
HOUSE BILL 2042

State of Washington 56th Legislature 1999 Regular Session

By Representatives McMorris, Ericksen and Boldt

Read first time 02/15/1999. Referred to Committee on State Government.

1 AN ACT Relating to contracting for services in state government
2 without permitting collective bargaining over wages or wage-related
3 matters; amending RCW 41.06.150, 39.29.006, 47.46.040, 72.09.100,
4 72.10.030, and 82.01.070; adding a new section to chapter 41.06 RCW;
5 creating a new section; and repealing RCW 41.06.380 and 41.06.382.

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

7 **Sec. 1.** RCW 41.06.150 and 1996 c 319 s 2 are each amended to read
8 as follows:

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

13 (1) The reduction, dismissal, suspension, or demotion of an
14 employee;

15 (2) Certification of names for vacancies, including departmental
16 promotions, with the number of names equal to six more names than there
17 are vacancies to be filled, such names representing applicants rated
18 highest on eligibility lists: PROVIDED, That when other applicants

1 have scores equal to the lowest score among the names certified, their
2 names shall also be certified;

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

5 (4) Appointments;

6 (5) Training and career development;

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

11 (7) Transfers;

12 (8) Sick leaves and vacations;

13 (9) Hours of work;

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

16 (11) Collective bargaining, including:

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

23 (~~(12)~~) (b) Certification and decertification of exclusive
24 bargaining representatives(~~(:—PROVIDED, That)~~) subject to the
25 following:

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

35 (ii) No more often than once in each twelve-month period after
36 expiration of twelve months following the date of the original election
37 in a bargaining unit and upon petition of thirty percent of the members
38 of a bargaining unit the director shall hold an election to determine

1 whether a majority wish to rescind such condition of employment(~~(:~~
2 ~~PROVIDED FURTHER, That))~~);

3 (iii) For purposes of this (~~clause~~) subsection (11)(b),
4 membership in the certified exclusive bargaining representative is
5 satisfied by the payment of monthly or other periodic dues and does not
6 require payment of initiation, reinstatement, or any other fees or
7 fines and includes full and complete membership rights(~~(:~~
8 ~~FURTHER, That in order))~~); and

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

19 (~~(13)~~) (c)(i) Agreements between agencies and certified exclusive
20 bargaining representatives providing for grievance procedures and
21 collective negotiations on all personnel matters over which the
22 appointing authority of the appropriate bargaining unit of such agency
23 may lawfully exercise discretion, except that collective negotiation is
24 not permitted over an agency's decision to purchase services by
25 contract; and

26 (~~(14)~~) (ii) Written agreements may contain provisions for payroll
27 deductions of employee organization dues upon authorization by the
28 employee member and for the cancellation of such payroll deduction by
29 the filing of a proper prior notice by the employee with the appointing
30 authority and the employee organization(~~(:~~
31 ~~PROVIDED, That))~~);

32 (d) Nothing contained (~~herein~~) in this subsection permits or
33 grants to any employee the right to strike or refuse to perform his or
34 her official duties;

35 (~~(15)~~) (12) Adoption and revision of a comprehensive
36 classification plan for all positions in the classified service, based
37 on investigation and analysis of the duties and responsibilities of
38 each such position.

39 (a) The board shall not adopt job classification revisions or class
studies unless implementation of the proposed revision or study will

1 result in net cost savings, increased efficiencies, or improved
2 management of personnel or services, and the proposed revision or study
3 has been approved by the director of financial management in accordance
4 with chapter 43.88 RCW.

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

7 (i) The board may approve the implementation of salary increases
8 resulting from adjustments to the classification plan during the 1995-
9 97 fiscal biennium only if:

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

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

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

23 (ii) The board shall approve only those salary increases resulting
24 from adjustments to the classification plan if they are due to
25 documented recruitment and retention difficulties, salary compression
26 or inversion, increased duties and responsibilities, or inequities.
27 For these purposes, inequities are defined as similar work assigned to
28 different job classes with a salary disparity greater than 7.5 percent.

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

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

34 (~~(16)~~) (13) Allocation and reallocation of positions within the
35 classification plan;

36 (~~(17)~~) (14) Adoption and revision of a state salary schedule to
37 reflect the prevailing rates in Washington state private industries and
38 other governmental units but the rates in the salary schedules or plans
39 shall be increased if necessary to attain comparable worth under an

1 implementation plan under RCW 41.06.155 and that, for institutions of
2 higher education and related boards, shall be competitive for positions
3 of a similar nature in the state or the locality in which an
4 institution of higher education or related board is located, such
5 adoption and revision subject to approval by the director of financial
6 management in accordance with the provisions of chapter 43.88 RCW;

7 (~~(18)~~) (15) Increment increases within the series of steps for
8 each pay grade based on length of service for all employees whose
9 standards of performance are such as to permit them to retain job
10 status in the classified service;

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

33 (~~(20)~~) (17) Permitting agency heads to delegate the authority to
34 appoint, reduce, dismiss, suspend, or demote employees within their
35 agencies if such agency heads do not have specific statutory authority
36 to so delegate: PROVIDED, That the board may not authorize such
37 delegation to any position lower than the head of a major subdivision
38 of the agency;

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

5 (~~(22)~~) (19) Affirmative action in appointment, promotion,
6 transfer, recruitment, training, and career development; development
7 and implementation of affirmative action goals and timetables; and
8 monitoring of progress against those goals and timetables.

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

14 NEW SECTION. Sec. 2. A new section is added to chapter 41.06 RCW
15 to read as follows:

16 (1) This chapter does not prohibit any agency, as defined in RCW
17 41.06.020, or institution of higher education, as defined in RCW
18 28B.10.016, or related board, from purchasing services by contract with
19 individuals, nonprofit organizations, businesses, or other entities.

20 (2)(a) An agency or institution of higher education that intends to
21 purchase services by contract must notify an exclusive bargaining
22 representative who represents any employee whose employment status will
23 be directly affected by the contract. The exclusive bargaining
24 representative shall have the right to offer alternatives to the
25 proposed contract and such alternatives must be considered by the
26 agency or institution of higher education in making the final decision
27 to contract for services.

28 (b) This subsection does not apply to the purchase of services or
29 to any contracting for services that was authorized by law before the
30 effective date of this section.

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

33 As used in this chapter:

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

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

5 (3) "Competitive solicitation" means a documented formal process
6 providing an equal and open opportunity to qualified parties and
7 culminating in a selection based on criteria which may include such
8 factors as the consultant's fees or costs, ability, capacity,
9 experience, reputation, responsiveness to time limitations,
10 responsiveness to solicitation requirements, quality of previous
11 performance, and compliance with statutes and rules relating to
12 contracts or services.

13 (4) "Consultant" means an independent individual or firm
14 contracting with an agency to perform a service or render an opinion or
15 recommendation according to the consultant's methods and without being
16 subject to the control of the agency except as to the result of the
17 work. The agency monitors progress under the contract and authorizes
18 payment.

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

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

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

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

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

33 (8) "Personal service contract" means an agreement, or any
34 amendment thereto, with a consultant for the rendering of personal
35 services to the state which is consistent with ((RCW 41.06.380))
36 section 2 of this act.

37 (9) "Purchased services" means services provided by a vendor to
38 accomplish routine, continuing and necessary functions. This term
39 includes, but is not limited to, services acquired under RCW 43.19.190

1 or 43.105.041 for equipment maintenance and repair; operation of a
2 physical plant; security; computer hardware and software maintenance;
3 data entry; key punch services; and computer time-sharing, contract
4 programming, and analysis.

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

10 **Sec. 4.** RCW 47.46.040 and 1995 2nd sp.s. c 19 s 3 are each amended
11 to read as follows:

12 (1) All projects designed, constructed, and operated under this
13 authority must comply with all applicable rules and statutes in
14 existence at the time the agreement is executed, including but not
15 limited to the following provisions: Chapter 39.12 RCW, this title,
16 (~~RCW 41.06.380~~) section 2 of this act, chapter 47.64 RCW, RCW
17 49.60.180, and 49 C.F.R. Part 21.

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

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

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

31 (4) The department may exercise any power possessed by it to
32 facilitate the development, construction, financing operation, and
33 maintenance of transportation projects under this chapter. Agreements
34 for maintenance services entered into under this section shall provide
35 for full reimbursement for services rendered by the department or other
36 state agencies. Agreements for police services for projects, involving
37 state highway routes, developed under agreements shall be entered into
38 with the Washington state patrol. The agreement for police services

1 shall provide that the state patrol will be reimbursed for costs on a
2 comparable basis with the costs incurred for comparable service on
3 other state highway routes. The department may provide services for
4 which it is reimbursed, including but not limited to preliminary
5 planning, environmental certification, and preliminary design of the
6 demonstration projects.

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

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

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

1 expiration of this period, the department continues to lease these
2 airspace rights to the private entity, it shall do so only at fair
3 market value. The agreement may also provide the private entity the
4 right of first refusal to undertake projects utilizing airspace owned
5 by the state in the vicinity of the public-private project.

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

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

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

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

37 (c) If the affected project area has not been defined, the private
38 entity shall define the affected project area by conducting, at a
39 minimum: (i) A comparison of the estimated percentage of residents of

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

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

14 (d) In seeking public participation, the private entity shall
15 establish a local involvement committee or committees comprised of
16 residents of the affected project area, individuals who represent
17 cities and counties in the affected project area, organizations formed
18 to support or oppose the project, if such organizations exist, and
19 users of the project. The private entity shall, at a minimum,
20 establish a committee as required under the specifications of RCW
21 47.46.030(~~((5)(b)—(ii)—and—(iii))~~) (6)(b) (ii) and (iii) and
22 appointments to such committee shall be made no later than thirty days
23 after the project area is defined.

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

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

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

36 **Sec. 5.** RCW 72.09.100 and 1995 1st sp.s. c 19 s 33 are each
37 amended to read as follows:

1 It is the intent of the legislature to vest in the department the
2 power to provide for a comprehensive inmate work program and to remove
3 statutory and other restrictions which have limited work programs in
4 the past. For purposes of establishing such a comprehensive program,
5 the legislature recommends that the department consider adopting any or
6 all, or any variation of, the following classes of work programs:

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

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

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

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

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

34 (2) CLASS II: TAX REDUCTION INDUSTRIES. Industries in this class
35 shall be state-owned and operated enterprises designed to reduce the
36 costs for goods and services for tax-supported agencies and for
37 nonprofit organizations. The industries selected for development
38 within this class shall, as much as possible, match the available pool
39 of inmate work skills and aptitudes with the work opportunities in the

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

26 Security and custody services shall be provided without charge by
27 the department of corrections.

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

33 Subject to approval of the correctional industries board,
34 provisions of ((RCW 41.06.380 prohibiting contracting out work
35 performed by classified employees)) section 2(2)(a) of this act shall
36 not apply to contracts with Washington state businesses entered into by
37 the department of corrections through class II industries.

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

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

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

11 (c) Whenever possible, to offset tax and other public support
12 costs.

13 Supervising, management, and custody staff shall be employees of
14 the department.

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

17 Except for inmates who work in work training programs, inmates in
18 this class shall be paid for their work in accordance with an inmate
19 gratuity scale. The scale shall be adopted by the secretary of
20 corrections.

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

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

31 The department of corrections shall reimburse participating units
32 of local government for liability and workers compensation insurance
33 costs.

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

38 (5) CLASS V: COMMUNITY SERVICE PROGRAMS. Programs in this class
39 shall be subject to supervision by the department of corrections. The

1 purpose of this class of industries is to enable an inmate, placed on
2 community supervision, to work off all or part of a community service
3 order as ordered by the sentencing court.

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

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

9 **Sec. 6.** RCW 72.10.030 and 1989 c 157 s 4 are each amended to read
10 as follows:

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

17 (2) In contracting for services, the secretary is authorized to
18 provide for indemnification of health care practitioners who cannot
19 obtain professional liability insurance through reasonable effort, from
20 liability on any action, claim, or proceeding instituted against them
21 arising out of the good faith performance or failure of performance of
22 services on behalf of the department. The contracts may provide that
23 for the purposes of chapter 4.92 RCW only, those health care
24 practitioners with whom the department has contracted shall be
25 considered state employees.

26 **Sec. 7.** RCW 82.01.070 and 1997 c 156 s 1 are each amended to read
27 as follows:

28 The director shall have charge and general supervision of the
29 department of revenue. The director shall appoint an assistant
30 director for administration, hereinafter in chapter 26, Laws of 1967
31 ex. sess. referred to as the assistant director, and subject to the
32 provisions of chapter 41.06 RCW may appoint and employ such clerical,
33 technical and other personnel as may be necessary to carry out the
34 powers and duties of the department. The director may also enter into
35 personal service contracts with ~~((out of state))~~ individuals or
36 business entities for the performance of auditing services ~~((outside
37 the state of Washington when normal efforts to recruit classified~~

1 ~~employees are unsuccessful~~)). The director may agree to pay to the
2 department's employees or contractors who reside out of state such
3 amounts in addition to their ordinary rate of compensation as are
4 necessary to defray the extra costs of facilities, living, and other
5 costs reasonably related to the out-of-state services, subject to
6 legislative appropriation for those purposes. The special allowances
7 shall be in such amounts or at such rates as are approved by the office
8 of financial management. This section does not apply to audit
9 functions performed in states contiguous to the state of Washington.

10 NEW SECTION. **Sec. 8.** The following acts or parts of acts are each
11 repealed:

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

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

16 NEW SECTION. **Sec. 9.** Provisions of a collective bargaining
17 agreement adopted under chapter 41.06 RCW that are in effect on the
18 effective date of this act and that conflict with section 1 or 2 of
19 this act shall continue in effect until contract expiration, unless a
20 superseding agreement resolving the conflict is executed by the parties
21 before expiration; after expiration, any new agreement executed between
22 the parties must be consistent with sections 1 and 2 of this act.

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