 identified to a job classification under the ((Washington personnel
14 resources board's)) director of personnel's classification plan and
15 shall receive equal compensation;

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

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

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

25 **Sec. 30.** RCW 34.05.030 and 1994 c 39 s 1 are each amended to read
26 as follows:

27 (1) This chapter shall not apply to:

28 (a) The state militia, or

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

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

33 (2) The provisions of RCW 34.05.410 through 34.05.598 shall not
34 apply:

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

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

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

8 (d) To actions of the Washington personnel resources board((~~7~~)) or
9 the director of personnel(~~(~~7~~ or the personnel appeals board)~~); or

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

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

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

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

23 **Sec. 31.** RCW 34.12.020 and 1995 c 331 s 1 are each amended to read
24 as follows:

25 Unless the context clearly requires otherwise, the definitions in
26 this section apply throughout this chapter.

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

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

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

34 (4) "State agency" means any state board, commission, department,
35 or officer authorized by law to make rules or to conduct adjudicative
36 proceedings, except those in the legislative or judicial branches, the
37 growth management hearings boards, the utilities and transportation
38 commission, the pollution control hearings board, the shorelines

1 hearings board, the forest practices appeals board, the environmental
2 hearings office, the board of industrial insurance appeals, the
3 Washington personnel resources board, the public employment relations
4 commission, (~~the personnel appeals board,~~) and the board of tax
5 appeals.

6 **Sec. 32.** RCW 41.04.340 and 1998 c 254 s 1 and 1998 c 116 s 2 are
7 each reenacted and amended to read as follows:

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

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

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

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

37 (5) Except as provided in subsections (7) through (9) of this
38 section for employees not covered by chapter 41.06 RCW, this section

1 shall be administered, and rules shall be adopted to carry out its
2 purposes, by the (~~Washington personnel resources board~~) director of
3 personnel for persons subject to chapter 41.06 RCW: PROVIDED, That
4 determination of classes of eligible employees shall be subject to
5 approval by the office of financial management.

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

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

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

1 (9) Medical expense plans authorized by subsection (7) of this
2 section must require as a condition of participation in the plan that
3 employees in the group affected by the plan sign an agreement with the
4 employer. The agreement must include a provision to hold the employer
5 harmless should the United States government find that the employer or
6 the employee is in debt to the United States as a result of the
7 employee not paying income taxes due on the equivalent funds placed
8 into the plan, or as a result of the employer not withholding or
9 deducting a tax, assessment, or other payment on the funds as required
10 by federal law. The agreement must also include a provision that
11 requires an eligible employee to forfeit remuneration under subsection
12 (3) of this section if the employee belongs to a group that has been
13 designated to participate in the medical expense plan permitted under
14 this section and the employee refuses to execute the required
15 agreement.

16 **Sec. 33.** RCW 41.50.804 and 1993 c 281 s 40 are each amended to
17 read as follows:

18 Nothing contained in this chapter shall be construed to alter any
19 existing collective bargaining agreement until any such agreement has
20 expired or until any such bargaining unit has been modified by action
21 of the ((Washington personnel resources board)) director of personnel
22 as provided by law.

23 **Sec. 34.** RCW 43.06.425 and 1993 c 281 s 48 are each amended to
24 read as follows:

25 The ((Washington personnel resources board)) director of personnel
26 shall adopt rules to provide that:

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

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

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

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

8 **Sec. 35.** RCW 43.33A.100 and 1993 c 281 s 50 are each amended to
9 read as follows:

10 The state investment board shall maintain appropriate offices and
11 employ such personnel as may be necessary to perform its duties.
12 Employment by the investment board shall include but not be limited to
13 an executive director, investment officers, and a confidential
14 secretary, which positions are exempt from classified service under
15 chapter 41.06 RCW. Employment of the executive director by the board
16 shall be for a term of three years, and such employment shall be
17 subject to confirmation of the state finance committee: PROVIDED, That
18 nothing shall prevent the board from dismissing the director for cause
19 before the expiration of the term nor shall anything prohibit the
20 board, with the confirmation of the state finance committee, from
21 employing the same individual as director in succeeding terms.
22 Compensation levels for the investment officers employed by the
23 investment board shall be established by the ~~((Washington personnel
24 resources board))~~ director of personnel.

25 As of July 1, 1981, all employees classified under chapter 41.06
26 RCW and engaged in duties assumed by the state investment board on July
27 1, 1981, are assigned to the state investment board. The transfer
28 shall not diminish any rights granted these employees under chapter
29 41.06 RCW nor exempt the employees from any action which may occur
30 thereafter in accordance with chapter 41.06 RCW.

31 All existing contracts and obligations pertaining to the functions
32 transferred to the state investment board in ~~((this 1980 act))~~ chapter
33 3, Laws of 1981 shall remain in full force and effect, and shall be
34 performed by the board. None of the transfers directed by ~~((this 1980
35 act))~~ chapter 3, Laws of 1981 shall affect the validity of any act
36 performed by a state entity or by any official or employee thereof
37 prior to July 1, 1981.

1 **Sec. 36.** RCW 49.46.010 and 1997 c 203 s 3 are each amended to read
2 as follows:

3 As used in this chapter:

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

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

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

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

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

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

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

27 (c) Any individual employed in a bona fide executive,
28 administrative, or professional capacity or in the capacity of outside
29 salesman as those terms are defined and delimited by rules of the
30 director. However, those terms shall be defined and delimited by the
31 (~~Washington personnel resources board pursuant to~~) director of
32 personnel under chapter 41.06 RCW for employees employed under the
33 director of personnel's jurisdiction;

34 (d) Any individual engaged in the activities of an educational,
35 charitable, religious, state or local governmental body or agency, or
36 nonprofit organization where the employer-employee relationship does
37 not in fact exist or where the services are rendered to such
38 organizations gratuitously. If the individual receives reimbursement
39 in lieu of compensation for normally incurred out-of-pocket expenses or

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

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

13 (f) Any newspaper vendor or carrier;

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

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

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

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

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

30 (l) Any individual who holds a public elective or appointive office
31 of the state, any county, city, town, municipal corporation or quasi
32 municipal corporation, political subdivision, or any instrumentality
33 thereof, or any employee of the state legislature;

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

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

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

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

8 **Sec. 37.** RCW 13.40.320 and 1997 c 338 s 38 are each amended to
9 read as follows:

10 (1) The department of social and health services shall establish
11 and operate a medium security juvenile offender basic training camp
12 program. The department shall site a juvenile offender basic training
13 camp facility in the most cost-effective facility possible and shall
14 review the possibility of using an existing abandoned and/or available
15 state, federally, or military-owned site or facility.

16 (2) The department may contract under this chapter with private
17 companies, the national guard, or other federal, state, or local
18 agencies to operate the juvenile offender basic training camp(~~(7~~
19 ~~notwithstanding the provisions of RCW 41.06.380)~~). Requests for
20 proposals from possible contractors shall not call for payment on a per
21 diem basis.

22 (3) The juvenile offender basic training camp shall accommodate at
23 least seventy offenders. The beds shall count as additions to, and not
24 be used as replacements for, existing bed capacity at existing
25 department of social and health services juvenile facilities.

26 (4) The juvenile offender basic training camp shall be a structured
27 and regimented model lasting one hundred twenty days emphasizing the
28 building up of an offender's self-esteem, confidence, and discipline.
29 The juvenile offender basic training camp program shall provide
30 participants with basic education, prevocational training, work-based
31 learning, live work, work ethic skills, conflict resolution counseling,
32 substance abuse intervention, anger management counseling, and
33 structured intensive physical training. The juvenile offender basic
34 training camp program shall have a curriculum training and work
35 schedule that incorporates a balanced assignment of these or other
36 rehabilitation and training components for no less than sixteen hours
37 per day, six days a week.

1 The department shall adopt rules for the safe and effective
2 operation of the juvenile offender basic training camp program,
3 standards for an offender's successful program completion, and rules
4 for the continued after-care supervision of offenders who have
5 successfully completed the program.

6 (5) Offenders eligible for the juvenile offender basic training
7 camp option shall be those with a disposition of not more than sixty-
8 five weeks. Violent and sex offenders shall not be eligible for the
9 juvenile offender basic training camp program.

10 (6) If the court determines that the offender is eligible for the
11 juvenile offender basic training camp option, the court may recommend
12 that the department place the offender in the program. The department
13 shall evaluate the offender and may place the offender in the program.
14 The evaluation shall include, at a minimum, a risk assessment developed
15 by the department and designed to determine the offender's suitability
16 for the program. No juvenile who is assessed as a high risk offender
17 or suffers from any mental or physical problems that could endanger his
18 or her health or drastically affect his or her performance in the
19 program shall be admitted to or retained in the juvenile offender basic
20 training camp program.

21 (7) All juvenile offenders eligible for the juvenile offender basic
22 training camp sentencing option shall spend one hundred twenty days of
23 their disposition in a juvenile offender basic training camp. If the
24 juvenile offender's activities while in the juvenile offender basic
25 training camp are so disruptive to the juvenile offender basic training
26 camp program, as determined by the secretary according to rules adopted
27 by the department, as to result in the removal of the juvenile offender
28 from the juvenile offender basic training camp program, or if the
29 offender cannot complete the juvenile offender basic training camp
30 program due to medical problems, the secretary shall require that the
31 offender be committed to a juvenile institution to serve the entire
32 remainder of his or her disposition, less the amount of time already
33 served in the juvenile offender basic training camp program.

34 (8) All offenders who successfully graduate from the one hundred
35 twenty day juvenile offender basic training camp program shall spend
36 the remainder of their disposition on parole in a division of juvenile
37 rehabilitation intensive aftercare program in the local community. The
38 program shall provide for the needs of the offender based on his or her
39 progress in the aftercare program as indicated by ongoing assessment of

1 those needs and progress. The intensive aftercare program shall
2 monitor postprogram juvenile offenders and assist them to successfully
3 reintegrate into the community. In addition, the program shall develop
4 a process for closely monitoring and assessing public safety risks.
5 The intensive aftercare program shall be designed and funded by the
6 department of social and health services.

7 (9) The department shall also develop and maintain a data base to
8 measure recidivism rates specific to this incarceration program. The
9 data base shall maintain data on all juvenile offenders who complete
10 the juvenile offender basic training camp program for a period of two
11 years after they have completed the program. The data base shall also
12 maintain data on the criminal activity, educational progress, and
13 employment activities of all juvenile offenders who participated in the
14 program.

15 **Sec. 38.** RCW 39.29.006 and 1998 c 101 s 2 are each amended to read
16 as follows:

17 As used in this chapter:

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

22 (2) "Client services" means services provided directly to agency
23 clients including, but not limited to, medical and dental services,
24 employment and training programs, residential care, and subsidized
25 housing.

26 (3) "Competitive solicitation" means a documented formal process
27 providing an equal and open opportunity to qualified parties and
28 culminating in a selection based on criteria which may include such
29 factors as the consultant's fees or costs, ability, capacity,
30 experience, reputation, responsiveness to time limitations,
31 responsiveness to solicitation requirements, quality of previous
32 performance, and compliance with statutes and rules relating to
33 contracts or services.

34 (4) "Consultant" means an independent individual or firm
35 contracting with an agency to perform a service or render an opinion or
36 recommendation according to the consultant's methods and without being
37 subject to the control of the agency except as to the result of the

1 work. The agency monitors progress under the contract and authorizes
2 payment.

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

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

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

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

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

17 (8) "Personal service contract" means an agreement, or any
18 amendment thereto, with a consultant for the rendering of personal
19 services to the state which is consistent with ((RCW 41.06.380))
20 section 9 of this act.

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

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

33 **Sec. 39.** RCW 47.46.040 and 1995 2nd sp.s. c 19 s 3 are each
34 amended to read as follows:

35 (1) All projects designed, constructed, and operated under this
36 authority must comply with all applicable rules and statutes in
37 existence at the time the agreement is executed, including but not
38 limited to the following provisions: Chapter 39.12 RCW, this title,

1 ((~~RCW 41.06.380~~)) section 9 of this act, chapter 47.64 RCW, RCW
2 49.60.180, and 49 C.F.R. Part 21.

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

6 (3) Agreements shall provide for private ownership of the projects
7 during the construction period. After completion and final acceptance
8 of each project or discrete segment thereof, the agreement shall
9 provide for state ownership of the transportation systems and
10 facilities and lease to the private entity unless the state elects to
11 provide for ownership of the facility by the private entity during the
12 term of the agreement.

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

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

30 (5) The plans and specifications for each project constructed under
31 this section shall comply with the department's standards for state
32 projects. A facility constructed by and leased to a private entity is
33 deemed to be a part of the state highway system for purposes of
34 identification, maintenance, and enforcement of traffic laws and for
35 the purposes of applicable sections of this title. Upon reversion of
36 the facility to the state, the project must meet all applicable state
37 standards. Agreements shall address responsibility for reconstruction
38 or renovations that are required in order for a facility to meet all
39 applicable state standards upon reversion of the facility to the state.

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

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

29 (8) Agreements under this section may include any contractual
30 provision that is necessary to protect the project revenues required to
31 repay the costs incurred to study, plan, design, finance, acquire,
32 build, install, operate, enforce laws, and maintain toll highways,
33 bridges, and tunnels and which will not unreasonably inhibit or
34 prohibit the development of additional public transportation systems
35 and facilities. Agreements under this section must secure and maintain
36 liability insurance coverage in amounts appropriate to protect the
37 project's viability and may address state indemnification of the
38 private entity for design and construction liability where the state
39 has approved relevant design and construction plans.

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

4 (10)(a) In carrying out the public involvement process required in
5 subsection (9) of this section, the private entity shall proactively
6 seek public participation through a process appropriate to the
7 characteristics of the project that assesses and demonstrates public
8 support among: Users of the project, residents of communities in the
9 vicinity of the project, and residents of communities impacted by the
10 project.

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

21 (c) If the affected project area has not been defined, the private
22 entity shall define the affected project area by conducting, at a
23 minimum: (i) A comparison of the estimated percentage of residents of
24 communities in the vicinity of the project and in other communities
25 impacted by the project who could be subject to tolls or user fees and
26 the estimated percentage of other users and transient traffic that
27 could be subject to tolls or user fees; (ii) an analysis of the
28 anticipated traffic diversion patterns; (iii) an analysis of the
29 potential economic impact resulting from proposed toll rates or user
30 fee rates imposed on residents, commercial traffic, and commercial
31 entities in communities in the vicinity of and impacted by the project;
32 (iv) an analysis of the economic impact of tolls or user fees on the
33 price of goods and services generally; and (v) an analysis of the
34 relationship of the project to state transportation needs and benefits.

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

37 (d) In seeking public participation, the private entity shall
38 establish a local involvement committee or committees comprised of
39 residents of the affected project area, individuals who represent

1 cities and counties in the affected project area, organizations formed
2 to support or oppose the project, if such organizations exist, and
3 users of the project. The private entity shall, at a minimum,
4 establish a committee as required under the specifications of RCW
5 47.46.030(~~((5)(b) (ii) and (iii))~~) (6)(b) (ii) and (iii) and
6 appointments to such committee shall be made no later than thirty days
7 after the project area is defined.

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

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

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

20 **Sec. 40.** RCW 72.09.100 and 1995 1st sp.s. c 19 s 33 are each
21 amended to read as follows:

22 It is the intent of the legislature to vest in the department the
23 power to provide for a comprehensive inmate work program and to remove
24 statutory and other restrictions which have limited work programs in
25 the past. For purposes of establishing such a comprehensive program,
26 the legislature recommends that the department consider adopting any or
27 all, or any variation of, the following classes of work programs:

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

34 The customer model industries in this class shall be operated and
35 managed by the department to provide Washington state manufacturers or
36 businesses with products or services currently produced or provided by
37 out-of-state or foreign suppliers. The correctional industries board
38 of directors shall review these proposed industries before the

1 department contracts to provide such products or services. The review
2 shall include an analysis of the potential impact of the proposed
3 products and services on the Washington state business community and
4 labor market.

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

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

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

17 (2) CLASS II: TAX REDUCTION INDUSTRIES. Industries in this class
18 shall be state-owned and operated enterprises designed to reduce the
19 costs for goods and services for tax-supported agencies and for
20 nonprofit organizations. The industries selected for development
21 within this class shall, as much as possible, match the available pool
22 of inmate work skills and aptitudes with the work opportunities in the
23 free community. The industries shall be closely patterned after
24 private sector industries but with the objective of reducing public
25 support costs rather than making a profit. The products and services
26 of this industry, including purchased products and services necessary
27 for a complete product line, may be sold to public agencies, to
28 nonprofit organizations, and to private contractors when the goods
29 purchased will be ultimately used by a public agency or a nonprofit
30 organization. Clothing manufactured by an industry in this class may
31 be donated to nonprofit organizations that provide clothing free of
32 charge to low-income persons. Correctional industries products and
33 services shall be reviewed by the correctional industries board of
34 directors before offering such products and services for sale to
35 private contractors. The board of directors shall conduct a yearly
36 marketing review of the products and services offered under this
37 subsection. Such review shall include an analysis of the potential
38 impact of the proposed products and services on the Washington state
39 business community. To avoid waste or spoilage and consequent loss to

1 the state, when there is no public sector market for such goods,
2 byproducts and surpluses of timber, agricultural, and animal husbandry
3 enterprises may be sold to private persons, at private sale. Surplus
4 byproducts and surpluses of timber, agricultural and animal husbandry
5 enterprises that cannot be sold to public agencies or to private
6 persons may be donated to nonprofit organizations. All sales of
7 surplus products shall be carried out in accordance with rules
8 prescribed by the secretary.

9 Security and custody services shall be provided without charge by
10 the department of corrections.

11 Inmates working in this class of industries shall do so at their
12 own choice and shall be paid for their work on a gratuity scale which
13 shall not exceed the wage paid for work of a similar nature in the
14 locality in which the industry is located and which is approved by the
15 director of correctional industries.

16 Subject to approval of the correctional industries board,
17 provisions of (~~RCW 41.06.380 prohibiting contracting out work~~
18 ~~performed by classified employees~~) section 9(1)(b) of this act shall
19 not apply to contracts with Washington state businesses entered into by
20 the department of corrections through class II industries.

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

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

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

31 (c) Whenever possible, to offset tax and other public support
32 costs.

33 Supervising, management, and custody staff shall be employees of
34 the department.

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

37 Except for inmates who work in work training programs, inmates in
38 this class shall be paid for their work in accordance with an inmate

1 gratuity scale. The scale shall be adopted by the secretary of
2 corrections.

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

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

13 The department of corrections shall reimburse participating units
14 of local government for liability and workers compensation insurance
15 costs.

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

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

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

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

30 **Sec. 41.** RCW 49.74.030 and 1993 c 281 s 58 are each amended to
31 read as follows:

32 The commission in conjunction with the department of personnel or
33 the state patrol, whichever is appropriate, shall attempt to resolve
34 the noncompliance through conciliation. If an agreement is reached for
35 the elimination of noncompliance, the agreement shall be reduced to
36 writing and an order shall be issued by the commission setting forth
37 the terms of the agreement. The noncomplying state agency, institution
38 of higher education, or state patrol shall make a good faith effort to

1 conciliate and make a full commitment to correct the noncompliance with
2 any action that may be necessary to achieve compliance, provided such
3 action is not inconsistent with the rules adopted under RCW
4 41.06.150(~~((+21))~~) (18) and 43.43.340(5), whichever is appropriate.

5 **Sec. 42.** RCW 49.74.040 and 1985 c 365 s 11 are each amended to
6 read as follows:

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

18 An order by the administrative law judge may be appealed to
19 superior court.

20 **Sec. 43.** RCW 72.10.030 and 1989 c 157 s 4 are each amended to read
21 as follows:

22 (1) Notwithstanding any other provisions of law, the secretary may
23 enter into contracts with health care practitioners, health care
24 facilities, and other entities or agents as may be necessary to provide
25 basic medical care to inmates. (~~The contracts shall not cause the~~
26 ~~termination of classified employees of the department rendering the~~
27 ~~services at the time the contract is executed.))~~

28 (2) In contracting for services, the secretary is authorized to
29 provide for indemnification of health care practitioners who cannot
30 obtain professional liability insurance through reasonable effort, from
31 liability on any action, claim, or proceeding instituted against them
32 arising out of the good faith performance or failure of performance of
33 services on behalf of the department. The contracts may provide that
34 for the purposes of chapter 4.92 RCW only, those health care
35 practitioners with whom the department has contracted shall be
36 considered state employees.

1 **Sec. 44.** RCW 82.01.070 and 1997 c 156 s 1 are each amended to read
2 as follows:

3 The director shall have charge and general supervision of the
4 department of revenue. The director shall appoint an assistant
5 director for administration, hereinafter in chapter 26, Laws of 1967
6 ex. sess. referred to as the assistant director, and subject to the
7 provisions of chapter 41.06 RCW may appoint and employ such clerical,
8 technical and other personnel as may be necessary to carry out the
9 powers and duties of the department. The director may also enter into
10 personal service contracts with ~~((out-of-state))~~ individuals or
11 business entities for the performance of auditing services ~~((outside~~
12 ~~the state of Washington when normal efforts to recruit classified~~
13 ~~employees are unsuccessful))~~. The director may agree to pay to the
14 department's employees or contractors who reside out of state such
15 amounts in addition to their ordinary rate of compensation as are
16 necessary to defray the extra costs of facilities, living, and other
17 costs reasonably related to the out-of-state services, subject to
18 legislative appropriation for those purposes. The special allowances
19 shall be in such amounts or at such rates as are approved by the office
20 of financial management. This section does not apply to audit
21 functions performed in states contiguous to the state of Washington.

22 NEW SECTION. **Sec. 45.** (1) All powers, duties, and functions of
23 the personnel appeals board pertaining to appeals filed under RCW
24 41.06.170 on or after the effective date of this section are
25 transferred to the Washington personnel resources board. All appeals
26 filed under RCW 41.06.170 before the effective date of this section
27 shall be resolved by the personnel appeals board in accordance with the
28 authorities, rules, and procedures that were in effect at the time of
29 the appeal.

30 (2) All reports, documents, surveys, books, records, files, papers,
31 or written material in the possession of the department of personnel
32 pertaining to the powers, functions, and duties transferred in
33 subsection (1) of this section shall be delivered to the custody of the
34 Washington personnel resources board. All cabinets, furniture, office
35 equipment, motor vehicles, and other tangible property employed by the
36 personnel appeals board in carrying out the powers, functions, and
37 duties transferred in subsection (1) of this section shall be made
38 available to the Washington personnel resources board. All funds,

1 credits, or other assets held in connection with the powers, functions,
2 and duties transferred in subsection (1) of this section shall be
3 assigned to the Washington personnel resources board.

4 (3) Any appropriations made to the personnel appeals board for
5 carrying out the powers, functions, and duties transferred in
6 subsection (1) of this section shall, on the effective date of this
7 section, be transferred and credited to the Washington personnel
8 resources board.

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

15 (5) After the effective date of this section, the director of
16 personnel and the executive secretary of the personnel appeals board
17 shall meet and agree upon a schedule for the transfer of personnel
18 appeals board employees and property to the Washington personnel
19 resources board. Whenever a question arises as to the transfer of any
20 personnel, funds, books, documents, records, papers, files, equipment,
21 or other tangible property used or held in the exercise of the powers
22 and the performance of the duties and functions transferred, the
23 director of financial management shall make a determination as to the
24 proper allocation and certify the same to the state agencies concerned.

25 (6) The transfer of the powers, duties, functions, and personnel of
26 the personnel appeals board under this section does not affect the
27 validity of any act performed before the effective date of this
28 section. All existing contracts and obligations of the personnel
29 appeals board shall remain in full force and shall be performed by the
30 personnel appeals board.

31 NEW SECTION. **Sec. 46.** (1) The personnel appeals board is hereby
32 abolished and its powers, duties, and functions are hereby transferred
33 to the Washington personnel resources board. All references to the
34 executive secretary of the personnel appeals board or the personnel
35 appeals board in the Revised Code of Washington shall be construed to
36 mean the director of personnel or the Washington personnel resources
37 board, respectively.

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

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

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

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

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

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

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

1 NEW SECTION. **Sec. 47.** (1) The office of financial management's
2 labor relations service account is created in the custody of the state
3 treasurer to be used as a revolving fund for the payment of labor
4 relations services required for the negotiation of the collective
5 bargaining agreements entered into under this chapter. An amount not
6 to exceed one percent of the approved allotments of salaries and wages
7 for all bargaining unit positions in the classified service in each of
8 the agencies subject to this chapter, except the institutions of higher
9 education, shall be charged to the operations appropriations of each
10 agency and credited to the office of financial management's labor
11 relations service account as the allotments are approved pursuant to
12 chapter 43.88 RCW. Subject to the above limitations, the amount shall
13 be charged against the allotments pro rata, at a rate to be fixed by
14 the director of financial management from time to time. Payment for
15 services rendered under this chapter shall be made on a quarterly basis
16 to the state treasurer and deposited into the office of financial
17 management's labor relations service account.

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

22 NEW SECTION. **Sec. 48.** Sections 9, 12 through 16, and 47 of this
23 act are each added to chapter 41.06 RCW.

24 NEW SECTION. **Sec. 49.** The following acts or parts of acts are
25 each repealed:

- 26 (1) RCW 41.64.010 and 1981 c 311 s 1;
- 27 (2) RCW 41.64.020 and 1981 c 311 s 3;
- 28 (3) RCW 41.64.030 and 1984 c 287 s 73, 1984 c 34 s 4, & 1981 c 311
29 s 4;
- 30 (4) RCW 41.64.040 and 1981 c 311 s 5;
- 31 (5) RCW 41.64.050 and 1981 c 311 s 6;
- 32 (6) RCW 41.64.060 and 1981 c 311 s 7;
- 33 (7) RCW 41.64.070 and 1981 c 311 s 8;
- 34 (8) RCW 41.64.080 and 1981 c 311 s 9;
- 35 (9) RCW 41.64.090 and 1999 c . . . s 27 (section 27 of this act),
36 1993 c 281 s 41, & 1981 c 311 s 10;
- 37 (10) RCW 41.64.100 and 1997 c 386 s 43 & 1981 c 311 s 11;

- 1 (11) RCW 41.64.110 and 1985 c 461 s 7 & 1981 c 311 s 12;
2 (12) RCW 41.64.120 and 1981 c 311 s 13;
3 (13) RCW 41.64.130 and 1981 c 311 s 14;
4 (14) RCW 41.64.140 and 1988 c 202 s 42 & 1981 c 311 s 15; and
5 (15) RCW 41.64.910 and 1981 c 311 s 24.

6 NEW SECTION. **Sec. 50.** The following acts or parts of acts are
7 each repealed:

- 8 (1) RCW 41.06.163 and 1993 c 281 s 30, 1987 c 185 s 9, 1986 c 158
9 s 6, 1979 c 151 s 59, & 1977 ex.s. c 152 s 3; and
10 (2) RCW 41.06.165 and 1977 ex.s. c 152 s 4.

11 NEW SECTION. **Sec. 51.** The following acts or parts of acts are
12 each repealed:

- 13 (1) RCW 28A.400.285 and 1997 c 267 s 2 & 1993 c 349 s 1;
14 (2) RCW 41.06.380 and 1979 ex.s. c 46 s 2; and
15 (3) RCW 41.06.382 and 1979 ex.s. c 46 s 1.

16 NEW SECTION. **Sec. 52.** Provisions of a collective bargaining
17 agreement between a public employer and public employee in effect on
18 the effective date of section 5 of this act that conflict with the
19 requirements of this act shall continue in effect until contract
20 expiration, unless a superseding agreement resolving the conflict is
21 executed by the parties before expiration; after expiration, any new
22 agreement executed between the parties must be consistent with this
23 section.

24 NEW SECTION. **Sec. 53.** If any provision of this act or its
25 application to any person or circumstance is held invalid, the
26 remainder of the act or the application of the provision to other
27 persons or circumstances is not affected.

28 NEW SECTION. **Sec. 54.** (1) Sections 3, 5, 6, 9, 10, 17 through 29,
29 32 through 44, and 51 of this act take effect July 1, 2000.

30 (2) Sections 4, 11 through 16, and 45 of this act take effect July
31 1, 2001.

1 (3) Sections 30, 31, 46, and 49 of this act take effect July 1,
2 2002.

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