
ENGROSSED SUBSTITUTE HOUSE BILL 2054

State of Washington

53rd Legislature

1993 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Peery, Reams, Anderson, Heavey, R. Fisher, G. Cole, Ogden and Lemmon; by request of Governor Lowry)

Read first time 03/08/93.

1 AN ACT Relating to state government; amending RCW 41.06.070,
2 41.06.080, 41.06.140, 41.06.150, 41.06.150, 41.06.160, 41.06.167,
3 41.06.169, 41.06.170, 41.06.186, 41.06.196, 41.06.220, 41.06.260,
4 41.06.270, 41.06.280, 41.06.400, 41.06.410, 41.06.420, 41.06.430,
5 41.06.450, 41.06.455, 41.06.475, 41.06.490, 43.03.028, 43.17.010, and
6 43.17.020; amending 1982 c 208 s 9 (uncodified); reenacting and
7 amending RCW 41.06.020, 41.56.030, 28B.50.140, and 41.04.230; adding
8 new sections to chapter 41.06 RCW; adding new sections to chapter 41.56
9 RCW; adding a new chapter to Title 43 RCW; adding a new chapter to
10 Title 41 RCW; creating new sections; repealing RCW 28B.16.010,
11 28B.16.020, 28B.16.030, 28B.16.040, 28B.16.041, 28B.16.042, 28B.16.043,
12 28B.16.060, 28B.16.070, 28B.16.080, 28B.16.090, 28B.16.100, 28B.16.101,
13 28B.16.105, 28B.16.110, 28B.16.112, 28B.16.113, 28B.16.116, 28B.16.120,
14 28B.16.130, 28B.16.140, 28B.16.150, 28B.16.160, 28B.16.170, 28B.16.180,
15 28B.16.190, 28B.16.200, 28B.16.210, 28B.16.220, 28B.16.230, 28B.16.240,
16 28B.16.255, 28B.16.265, 28B.16.275, 28B.16.300, 28B.16.900, 28B.16.910,
17 28B.16.920, 28B.16.930, 41.06.010, 41.06.030, 41.06.110, 41.06.120,
18 41.06.130, 41.06.163, 41.06.165, 41.06.230, 41.06.240, 41.06.310,
19 41.06.340, 41.06.350, and 41.06.380; providing effective dates;
20 providing an expiration date; and declaring an emergency.

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

2 NEW SECTION. **Sec. 1.** The legislature finds that the best
3 interests of the citizens of Washington are served by eliminating
4 unnecessary duplication in the organization of state government and
5 recognizes the need of the executive branch for increased flexibility
6 to meet new challenges the state faces in providing effective and cost-
7 efficient services. This can be accomplished by streamlining the
8 management of the state's human resources including decentralizing the
9 provision of personnel services, encouraging the adoption of modern
10 management techniques, and continuing to increase the diversity of its
11 work force, and by granting employees the right to bargain collectively
12 as provided in this act.

13 The legislature also finds that the efficiency and effectiveness
14 with which government services are provided to the public depends on
15 the motivation of the state employee work force and the leadership
16 provided to it. In recent years, experience in the private sector has
17 demonstrated that productivity in the modern world is enhanced by a
18 workplace environment that has a clear and overall focus on serving the
19 needs of customers, that empowers employees by involving them in the
20 workplace decisions that historically have been considered the
21 exclusive province of management, and that treat employees with
22 fairness, respect, and dignity. It is imperative that the department
23 of human resources created under this act and each state agency
24 exercising powers under this act establish and implement policies that
25 strive to provide such a workplace environment.

26 NEW SECTION. **Sec. 2.** The department of personnel, the higher
27 education personnel board, and the personnel board are hereby abolished
28 and except as provided in section 150 of this act their powers, duties,
29 and functions are hereby transferred to the department of human
30 resources.

31 **PART I**

32 **CIVIL SERVICE REFORM AND REORGANIZATION**

33 NEW SECTION. **Sec. 101.** It is the purpose of this chapter to
34 create the department of human resources.

1 NEW SECTION. **Sec. 102.** As used in this chapter, unless the
2 context indicates otherwise:

3 (1) "Department" means the department of human resources.

4 (2) "Director" means the director of human resources.

5 NEW SECTION. **Sec. 103.** There is hereby created a department of
6 state government to be known as the department of human resources. The
7 department shall be vested with all powers and duties transferred to it
8 under this chapter and such other powers and duties as may be
9 authorized by law.

10 NEW SECTION. **Sec. 104.** The executive head and appointing
11 authority of the department shall be the director. The director shall
12 be appointed by the governor, with the consent of the senate, and shall
13 serve at the pleasure of the governor. The director shall be paid a
14 salary to be fixed by the governor in accordance with RCW 43.03.040.
15 If a vacancy occurs in the position while the senate is not in session,
16 the governor shall make a temporary appointment until the next meeting
17 of the senate.

18 NEW SECTION. **Sec. 105.** (1) It is the intent of the legislature
19 that the internal affairs of the department be under the control of the
20 director. Therefore, unless the director's authority is specifically
21 limited by law, the director shall have complete charge and supervisory
22 powers over the department. The director may establish subdivisions
23 and create other administrative structures as the director considers
24 appropriate, except as otherwise specified by law. The director may
25 employ the assistants and other personnel that are necessary for the
26 general administration of the department. This employment shall be in
27 accordance with the state civil service law, chapter 41.06 RCW, except
28 as otherwise provided.

29 (2) The department of human resources shall be organized consistent
30 with the following goals:

31 (a) To promote efficient public management;

32 (b) To improve programs administered by the department; and

33 (c) To take full advantage of the economies, both fiscal and
34 administrative, that may be gained from the consolidation of functions
35 and agencies under this chapter.

1 (3) The director may delegate any power or duty vested in or
2 transferred to the director by law or executive order to the deputy
3 director or to any other assistant or subordinate, but the director
4 shall be responsible for the official acts of the officers and
5 employees of the department.

6 NEW SECTION. **Sec. 106.** (1) The director shall appoint advisory
7 committees or councils as may be required by any federal legislation as
8 a condition to the receipt of federal funds by the department. The
9 director may also appoint state advisory committees or councils on
10 subject matters as are or come within the department's
11 responsibilities.

12 (2) Members of state advisory committees or councils appointed by
13 the director may be paid their travel expenses in accordance with RCW
14 43.03.050 and 43.03.060.

15 NEW SECTION. **Sec. 107.** In furtherance of the policy of the state
16 to cooperate with the federal government in all of the programs under
17 the jurisdiction of the department, such rules as may become necessary
18 to entitle the state to participate in federal funds may be adopted,
19 unless expressly prohibited by law. Any internal reorganization
20 carried out under the terms of this chapter shall meet federal
21 requirements which are a necessary condition to state receipt of
22 federal funds. Any section or provision of law dealing with the
23 department which may be susceptible to more than one construction shall
24 be interpreted in favor of the construction most likely to comply with
25 federal laws entitling this state to receive federal funds for the
26 various programs of the department. If any law dealing with the
27 department is ruled to be in conflict with federal requirements which
28 are a prescribed condition of the allocation of federal funds to the
29 state, or to any departments or agencies thereof, the conflicting part
30 is declared to be inoperative solely to the extent of the conflict.

31 NEW SECTION. **Sec. 108.** A new section is added to chapter 41.06
32 RCW to read as follows:

33 In addition to the exemptions under RCW 41.06.070, this chapter
34 shall not apply in the department of human resources to the director,
35 the director's personal secretary, the deputy director, all division

1 directors and assistant directors, and one confidential secretary for
2 each of these officers.

3 **Sec. 109.** RCW 41.06.020 and 1985 c 461 s 1 and 1985 c 365 3 are
4 each reenacted and amended to read as follows:

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

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

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

17 ~~(3))~~ "Classified service" means all positions in the state service
18 subject to the provisions of this chapter.

19 ~~((4))~~ (3) "Competitive service" means all positions in the
20 classified service for which a competitive examination is required as
21 a condition precedent to appointment.

22 ~~((5))~~ (4) "Comparable worth" means the provision of similar
23 salaries for positions that require or impose similar responsibilities,
24 judgments, knowledge, skills, and working conditions.

25 ~~((6))~~ (5) "Noncompetitive service" means all positions in the
26 classified service for which a competitive examination is not required.

27 ~~((7))~~ (6) "Department" means an agency of government that has as
28 its governing officer a person, or combination of persons such as a
29 commission, board, or council, by law empowered to operate the agency
30 responsible either to (a) no other public officer or (b) the governor.

31 ~~((8))~~ (7) "Career development" means the progressive development
32 of employee capabilities to facilitate productivity, job satisfaction,
33 and upward mobility through work assignments as well as education and
34 training that are both state-sponsored and are achieved by individual
35 employee efforts, all of which shall be consistent with the needs and
36 obligations of the state and its agencies.

37 ~~((9))~~ (8) "Institutions of higher education" means the same as
38 defined in RCW 28B.10.016, but does not include technical colleges.

1 (9) "Related boards" means the state board for community and
2 technical colleges, the higher education coordinating board, and such
3 other boards, councils, and commissions related to higher education as
4 may be established.

5 (10) "Training" means activities designed to develop job-related
6 knowledge and skills of employees.

7 (~~(10)~~) (11) "Director" means the director of (~~personnel~~
8 ~~appointed under the provisions of RCW 41.06.130~~) human resources.

9 (~~(11)~~) (12) "Affirmative action" means a procedure by which
10 racial minorities, women, persons in the protected age category,
11 persons with disabilities, Vietnam-era veterans, and disabled veterans
12 are provided with increased employment opportunities. It shall not
13 mean any sort of quota system.

14 NEW SECTION. Sec. 110. A new section is added to chapter 41.06
15 RCW to read as follows:

16 In addition to other exemptions specifically provided by this
17 chapter, the state personnel board may provide for further exemptions
18 pursuant to the following procedures. The governor or other
19 appropriate elected official may submit requests for exemption to the
20 personnel board stating the reasons for requesting the exemptions. The
21 personnel board shall hold a public hearing, after proper notice, on
22 requests submitted pursuant to this section. If the board determines
23 that the position for which the exemption is requested is one involving
24 substantial responsibility for the formulation of basic agency or
25 executive policy or one involving directing and controlling program
26 operations of an agency or a major administrative division thereof, the
27 personnel board shall grant the request and such determination shall be
28 final. The total number of additional exemptions permitted under this
29 section and RCW 41.06.070(28) shall not exceed one and one-half percent
30 of the number of employees in the classified service for those agencies
31 not directly under the authority of any elected public official other
32 than the governor, and shall not exceed a total of twenty-five for all
33 agencies under the authority of elected public officials other than the
34 governor. The state personnel board shall report to each regular
35 session of the legislature during an odd-numbered year all exemptions
36 granted under this section, together with the reasons for such
37 exemptions.

1 **Sec. 111.** RCW 41.06.070 and 1990 c 60 s 101 are each amended to
2 read as follows:

3 The provisions of this chapter do not apply to:

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

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

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

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

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

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

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

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

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

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

34 (c) If the members of the board, commission, or committee serve on
35 a full-time basis: (i) The chief executive officer or administrative
36 officer as designated by the board, commission, or committee; and (ii)
37 a confidential secretary to the chairman of the board, commission, or
38 committee;

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

4 ~~((+9))~~ (8) The confidential secretaries and administrative
5 assistants in the immediate offices of the elective officers of the
6 state;

7 ~~((+10))~~ (9) Assistant attorneys general;

8 ~~((+11))~~ (10) Commissioned and enlisted personnel in the military
9 service of the state;

10 ~~((+12))~~ (11) Within agencies, inmate, student, part-time, or
11 temporary employees, and part-time professional consultants, as defined
12 by the ~~((state personnel board or the board having jurisdiction))~~
13 director of human resources;

14 ~~((+13))~~ (12) The public printer or to any employees of or
15 positions in the state printing plant;

16 ~~((+14))~~ (13) Officers and employees of the Washington state fruit
17 commission;

18 ~~((+15))~~ (14) Officers and employees of the Washington state apple
19 advertising commission;

20 ~~((+16))~~ (15) Officers and employees of the Washington state dairy
21 products commission;

22 ~~((+17))~~ (16) Officers and employees of the Washington tree fruit
23 research commission;

24 ~~((+18))~~ (17) Officers and employees of the Washington state beef
25 commission;

26 ~~((+19))~~ (18) Officers and employees of any commission formed under
27 the provisions of chapter 191, Laws of 1955, and chapter 15.66 RCW;

28 ~~((+20))~~ (19) Officers and employees of the state wheat commission
29 formed under the provisions of chapter 87, Laws of 1961 (chapter 15.63
30 RCW);

31 ~~((+21))~~ (20) Officers and employees of agricultural commissions
32 formed under the provisions of chapter 256, Laws of 1961 (chapter 15.65
33 RCW);

34 ~~((+22))~~ (21) Officers and employees of the nonprofit corporation
35 formed under chapter 67.40 RCW;

36 ~~((+23))~~ (22) Liquor vendors appointed by the Washington state
37 liquor control board pursuant to RCW 66.08.050: PROVIDED, HOWEVER,
38 That rules ~~((and regulations))~~ adopted by the ~~((state personnel board))~~
39 director pursuant to RCW 41.06.150 regarding the basis for, and

1 procedures to be followed for, the dismissal, suspension, or demotion
2 of an employee, and appeals therefrom shall be fully applicable to
3 liquor vendors except those part time agency vendors employed by the
4 liquor control board when, in addition to the sale of liquor for the
5 state, they sell goods, wares, merchandise, or services as a self-
6 sustaining private retail business;

7 ~~((24))~~ (23) Executive assistants for personnel administration and
8 labor relations in all state agencies employing such executive
9 assistants including but not limited to all departments, offices,
10 commissions, committees, boards, or other bodies subject to the
11 provisions of this chapter and this subsection shall prevail over any
12 provision of law inconsistent herewith unless specific exception is
13 made in such law;

14 ~~((25))~~ (24) In each agency with fifty or more employees: Deputy
15 agency heads, assistant directors or division directors, and not more
16 than three principal policy assistants who report directly to the
17 agency head or deputy agency heads;

18 ~~((26))~~ (25) All employees of the marine employees' commission;

19 ~~((27))~~ (26) Up to a total of five senior staff positions of the
20 western library network under chapter 27.26 RCW responsible for
21 formulating policy or for directing program management of a major
22 administrative unit. This subsection shall expire on June 30, 1997;

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

1 directly under the authority of any elected public official other than
2 the governor, and shall not exceed a total of twenty-five for all
3 agencies under the authority of elected public officials other than the
4 governor((-));

5 (28) The following classifications, positions, and employees of
6 institutions of higher education and related boards:

7 (a) Members of the governing board of each institution of higher
8 education and related boards, all presidents, vice-presidents and their
9 confidential secretaries, administrative and personal assistants;
10 deans, directors, and chairpersons; academic personnel; and executive
11 heads of major administrative or academic divisions employed by
12 institutions of higher education; principal assistants to executive
13 heads of major administrative or academic divisions; other managerial
14 or professional employees in an institution of higher education or
15 related board having substantial responsibility for directing or
16 controlling program operations and accountable for allocation of
17 resources and program results, or for the formulation of institutional
18 policy, or for carrying out personnel administration or labor relations
19 functions, legislative relations, public information, development,
20 senior computer systems and network programming, or internal audits and
21 investigations; and any employee of a community college district whose
22 place of work is one that is physically located outside the state of
23 Washington and who is employed pursuant to RCW 28B.50.092 and assigned
24 to an educational program operating outside of the state of Washington;

25 (b) Students, part-time, or temporary employees, and part-time
26 professional consultants, as defined by the director, employed by
27 institutions of higher education and related boards;

28 (c) The director, the director's confidential secretary, assistant
29 directors, and professional education employees of the state board for
30 community and technical colleges;

31 (d) Printing craft employees in the department of printing at the
32 University of Washington;

33 (e) The governing board of each institution of higher education,
34 and related boards, may also exempt from this chapter, subject to the
35 employees' right of appeal to the personnel appeals board,
36 classifications involving research activities, counseling of students,
37 extension or continuing education activities, and graphic arts or
38 publications activities requiring prescribed academic preparation or
39 special training, as determined by the director, however no nonacademic

1 employee engaged in office, clerical, maintenance, or food and trade
2 services may be exempted by the director under this subsection (28)(e);

3 (29) The governor's designee under section 316 of this act for
4 collective bargaining and any employees working for the governor's
5 designee;

6 (30) The ((state personnel board)) director shall report to each
7 regular session of the legislature during an odd-numbered year all
8 exemptions granted under subsections ((24), (25), and (28)) (23),
9 (24), and (27) of this section, together with the reasons for such
10 exemptions.

11 The salary and fringe benefits of all positions presently or
12 hereafter exempted except for the chief executive officer of each
13 agency, full-time members of boards and commissions, administrative
14 assistants and confidential secretaries in the immediate office of an
15 elected state official, and the personnel listed in subsections ((10)
16 through (22)) (9) through (21) and (28) of this section, shall be
17 determined by the ((state personnel board)) director.

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. 112.** RCW 41.06.080 and 1970 ex.s. c 12 s 2 are each amended
33 to read as follows:

34 Notwithstanding the provisions of this chapter, the department of
35 ((personnel)) human resources may make its services available on
36 request, on a reimbursable basis, to:

37 (1) Either the legislative or the judicial branch of the state
38 government;

1 (2) Any county, city, town, or other municipal subdivision of the
2 state;

3 (~~3~~) (~~The institutions of higher learning;~~
4 (~~4~~)) Any agency, class, or position set forth in RCW 41.06.070.

5 NEW SECTION. **Sec. 113.** A new section is added to chapter 41.06
6 RCW to read as follows:

7 The director may delegate to any agency the authority to perform
8 administrative and technical personnel activities if the agency
9 requests such authority and the director is satisfied that the agency
10 has the personnel management capabilities to effectively perform the
11 delegated activities. The director shall prescribe standards and
12 guidelines for the performance of delegated activities. If the
13 director determines that an agency is not performing delegated
14 activities within the prescribed standards and guidelines, the director
15 shall withdraw the authority from the agency to perform such
16 activities.

17 NEW SECTION. **Sec. 114.** A new section is added to chapter 41.06
18 RCW to read as follows:

19 Each institution of higher education and each related board shall
20 designate an officer who shall perform duties as personnel officer.
21 The personnel officer at each institution of higher education or
22 related board shall direct, supervise, and manage administrative and
23 technical personnel activities for the classified service at the
24 institution of higher education or related board consistent with
25 policies established by the institution of higher education or related
26 board and in accordance with the provisions of this chapter and the
27 rules adopted under it. Institutions of higher education may undertake
28 jointly with one or more other institutions of higher education to
29 appoint a person qualified to perform the duties of personnel officer,
30 provide staff and financial support, and may engage consultants to
31 assist in the performance of specific projects.

32 The state board for community and technical colleges shall have
33 general supervision and control over activities undertaken by the
34 various state community and technical colleges under this section.

35 **Sec. 115.** RCW 41.06.140 and 1961 c 1 s 14 are each amended to read
36 as follows:

1 It shall be the duty of the (~~board~~) director to make rules (~~and~~
2 ~~regulations~~) providing for employee participation in the development
3 and administration of personnel policies. To assure this right,
4 permanent personnel policies, rules, classification and pay plans, and
5 amendments thereto, shall be acted on only after the (~~board~~) director
6 has given twenty days notice to, and considered proposals from,
7 employee representatives and agencies affected. Complete and current
8 compilations of all rules (~~and regulations~~) of the (~~board in~~
9 ~~printed, mimeographed or multigraphed form~~) department of human
10 resources shall be available to the public in the office of the
11 director (~~of personnel free of charge~~).

12 **Sec. 116.** RCW 41.06.150 and 1990 c 60 s 103 are each amended to
13 read as follows:

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

18 (1) The reduction, dismissal, suspension, or demotion of an
19 employee;

20 (2) Certification of names for vacancies, including departmental
21 promotions, with the number of names equal to (~~four~~) nine more names
22 than there are vacancies to be filled, such names representing
23 applicants rated highest on eligibility lists(~~(:—PROVIDED, That~~
24 ~~when))~~). However, if other applicants have scores equal to the lowest
25 score among the names certified, their names shall also be certified.
26 In addition, a certification shall include five additional names of
27 members of protected groups who are on existing registers, taking into
28 consideration the extent to which the protected group members are
29 represented in the agency's work force. More than five additional
30 names per vacancy will be certified if there are protected group
31 candidates with the same score as the lowest score to be certified;

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

34 (4) Appointments;

35 (5) Training and career development;

36 (6) Probationary periods of six to twelve months and rejections
37 therein, depending on the job requirements of the class, except that

1 entry level state park rangers shall serve a probationary period of
2 twelve months;

3 (7) Transfers;

4 (8) Sick leaves and vacations;

5 (9) Hours of work;

6 (10) Layoffs when necessary and subsequent reemployment, both
7 ~~((according to))~~ based on seniority and maintenance and implementation
8 of approved affirmative action plans, to the extent that consideration
9 of an approved affirmative action plan is not inconsistent with
10 applicable precedent of the United States supreme court;

11 (11) Determination of appropriate bargaining units within any
12 agency: PROVIDED, That in making such determination the board shall
13 consider the duties, skills, and working conditions of the employees,
14 the history of collective bargaining by the employees and their
15 bargaining representatives, the extent of organization among the
16 employees, and the desires of the employees;

17 (12) Certification and decertification of exclusive bargaining
18 representatives: PROVIDED, That after certification of an exclusive
19 bargaining representative and upon the representative's request, the
20 director shall hold an election among employees in a bargaining unit to
21 determine by a majority whether to require as a condition of employment
22 membership in the certified exclusive bargaining representative on or
23 after the thirtieth day following the beginning of employment or the
24 date of such election, whichever is the later, and the failure of an
25 employee to comply with such a condition of employment constitutes
26 cause for dismissal: PROVIDED FURTHER, That no more often than once in
27 each twelve-month period after expiration of twelve months following
28 the date of the original election in a bargaining unit and upon
29 petition of thirty percent of the members of a bargaining unit the
30 director shall hold an election to determine whether a majority wish to
31 rescind such condition of employment: PROVIDED FURTHER, That for
32 purposes of this clause, membership in the certified exclusive
33 bargaining representative is satisfied by the payment of monthly or
34 other periodic dues and does not require payment of initiation,
35 reinstatement, or any other fees or fines and includes full and
36 complete membership rights: AND PROVIDED FURTHER, That in order to
37 safeguard the right of nonassociation of public employees, based on
38 bona fide religious tenets or teachings of a church or religious body
39 of which such public employee is a member, such public employee shall

1 pay to the union, for purposes within the program of the union as
2 designated by such employee that would be in harmony with his or her
3 individual conscience, an amount of money equivalent to regular union
4 dues minus any included monthly premiums for union-sponsored insurance
5 programs, and such employee shall not be a member of the union but is
6 entitled to all the representation rights of a union member;

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

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

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

22 (16) Allocation and reallocation of positions within the
23 classification plan;

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

31 (18) Increment increases within the series of steps for each pay
32 grade based on length of service for all employees whose standards of
33 performance are such as to permit them to retain job status in the
34 classified service;

35 (19) Providing for veteran's preference as required by existing
36 statutes, with recognition of preference in regard to layoffs and
37 subsequent reemployment for veterans and their widows by giving such
38 eligible veterans and their widows additional credit in computing their
39 seniority by adding to their unbroken state service, as defined by the

1 board, the veteran's service in the military not to exceed five years.
2 For the purposes of this section, "veteran" means any person who has
3 one or more years of active military service in any branch of the armed
4 forces of the United States or who has less than one year's service and
5 is discharged with a disability incurred in the line of duty or is
6 discharged at the convenience of the government and who, upon
7 termination of such service has received an honorable discharge, a
8 discharge for physical reasons with an honorable record, or a release
9 from active military service with evidence of service other than that
10 for which an undesirable, bad conduct, or dishonorable discharge shall
11 be given: PROVIDED, HOWEVER, That the widow of a veteran is entitled
12 to the benefits of this section regardless of the veteran's length of
13 active military service: PROVIDED FURTHER, That for the purposes of
14 this section "veteran" does not include any person who has voluntarily
15 retired with twenty or more years of active military service and whose
16 military retirement pay is in excess of five hundred dollars per month;

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

23 (21) Assuring persons who are or have been employed in classified
24 positions under chapter 28B.16 RCW will be eligible for employment,
25 reemployment, transfer, and promotion in respect to classified
26 positions covered by this chapter;

27 (22) Affirmative action in appointment, promotion, transfer, layoff
28 and subsequent reemployment, recruitment, training, and career
29 development; development and implementation of affirmative action goals
30 and timetables; and monitoring of progress against those goals and
31 timetables.

32 The board shall consult with the human rights commission in the
33 development of rules pertaining to affirmative action. The department
34 of personnel shall transmit a report annually to the human rights
35 commission which states the progress each state agency has made in
36 meeting affirmative action goals and timetables.

37 **Sec. 117.** RCW 41.06.150 and 1990 c 60 s 103 are each amended to
38 read as follows:

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

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

7 (2) Certification of names for vacancies, including departmental
8 promotions, with the number of names equal to (~~four~~) nine more names
9 than there are vacancies to be filled, such names representing
10 applicants rated highest on eligibility lists(~~(: PROVIDED, That~~
11 ~~when))~~). However, if other applicants have scores equal to the lowest
12 score among the names certified, their names shall also be certified.
13 In addition, a certification shall include five additional names of
14 members of protected groups who are on existing registers, taking into
15 consideration the extent to which the protected group members are
16 represented in the agency's work force. More than five additional
17 names per vacancy will be certified if there are protected group
18 candidates with the same score as the lowest score to be certified;

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

21 (4) Appointments;

22 (5) Training and career development;

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

27 (7) Transfers;

28 (8) Sick leaves and vacations;

29 (9) Hours of work;

30 (10) Layoffs when necessary and subsequent reemployment(~~(, both~~
31 ~~according to seniority))~~);

32 (~~Determination of appropriate bargaining units within any~~
33 ~~agency: PROVIDED, That in making such determination the board shall~~
34 ~~consider the duties, skills, and working conditions of the employees,~~
35 ~~the history of collective bargaining by the employees and their~~
36 ~~bargaining representatives, the extent of organization among the~~
37 ~~employees, and the desires of the employees;~~

38 (~~Certification and decertification of exclusive bargaining~~
39 ~~representatives: PROVIDED, That after certification of an exclusive~~

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

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

33 (14) Written agreements may contain provisions for payroll
34 deductions of employee organization dues upon authorization by the
35 employee member and for the cancellation of such payroll deduction by
36 the filing of a proper prior notice by the employee with the appointing
37 authority and the employee organization: PROVIDED, That nothing
38 contained herein permits or grants to any employee the right to strike
39 or refuse to perform his or her official duties;

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

4 ~~((16))~~) (12) Allocation and reallocation of positions within the
5 classification plan;

6 ~~((17))~~) (13) Adoption and revision of a state salary schedule to
7 reflect the prevailing rates in Washington state private industries and
8 other governmental units but the rates in the salary schedules or plans
9 shall be increased if necessary to attain comparable worth under an
10 implementation plan under RCW 41.06.155, and in the institutions of
11 higher education and related boards shall be competitive in the state
12 or locality in which the institution of higher education or related
13 boards are located, such adoption and revision subject to approval by
14 the director of financial management in accordance with the provisions
15 of chapter 43.88 RCW and after consultation with the chief financial
16 officer of each institution of higher education or related board, as
17 applicable;

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

22 ~~((19))~~) (15) Providing for veteran's preference as required by
23 existing statutes, with recognition of preference in regard to layoffs
24 and subsequent reemployment for veterans and ~~((their widows))~~ deceased
25 veterans' surviving spouses by giving such eligible veterans and
26 ~~((their widows))~~ deceased veterans' surviving spouses additional credit
27 in computing their seniority by adding to their unbroken state service,
28 as defined by the ~~((board))~~ director, the veteran's service in the
29 military not to exceed five years. For the purposes of this section,
30 "veteran" means any person who has one or more years of active military
31 service in any branch of the armed forces of the United States or who
32 has less than one year's service and is discharged with a disability
33 incurred in the line of duty or is discharged at the convenience of the
34 government and who, upon termination of such service has received an
35 honorable discharge, a discharge for physical reasons with an honorable
36 record, or a release from active military service with evidence of
37 service other than that for which an undesirable, bad conduct, or
38 dishonorable discharge shall be given: PROVIDED, HOWEVER, That the
39 ~~((widow of a veteran))~~ deceased veteran's surviving spouse is entitled

1 to the benefits of this section regardless of the veteran's length of
2 active military service: PROVIDED FURTHER, That for the purposes of
3 this section "veteran" does not include any person who has voluntarily
4 retired with twenty or more years of active military service and whose
5 military retirement pay is in excess of five hundred dollars per month;

6 ~~((+20))~~ (16) Permitting agency heads to delegate the authority to
7 appoint, reduce, dismiss, suspend, or demote employees within their
8 agencies if such agency heads do not have specific statutory authority
9 to so delegate: PROVIDED, That the ~~((board))~~ director may not
10 authorize such delegation to any position lower than the head of a
11 major subdivision of the agency;

12 ~~((+21))~~ (17) Assuring that persons who are or have been employed
13 in classified positions under this chapter ~~((28B.16 RCW))~~ in an agency
14 or institution of higher education or related boards will be eligible
15 for employment, reemployment, transfer, and promotion in respect to
16 classified positions covered by this chapter at any other agency or
17 institution of higher education or related boards;

18 ~~((+22))~~ (18) Affirmative action in appointment, promotion,
19 transfer, recruitment, training, and career development; development
20 and implementation of affirmative action goals and timetables; and
21 monitoring of progress against those goals and timetables.

22 The ~~((board))~~ director shall consult with the human rights
23 commission in the development of rules pertaining to affirmative
24 action. The ~~((department of personnel))~~ director shall transmit a
25 report annually to the human rights commission which states the
26 progress each state agency has made in meeting affirmative action goals
27 and timetables.

28 NEW SECTION. Sec. 118. A new section is added to chapter 41.06
29 RCW to read as follows:

30 (1) Rules adopted by the director shall provide for local
31 administration and management by the institutions of higher education
32 and related boards, subject to periodic audit and review by the
33 director, of the following:

- 34 (a) Appointment, promotion, and transfer of employees;
- 35 (b) Dismissal, suspension, or demotion of an employee;
- 36 (c) Examinations for all positions in the competitive and
37 noncompetitive service;

1 (d) Probationary periods of six to twelve months and rejections
2 therein;

3 (e) Sick leaves and vacations;

4 (f) Hours of work;

5 (g) Layoffs when necessary and subsequent reemployment;

6 (h) Allocation and reallocation of positions within the
7 classification plans;

8 (i) Training programs; and

9 (j) Maintenance of personnel records.

10 (2) The director may authorize local administration and management
11 by agencies other than institutions of higher education and related
12 boards.

13 **Sec. 119.** RCW 41.06.160 and 1985 c 94 s 2 are each amended to read
14 as follows:

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

1 ~~standing committees for appropriations of the senate and house of~~
2 ~~representatives.~~

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

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

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

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

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

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

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

36 (5) A supplemental salary schedule which indicates those cases
37 where the board determines that prevailing rates do not provide similar
38 salaries for positions that require or impose similar responsibilities,
39 judgment, knowledge, skills, and working conditions. This

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

7 It is the intention of the legislature that requests for funds to
8 support recommendations for salary deviations from the prevailing rate
9 survey data shall be kept to a minimum, and that the requests be fully
10 documented when forwarded by the department of personnel. Further, it
11 is the intention of the legislature that the department of personnel
12 and the higher education personnel board jointly determine job classes
13 which are substantially common to both jurisdictions and that basic
14 salaries for these job classes shall be equal based on salary and
15 fringe benefit survey findings.))

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

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

26 **Sec. 120.** RCW 41.06.167 and 1991 c 196 s 1 are each amended to
27 read as follows:

28 The department of ((personnel)) human resources shall undertake
29 comprehensive compensation surveys for officers and entry-level officer
30 candidates of the Washington state patrol, with such surveys to be
31 conducted in the year prior to the convening of every other one hundred
32 five day regular session of the state legislature. In the year prior
33 to the convening of each one hundred five day regular session during
34 which a comprehensive compensation survey is not conducted, the
35 department of human resources shall conduct a trend compensation
36 survey. This survey shall measure average compensation movement which
37 has occurred since the last comprehensive compensation survey was
38 conducted. The results of each comprehensive and trend survey shall be

1 completed and forwarded by September 30th, after review and preparation
2 of recommendations by the chief of the Washington state patrol, to the
3 governor and director of financial management for their use in
4 preparing budgets to be submitted to the succeeding legislature. A
5 copy of the data and supporting documentation shall be furnished by the
6 department of (~~personnel~~) human resources to the legislative
7 transportation committee and the standing committees for appropriations
8 of the senate and house of representatives. The office of financial
9 management shall analyze the survey results and conduct investigations
10 which may be necessary to arbitrate differences between interested
11 parties regarding the accuracy of collected survey data and the use of
12 such data for salary adjustment.

13 Surveys conducted by the department of (~~personnel~~) human
14 resources for the Washington state patrol shall be undertaken in a
15 manner consistent with statistically accurate sampling techniques,
16 including comparisons of medians, base ranges, and weighted averages of
17 salaries. The surveys shall compare competitive labor markets of law
18 enforcement officers. This service performed by the department of
19 (~~personnel~~) human resources shall be on a reimbursable basis in
20 accordance with the provisions of RCW 41.06.080.

21 A comprehensive compensation survey plan and the recommendations of
22 the chief of the Washington state patrol shall be submitted jointly by
23 the department of (~~personnel~~) human resources and the Washington
24 state patrol to the director of financial management, the legislative
25 transportation committee, the committee on ways and means of the
26 senate, and the committee on appropriations of the house of
27 representatives six months before the beginning of each periodic
28 survey.

29 **Sec. 121.** RCW 41.06.169 and 1985 c 461 s 3 are each amended to
30 read as follows:

31 After consultation with state agency heads, heads of institutions
32 of higher education and related boards, employee organizations, and
33 other interested parties, the (~~state personnel~~) director shall
34 develop standardized employee performance evaluation procedures and
35 forms which shall be used by state agencies and institutions of higher
36 education and related boards for the appraisal of employee job
37 performance at least annually. These procedures shall include means
38 whereby individual agencies and institutions of higher education and

1 related boards may supplement the standardized evaluation process with
2 special performance factors peculiar to specific organizational needs.
3 Performance evaluation procedures shall place primary emphasis on
4 recording how well the employee has contributed to efficiency,
5 effectiveness, and economy in fulfilling state agency and job
6 objectives.

7 **Sec. 122.** RCW 41.06.170 and 1981 c 311 s 19 are each amended to
8 read as follows:

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

19 (2) Any employee who is reduced, dismissed, suspended, or demoted,
20 after completing his or her probationary period of service as provided
21 by the rules ~~((and regulations))~~ of the ~~((board))~~ director, whose
22 position has been exempted after the effective date of this section, or
23 any employee who is adversely affected by a violation of the state
24 civil service law, chapter 41.06 RCW~~((, as now or hereafter amended))~~,
25 or rules ~~((promulgated pursuant thereto))~~ adopted under it, shall have
26 the right to appeal to the personnel appeals board created by RCW
27 41.64.010 not later than thirty days after the effective date of such
28 action. The employee shall be furnished with specified charges in
29 writing when a reduction, dismissal, suspension, or demotion action is
30 taken. Such appeal shall be in writing.

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

36 **Sec. 123.** RCW 41.06.186 and 1985 c 461 s 5 are each amended to
37 read as follows:

1 The (~~personnel board~~) director shall adopt rules designed to
2 terminate the state employment of any employee whose performance is so
3 inadequate as to warrant termination.

4 **Sec. 124.** RCW 41.06.196 and 1985 c 461 s 6 are each amended to
5 read as follows:

6 The (~~personnel board~~) director shall adopt rules designed to
7 remove from supervisory positions those supervisors who in violation of
8 the rules adopted under RCW 41.06.186 have tolerated the continued
9 employment of employees under their supervision whose performance has
10 warranted termination from state employment.

11 **Sec. 125.** RCW 41.06.220 and 1961 c 1 s 22 are each amended to read
12 as follows:

13 (1) An employee who is terminated from state service may request
14 the (~~board~~) director to place his or her name on an appropriate
15 reemployment list and the (~~board~~) director shall grant this request
16 where the circumstances are found to warrant reemployment.

17 (2) Any employee, when fully reinstated after appeal, shall be
18 guaranteed all employee rights and benefits, including back pay, sick
19 leave, vacation accrual, retirement and OASDI credits.

20 **Sec. 126.** RCW 41.06.260 and 1961 c 1 s 26 are each amended to read
21 as follows:

22 If any part of this chapter (~~shall be~~) is found to be in conflict
23 with federal requirements which are a condition precedent to the
24 allocation of federal funds to the state, such conflicting part of this
25 chapter is hereby declared to be inoperative solely to the extent of
26 such conflict and with respect to the agencies directly affected, and
27 such findings or determination shall not affect the operation of the
28 remainder of this chapter in its application to the agencies concerned.
29 The (~~board~~) director shall make such rules (~~and regulations~~) as may
30 be necessary to meet federal requirements which are a condition
31 precedent to the receipt of federal funds by the state.

32 **Sec. 127.** RCW 41.06.270 and 1979 c 151 s 61 are each amended to
33 read as follows:

34 A disbursing officer shall not pay any employee holding a position
35 covered by this chapter unless the employment is in accordance with

1 this chapter or the rules, regulations and orders issued hereunder.
2 The (~~board~~) director and the director of financial management shall
3 jointly establish procedures for the certification of payrolls.

4 **Sec. 128.** RCW 41.06.280 and 1987 c 248 s 4 are each amended to
5 read as follows:

6 (1) There is hereby created a fund within the state treasury,
7 designated as the "department of (~~Personnel~~) human resources service
8 fund," to be used by the (~~board~~) director as a revolving fund for the
9 payment of salaries, wages, and operations required for the
10 administration of the provisions of this chapter, applicable provisions
11 of chapter 41.04 RCW, and chapter 41.60 RCW. An amount not to exceed
12 one percent of the approved allotments of salaries and wages for all
13 positions in the classified service in each of the agencies subject to
14 this chapter, (~~except~~) and an amount not to exceed one-half of one
15 percent of the approved allotments of salaries and wages in the
16 institutions of higher (~~learning~~) education, shall be charged to the
17 operations appropriations of each agency, institution of higher
18 education, and the state board for community and technical colleges and
19 credited to the department of (~~personnel~~) human resources service
20 fund as the allotments are approved pursuant to chapter 43.88 RCW.
21 Subject to the above limitations, the amount shall be charged against
22 the allotments pro rata, at a rate to be fixed by the director from
23 time to time which, together with income derived from services rendered
24 under RCW 41.06.080, will provide the department with funds to meet its
25 anticipated expenditures during the allotment period.

26 The director of (~~personnel~~) human resources shall fix the terms
27 and charges for services rendered by the department of (~~personnel~~)
28 human resources pursuant to RCW 41.06.080, which amounts shall be
29 credited to the department of (~~personnel~~) human resources service
30 fund and charged against the proper fund or appropriation of the
31 recipient of such services on a quarterly basis. Payment for services
32 so rendered under RCW 41.06.080 shall be made on a quarterly basis to
33 the state treasurer and deposited by him or her in the department of
34 (~~personnel~~) human resources service fund.

35 (2) If employees cease to be classified under this chapter pursuant
36 to an agreement authorized by section 203 of this act, each institution
37 of higher education and the state board for community and technical
38 colleges shall continue, for six months after the effective date of the

1 agreement, to make contributions to the department of human resources
2 service fund based on employee salaries and wages that includes the
3 employees under the agreement. At the expiration of the six-month
4 period, the director of financial management shall make across-the-
5 board reductions in allotments of the department of human resources
6 service fund for the remainder of the biennium so that the charge to
7 the institutions of higher education and state board based on the
8 salaries and wages of the remaining employees classified under this
9 chapter does not increase during the biennium, unless an increase is
10 authorized by the legislature. The director of financial management
11 shall report the amount and impact of any across-the-board reductions
12 made under this section to the appropriations committee of the house of
13 representatives and the ways and means committee of the senate, or
14 appropriate successor committees, within thirty days of making the
15 reductions.

16 (3) Moneys from the department of (~~personnel~~) human resources
17 service fund shall be disbursed by the state treasurer by warrants on
18 vouchers duly authorized by the (~~board~~) director.

19 (4) The director is authorized to receive federal funds available
20 on the effective date of this section or thereafter made available for
21 the assistance and improvement of public personnel administration,
22 which may be expended in addition to the department of human resources
23 service fund established by this section.

24 NEW SECTION. Sec. 129. A new section is added to chapter 41.06
25 RCW to read as follows:

26 (1) An agency may purchase services customarily and historically
27 provided by employees in classified service under this chapter by
28 contracting with individuals or business entities, without the
29 necessity of showing that classified employees could not provide these
30 services, if the purchase would be fiscally prudent and result in
31 reduced expenditures of public funds. However, decisions to contract
32 for services may be made only after the affected agency has conducted
33 a feasibility study determining the potential costs and benefits that
34 would result from contracting for the services and the decision to
35 contract for the services has been reviewed and approved by the
36 director of financial management, and subject to any applicable
37 requirements for collective bargaining. The factors to be considered
38 in the feasibility study shall be developed in consultation with

1 representatives of the affected employees and may include both long-
2 term and short-term effects of the proposal to contract for services.
3 A contract to purchase services shall provide that the contractor will
4 pay to its employees performing the contract work wages that are
5 similar to those generally paid for such work in the locality in which
6 the work is to be performed and will provide health benefits that are
7 similar to, but in any case no less than, the benefits provided for
8 basic health care services under chapter 70.47 RCW.

9 (2) No provision contrary to or in conflict with this section in
10 any existing collective bargaining agreement may be renewed or extended
11 by any means beyond the expiration date next following the effective
12 date of this section.

13 (3) Nothing in this section may be construed to modify, reduce, or
14 otherwise affect the purchase of services that were authorized to be
15 purchased by contract under this chapter on the effective date of this
16 section.

17 (4) Whenever any agency or institution of higher education or
18 related board contracts with individuals or business entities for the
19 performance of services customarily and historically provided by
20 employees in classified service, it shall select such individuals or
21 business entities that are consistent with the participation goals of
22 the agency, institution, or board under chapter 39.19 RCW.

23 **Sec. 130.** RCW 41.06.400 and 1980 c 118 s 4 are each amended to
24 read as follows:

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

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

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

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

1 (c) Promote interagency sharing of resources for training and
2 career development;

3 (d) Monitor and review the impact of training and career
4 development programs to ensure that the responsibilities of the state
5 to provide equal employment opportunities are diligently carried out.
6 The director shall report to the (~~board~~) governor the impact of
7 training and career development programs on the fulfillment of such
8 responsibilities.

9 (3) At an agency's request, the director may provide training and
10 career development programs for an agency's internal use which may be
11 conducted more efficiently and economically by the department of
12 (~~personnel~~) human resources.

13 (4) The director may provide career development services that: (a)
14 Assist in the establishment of mentor programs for state employees; (b)
15 provide a clearinghouse for information on successful public and
16 private sector career development programs; (c) offer instruction and
17 resource materials on test taking, writing resumes, interviewing, and
18 other career skills; and (d) provide career counseling.

19 **Sec. 131.** RCW 41.06.410 and 1980 c 118 s 5 are each amended to
20 read as follows:

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

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

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

28 (3) Report on its training and career development program
29 operations and costs to the director in accordance with reporting
30 procedures adopted by the (~~board~~) director;

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

33 **Sec. 132.** RCW 41.06.420 and 1980 c 118 s 6 are each amended to
34 read as follows:

35 (1) The (~~board~~) director, by rule, shall prescribe the conditions
36 under which an employee appointed to a supervisory or management
37 position after June 12, 1980, shall be required to successfully

1 complete an entry-level management training course as approved by the
2 director. The training course shall focus on the critical knowledge,
3 skills, and abilities for successful management performance and include
4 instruction on managing and valuing diversity in the workplace. Such
5 training shall not be required of any employee who has completed a
6 management training course prior to the employee's appointment which
7 is, in the judgment of the director, at least equivalent to the entry-
8 level course required by this section.

9 (2) The ((board)) director, by rule, shall establish procedures for
10 the suspension of the entry-level training requirement in cases where
11 the ability of an agency to perform its responsibilities is adversely
12 affected, or for the waiver of this requirement in cases where a person
13 has demonstrated experience as a substitute for training.

14 (3) Agencies subject to the provisions of this chapter, in
15 accordance with rules prescribed by the ((board)) director, shall
16 designate individual positions, or groups of positions, as being
17 "supervisory" or "management" positions. Such designations shall be
18 subject to review by the director as part of the director's evaluation
19 of training and career development programs prescribed by RCW
20 41.06.400(2).

21 **Sec. 133.** RCW 41.06.430 and 1990 c 60 s 102 are each amended to
22 read as follows:

23 (1) The ((board)) director, by rule, shall develop a career
24 executive program which recognizes the profession of management and
25 recognizes excellence in managerial skills in order to (a) identify,
26 attract, and retain highly qualified executive candidates, (b) provide
27 outstanding employees a broad opportunity for career development, and
28 (c) provide for the mobility of such employees among agencies, it being
29 to the advantage of the state to make the most beneficial use of
30 individual managerial skills.

31 (2) To accomplish the purposes of subsection (1) of this section,
32 the ((board)) director, notwithstanding any other provision of this
33 chapter, may provide policies and standards for recruitment,
34 appointment, examination, training, probation, employment register
35 control, certification, classification, salary administration,
36 transfer, promotion, reemployment, conditions of employment, and
37 separation separate from procedures established for other employment.

1 (3) The director, in consultation with affected agencies, shall
2 (~~recommend to the board~~) determine the classified positions which may
3 be filled by participants in the career executive program. Upon the
4 request of an agency, management positions that are exempt from the
5 state civil service law pursuant to RCW 41.06.070 may be included in
6 all or any part of the career executive program: PROVIDED, That an
7 agency may at any time, after providing written notice to the (~~board~~)
8 director, withdraw an exempt position from the career executive
9 program. No employee may be placed in the career executive program
10 without the employee's consent.

11 (4) The number of employees participating in the career executive
12 program shall not exceed two percent of the employees subject to the
13 provisions of this chapter.

14 (5) The director shall monitor and review the impact of the career
15 executive program to ensure that the responsibilities of the state to
16 provide equal employment opportunities are diligently carried out. The
17 director shall report to the (~~board~~) governor the impact of the
18 career executive program on the fulfillment of such responsibilities.

19 (6) Any classified state employee, upon entering a position in the
20 career executive program, shall be entitled subsequently to revert to
21 any class or position previously held with permanent status, or, if
22 such position is not available, revert to a position similar in nature
23 and salary to the position previously held.

24 NEW SECTION. Sec. 134. A new section is added to chapter 41.06
25 RCW to read as follows:

26 (1) The Washington management service is created. The purpose of
27 the management service is to strive for excellence in the management of
28 the state's resources, attract and retain qualified managers, and
29 establish a management identity in state government through separate
30 personnel rules for management employees that are unique to the
31 responsibilities of management employees.

32 (2) Notwithstanding any other provisions of this chapter, the
33 director, after consultation with state agencies and employee
34 organizations, shall adopt personnel rules for the classified members
35 of the management service. These rules shall govern recruitment,
36 appointment, classification and allocation of positions, examination,
37 training and career development, hours of work, probation,
38 certification, compensation, transfer, affirmative action, promotion,

1 layoff, reemployment, performance appraisals, discipline, and other
2 personnel practices for management employees. These rules shall be
3 separate from rules established for other employees.

4 (3) In establishing rules for the management service, the director
5 shall adhere to the following goals:

6 (a) To develop a simplified classification system that facilitates
7 movement of managers between agencies and promotes upward mobility;

8 (b) To create a compensation system consistent with the policy set
9 forth in RCW 41.06.150(13). The system shall provide agency
10 flexibility in setting and changing salaries;

11 (c) To establish a performance appraisal system that emphasizes
12 individual accountability for program results and efficient management
13 of resources; effective planning, organization, and communication
14 skills; valuing and managing workplace diversity; development of
15 leadership and interpersonal abilities; and employee development;

16 (d) To strengthen management training and career development
17 programs that build critical management knowledge, skills, and
18 abilities; focus on managing and valuing workplace diversity; empower
19 employees by enabling them to share in workplace decision making and to
20 be innovative, willing to take risks, and able to accept and deal with
21 change; promote a workplace where the overall focus is on the recipient
22 of the government services and how these services can be improved; and
23 enhance mobility and career advancement opportunities;

24 (e) To permit flexible recruitment and hiring procedures that
25 enable agencies to compete effectively with other employers, both
26 public and private, for managers with appropriate skills and training;
27 allow consideration of all qualified candidates for positions in the
28 management service; and achieve affirmative action goals and diversity
29 in the workplace; and

30 (f) To provide that members of the classified management service
31 may only be reduced, dismissed, suspended, or demoted for cause.

32 (4) For the purposes of this section, "managers" or "management
33 employees" means employees who:

34 (a) Formulate policy or direct the work of an agency or subdivision
35 thereof; or

36 (b) Are responsible to administer and carry out policies and
37 programs of an agency or subdivision thereof; or

1 (c) Manage, administer, and control a local branch office of an
2 agency or subdivision thereof, including the physical, financial, or
3 personnel resources thereof; or

4 (d) Have substantial responsibility in personnel administration,
5 legislative relations, public information, or the preparation and
6 administration of budgets; or

7 (e) Functionally or organizationally are above the first level of
8 supervision.

9 NEW SECTION. **Sec. 135.** A new section is added to chapter 41.06
10 RCW to read as follows:

11 (1) The legislature recognizes that:

12 (a) The labor market and the state government work force are
13 becoming increasingly diverse in terms of gender, race, ethnicity, age,
14 and the presence of disabilities.

15 (b) The state's human resource and management practices must be
16 responsive to these fundamental changes in work force composition.

17 It is therefore the policy of the state to create an organizational
18 culture in state government that respects and values individual
19 differences and encourages the productive potential of every employee.

20 (2) To implement this policy, the department shall:

21 (a) In consultation with agencies, review civil service rules and
22 related agency policies to ensure that they support the state's policy
23 of valuing and managing diversity in the workplace;

24 (b) In consultation with agencies, institutions of higher
25 education, and related boards, develop model policies, procedures, and
26 technical information to be made available to such entities for the
27 support of workplace diversity programs, including, but not limited to:

28 (i) Voluntary mentorship programs;

29 (ii) Alternative testing practices for persons of disability where
30 deemed appropriate;

31 (iii) Career counseling;

32 (iv) Training opportunities, including management and employee
33 awareness and skills training, English as a second language, and
34 individual tutoring;

35 (v) Recruitment strategies;

36 (vi) Management performance appraisal techniques that focus on
37 valuing and managing diversity in the workplace; and

38 (vii) Alternative work arrangements.

1 (3) The department shall coordinate implementation of this section
2 with the office of financial management and institutions of higher
3 education and related boards to reduce duplication of effort.

4 (4) This section shall not apply to institutions of higher
5 education and related boards until July 1, 1994.

6 **Sec. 136.** RCW 41.06.450 and 1982 c 208 s 10 are each amended to
7 read as follows:

8 (1) (~~By January 1, 1983,~~) The (~~personnel board~~) director shall
9 adopt rules applicable to each agency and institution of higher
10 education and related boards to ensure that information relating to
11 employee misconduct or alleged misconduct is destroyed or maintained as
12 follows:

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

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

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

22 (2) Notwithstanding subsection (1) of this section, an agency or
23 institution of higher education or related board may retain information
24 relating to employee misconduct or alleged misconduct if:

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

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

28 (3) In adopting rules under this section, the (~~personnel board~~)
29 director shall consult with the public disclosure commission to ensure
30 that the public policy of the state, as expressed in chapter 42.17 RCW,
31 is adequately protected.

32 **Sec. 137.** RCW 41.06.455 and 1982 c 208 s 11 are each amended to
33 read as follows:

34 RCW 41.06.450 does not prohibit an agency, institution of higher
35 education, or related board from destroying identifying information in
36 records relating to employee misconduct or alleged misconduct if the
37 agency, institution of higher education, or related board deems the

1 action is consistent with the policy expressed in RCW 41.06.450 and in
2 chapter 42.17 RCW.

3 **Sec. 138.** 1982 c 208 s 9 (uncodified) is amended to read as
4 follows:

5 The legislature finds that, under some circumstances, maintaining
6 information relating to state employee misconduct or alleged misconduct
7 is unfair to employees and serves no useful function to the state. The
8 purpose of RCW 41.06.450 is to direct the ((~~personnel board~~)) director
9 of human resources to adopt rules governing maintenance of employee
10 records so that the records are maintained in a manner which is fair to
11 employees, which ensures proper management of state governmental
12 affairs, and which adequately protects the public interest.

13 **Sec. 139.** RCW 41.06.475 and 1986 c 269 s 2 are each amended to
14 read as follows:

15 The ((~~state personnel board~~)) director shall adopt rules, in
16 cooperation with the secretary of social and health services, for the
17 background investigation of persons being considered for state
18 employment in positions directly responsible for the supervision, care,
19 or treatment of children or developmentally disabled persons.

20 **Sec. 140.** RCW 41.06.490 and 1990 c 204 s 3 are each amended to
21 read as follows:

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

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

28 (b) Provide for eligibility in the return-to-work program, for a
29 minimum of two years from the date the temporary disability commenced,
30 for any permanent employee who is receiving compensation under RCW
31 51.32.090 and who is, by reason of his or her temporary disability,
32 unable to return to his or her previous work, but who is physically
33 capable of carrying out work of a lighter or modified nature;

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

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

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

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

8 (g) Coordinate participation of applicable employee assistance
9 programs, as appropriate.

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

14 NEW SECTION. **Sec. 141.** A new section is added to chapter 41.06
15 RCW to read as follows:

16 At least sixty days prior to providing notice of any layoffs, the
17 agency or institution of higher education or related board shall
18 provide each potentially affected employee with information showing the
19 job security ranking of the employee within the employment unit
20 experiencing the layoffs.

21 NEW SECTION. **Sec. 142.** All reports, documents, surveys, books,
22 records, files, papers, or written material in the possession of the
23 department of personnel, state personnel board, and higher education
24 personnel board pertaining to the powers, duties, and functions
25 transferred in section 2 of this act shall be delivered to the custody
26 of the department of human resources. All cabinets, furniture, office
27 equipment, motor vehicles, and other tangible property employed in
28 connection with the powers, duties, and functions transferred in
29 section 2 of this act shall be made available to the department of
30 human resources. All funds, credits, or other assets held in
31 connection with the powers, duties, and functions transferred in
32 section 2 of this act shall be assigned to the department of human
33 resources.

34 Any appropriations made in connection with the powers, duties, and
35 functions transferred in section 2 of this act shall, on the effective
36 date of this section, be transferred and credited to the department of
37 human resources.

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

8 NEW SECTION. **Sec. 143.** All employees employed in connection with
9 the powers, duties, and functions transferred in section 2 of this act
10 are transferred to the jurisdiction of the department of human
11 resources. All employees classified under chapter 41.06 or 28B.16 RCW,
12 the state civil service and higher education personnel law, are
13 assigned to the department of human resources to perform their usual
14 duties upon the same terms as formerly, without any loss of rights,
15 subject to any action that may be appropriate thereafter in accordance
16 with the laws and rules governing state civil service.

17 NEW SECTION. **Sec. 144.** All rules adopted by the state personnel
18 board pursuant to chapter 41.06 RCW and all rules adopted by the higher
19 education personnel board under chapter 28B.16 RCW that relate to
20 functions transferred to the department of human resources in section
21 2 of this act shall continue in effect until acted upon by the
22 director. All pending business before any agency of state government
23 pertaining to the powers, duties, and functions transferred in section
24 2 of this act shall be continued and acted upon by the department of
25 human resources. All existing contracts and obligations shall remain
26 in full force and shall be performed by the department of human
27 resources.

28 NEW SECTION. **Sec. 145.** The transfer of the powers, duties,
29 functions, and personnel shall not affect the validity of any act
30 performed before the effective date of this section.

31 NEW SECTION. **Sec. 146.** If apportionments of budgeted funds are
32 required because of the transfers directed by sections 142 through 145
33 of this act, the director of financial management shall certify the
34 apportionments to the agencies affected, the state auditor, and the
35 state treasurer. Each of these shall make the appropriate transfer and

1 adjustments in funds and appropriation accounts and equipment records
2 in accordance with the certification.

3 **Sec. 147.** RCW 43.03.028 and 1991 c 3 s 294 are each amended to
4 read as follows:

5 (1) There is hereby created a state committee on agency officials'
6 salaries to consist of seven members, or their designees, as follows:
7 The president of the University of Puget Sound; the chairperson of the
8 council of presidents of the state's four-year institutions of higher
9 education; the chairperson of the State Personnel Board; the president
10 of the Association of Washington Business; the president of the Pacific
11 Northwest Personnel Managers' Association; the president of the
12 Washington State Bar Association; and the president of the Washington
13 State Labor Council. If any of the titles or positions mentioned in
14 this subsection are changed or abolished, any person occupying an
15 equivalent or like position shall be qualified for appointment by the
16 governor to membership upon the committee.

17 (2) The committee shall study the duties and salaries of the
18 directors of the several departments and the members of the several
19 boards and commissions of state government, who are subject to
20 appointment by the governor or whose salaries are fixed by the
21 governor, and of the chief executive officers of the following agencies
22 of state government:

23 The arts commission; the human rights commission; the board of
24 accountancy; the board of pharmacy; the capitol historical association
25 and museum; the eastern Washington historical society; the Washington
26 state historical society; the interagency committee for outdoor
27 recreation; the criminal justice training commission; the department of
28 personnel; the state finance committee; the state library; the traffic
29 safety commission; the horse racing commission; the advisory council on
30 vocational education; the public disclosure commission; the state
31 conservation commission; the commission on Hispanic affairs; the
32 commission on Asian-American affairs; the state board for volunteer
33 fire fighters; the transportation improvement board; the public
34 ((employees)) employment relations commission; the forest practices
35 appeals board; and the energy facilities site evaluation council.

36 The committee shall report to the governor or the chairperson of
37 the appropriate salary fixing authority at least once in each fiscal
38 biennium on such date as the governor may designate, but not later than

1 seventy-five days prior to the convening of each regular session of the
2 legislature during an odd-numbered year, its recommendations for the
3 salaries to be fixed for each position.

4 (3) Committee members shall be reimbursed by the department of
5 (~~personnel~~) human resources for travel expenses under RCW 43.03.050
6 and 43.03.060.

7 **Sec. 148.** RCW 43.17.010 and 1989 1st ex.s. c 9 s 810 are each
8 amended to read as follows:

9 There shall be departments of the state government which shall be
10 known as (1) the department of social and health services, (2) the
11 department of ecology, (3) the department of labor and industries, (4)
12 the department of agriculture, (5) the department of fisheries, (6) the
13 department of wildlife, (7) the department of transportation, (8) the
14 department of licensing, (9) the department of general administration,
15 (10) the department of trade and economic development, (11) the
16 department of veterans affairs, (12) the department of revenue, (13)
17 the department of retirement systems, (14) the department of
18 corrections, (15) the department of community development, (~~and~~) (16)
19 the department of health, and (17) the director of human resources
20 which shall be charged with the execution, enforcement, and
21 administration of such laws, and invested with such powers and required
22 to perform such duties, as the legislature may provide.

23 **Sec. 149.** RCW 43.17.020 and 1989 1st ex.s. c 9 s 811 are each
24 amended to read as follows:

25 There shall be a chief executive officer of each department to be
26 known as: (1) The secretary of social and health services, (2) the
27 director of ecology, (3) the director of labor and industries, (4) the
28 director of agriculture, (5) the director of fisheries, (6) the
29 director of wildlife, (7) the secretary of transportation, (8) the
30 director of licensing, (9) the director of general administration, (10)
31 the director of trade and economic development, (11) the director of
32 veterans affairs, (12) the director of revenue, (13) the director of
33 retirement systems, (14) the secretary of corrections, (15) the
34 director of community development, (~~and~~) (16) the secretary of
35 health, and (17) the director of human resources.

36 Such officers, except the secretary of transportation, shall be
37 appointed by the governor, with the consent of the senate, and hold

1 office at the pleasure of the governor. The director of wildlife,
2 however, shall be appointed according to the provisions of RCW
3 77.04.080. If a vacancy occurs while the senate is not in session, the
4 governor shall make a temporary appointment until the next meeting of
5 the senate. A temporary director of wildlife shall not serve more than
6 one year. The secretary of transportation shall be appointed by the
7 transportation commission as prescribed by RCW 47.01.041.

8 NEW SECTION. **Sec. 150.** All powers, duties, and functions of the
9 department of personnel, the personnel board, and the higher education
10 personnel board pertaining to collective bargaining are transferred to
11 the public employment relations commission except that arbitration of
12 grievances filed under a collective bargaining agreement existing
13 before the effective date of this section and not yet finally
14 determined by the effective date of this section, shall be transferred
15 to the personnel appeals board as specified in section 157 of this act.

16 NEW SECTION. **Sec. 151.** All reports, documents, surveys, books,
17 records, files, papers, or written material in the possession of the
18 department of personnel, the personnel board, and the higher education
19 personnel board pertaining to the powers, functions, and duties
20 transferred in section 150 of this act shall be delivered to the
21 custody of the public employment relations commission. All cabinets,
22 furniture, office equipment, motor vehicles, and other tangible
23 property employed by the department of personnel in carrying out the
24 powers, functions, and duties transferred in section 150 of this act
25 shall be made available to the public employment relations commission.
26 All funds, credits, or other assets held in connection with the powers,
27 functions, and duties transferred in section 150 of this act shall be
28 assigned to the public employment relations commission.

29 Any appropriations made to the department of personnel, the
30 personnel board, or the higher education personnel board for carrying
31 out the powers, functions, and duties transferred in section 150 of
32 this act shall, on the effective date of this section, be transferred
33 and credited to the public employment relations commission.

34 Whenever any question arises as to the transfer of any personnel,
35 funds, books, documents, records, papers, files, equipment, or other
36 tangible property used or held in the exercise of the powers and the
37 performance of the duties and functions transferred, the director of

1 financial management shall make a determination as to the proper
2 allocation and certify the same to the state agencies concerned.

3 NEW SECTION. **Sec. 152.** All employees of the department of
4 personnel engaged in performing the powers, functions, and duties
5 transferred in section 150 of this act are transferred to the
6 jurisdiction of the public employment relations commission. All
7 employees classified under chapter 41.06 RCW, the state civil service
8 law, are assigned to the public employment relations commission without
9 any loss of rights, subject to any action that may be appropriate
10 thereafter in accordance with the laws and rules governing state civil
11 service.

12 NEW SECTION. **Sec. 153.** All business pending before the department
13 of personnel, the personnel board, and the higher education personnel
14 board pertaining to the powers, functions, and duties transferred in
15 section 150 of this act shall be continued and acted upon by the public
16 employment relations commission under the rules in effect at the time
17 of the transfer. All existing contracts and obligations of the
18 department of personnel, the personnel board, and the higher education
19 personnel board shall remain in full force and shall be performed by
20 the public employment relations commission.

21 NEW SECTION. **Sec. 154.** The transfer of the powers, duties,
22 functions, and personnel of the department of personnel, the personnel
23 board, and the higher education personnel board shall not affect the
24 validity of any act performed before the effective date of this
25 section.

26 NEW SECTION. **Sec. 155.** If apportionments of budgeted funds are
27 required because of the transfers directed by sections 151 through 154
28 or 157 of this act, the director of financial management shall certify
29 the apportionments to the agencies affected, the state auditor, and the
30 state treasurer. Each of these shall make the appropriate transfer and
31 adjustments in funds and appropriation accounts and equipment records
32 in accordance with the certification.

33 NEW SECTION. **Sec. 156.** All rules adopted by the state personnel
34 board under chapter 41.06 RCW and all rules adopted by the higher

1 education personnel board under chapter 28B.16 RCW that relate to
2 functions transferred to the public employment relations commission or
3 the personnel appeals board pursuant to section 150 of this act shall
4 continue in effect until acted upon by the agency assuming those
5 functions.

6 NEW SECTION. **Sec. 157.** All business pending before the department
7 of personnel or the higher education personnel board pertaining to
8 arbitration of grievances transferred by section 149 of this act shall
9 be continued and acted upon by the personnel appeals board unless the
10 parties to the grievance agree to submit the matter to an independent
11 arbitrator for resolution of the grievance. Determinations of
12 grievances transferred under this section shall be made according to
13 the rules in effect and applicable to the grievance at the time of
14 filing the grievance.

15 NEW SECTION. **Sec. 158.** The following acts or parts of acts are
16 each repealed:

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

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

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

22 (4) RCW 28B.16.040 and 1990 c 60 s 201, 1982 1st ex.s. c 53 s 15,
23 1977 ex.s. c 94 s 1, & 1969 ex.s. c 36 s 4;

24 (5) RCW 28B.16.041 and 1985 c 442 s 9;

25 (6) RCW 28B.16.042 and 1985 c 266 s 1;

26 (7) RCW 28B.16.043 and 1991 c 238 s 107;

27 (8) RCW 28B.16.060 and 1984 c 287 s 63, 1981 c 338 s 19, 1975-'76
28 2nd ex.s. c 34 s 73, & 1969 ex.s. c 36 s 6;

29 (9) RCW 28B.16.070 and 1983 c 23 s 1 & 1969 ex.s. c 36 s 7;

30 (10) RCW 28B.16.080 and 1969 ex.s. c 36 s 8;

31 (11) RCW 28B.16.090 and 1969 ex.s. c 36 s 9;

32 (12) RCW 28B.16.100 and 1990 c 60 s 202;

33 (13) RCW 28B.16.101 and 1982 1st ex.s. c 53 s 19 & 1977 ex.s. c 152
34 s 9;

35 (14) RCW 28B.16.105 and 1985 c 461 s 10, 1982 1st ex.s. c 53 s 17,
36 & 1977 ex.s. c 152 s 13;

1 (15) RCW 28B.16.110 and 1985 c 94 s 1, 1980 c 11 s 3, 1979 c 151 s
2 16, 1977 ex.s. c 152 s 10, 1975 1st ex.s. c 122 s 2, & 1969 ex.s. c 36
3 s 11;
4 (16) RCW 28B.16.112 and 1987 c 185 s 3, 1986 c 158 s 4, 1979 c 151
5 s 17, & 1977 ex.s. c 152 s 11;
6 (17) RCW 28B.16.113 and 1977 ex.s. c 152 s 12;
7 (18) RCW 28B.16.116 and 1983 1st ex.s. c 75 s 3;
8 (19) RCW 28B.16.120 and 1969 ex.s. c 36 s 12;
9 (20) RCW 28B.16.130 and 1969 ex.s. c 36 s 13;
10 (21) RCW 28B.16.140 and 1969 ex.s. c 36 s 14;
11 (22) RCW 28B.16.150 and 1969 ex.s. c 36 s 15;
12 (23) RCW 28B.16.160 and 1988 c 202 s 27, 1971 c 81 s 72, & 1969
13 ex.s. c 36 s 16;
14 (24) RCW 28B.16.170 and 1969 ex.s. c 36 s 26;
15 (25) RCW 28B.16.180 and 1973 1st ex.s. c 46 s 3 & 1969 ex.s. c 36
16 s 17;
17 (26) RCW 28B.16.190 and 1969 ex.s. c 36 s 19;
18 (27) RCW 28B.16.200 and 1979 c 151 s 18 & 1969 ex.s. c 36 s 20;
19 (28) RCW 28B.16.210 and 1969 ex.s. c 36 s 29;
20 (29) RCW 28B.16.220 and 1969 ex.s. c 36 s 31;
21 (30) RCW 28B.16.230 and 1973 c 62 s 6 & 1969 ex.s. c 215 s 14;
22 (31) RCW 28B.16.240 and 1979 ex.s. c 46 s 1;
23 (32) RCW 28B.16.255 and 1985 c 461 s 11;
24 (33) RCW 28B.16.265 and 1985 c 461 s 12;
25 (34) RCW 28B.16.275 and 1985 c 461 s 13;
26 (35) RCW 28B.16.300 and 1990 c 204 s 4;
27 (36) RCW 28B.16.900 and 1969 ex.s. c 36 s 18;
28 (37) RCW 28B.16.910 and 1969 ex.s. c 36 s 27;
29 (38) RCW 28B.16.920 and 1969 ex.s. c 36 s 30;
30 (39) RCW 28B.16.930 and 1969 ex.s. c 36 s 28;
31 (40) RCW 41.06.010 and 1980 c 118 s 1 & 1961 c 1 s 1;
32 (41) RCW 41.06.030 and 1961 c 1 s 3;
33 (42) RCW 41.06.110 and 1984 c 287 s 69 & 1982 c 10 s 8;
34 (43) RCW 41.06.120 and 1981 c 311 s 17, 1975-'76 2nd ex.s. c 43 s
35 2, & 1961 c 1 s 12;
36 (44) RCW 41.06.130 and 1982 1st ex.s. c 53 s 3 & 1961 c 1 s 13;
37 (45) RCW 41.06.163 and 1987 c 185 s 9, 1986 c 158 s 6, 1979 c 151
38 s 59, & 1977 ex.s. c 152 s 3;
39 (46) RCW 41.06.165 and 1977 ex.s. c 152 s 4;

- 1 (47) RCW 41.06.230 and 1961 c 1 s 23;
2 (48) RCW 41.06.240 and 1961 c 1 s 24;
3 (49) RCW 41.06.310 and 1969 c 45 s 2;
4 (50) RCW 41.06.340 and 1969 ex.s. c 215 s 13;
5 (51) RCW 41.06.350 and 1969 ex.s. c 152 s 1; and
6 (52) RCW 41.06.380 and 1979 ex.s. c 46 s 2.

7 NEW SECTION. **Sec. 159.** Sections 101 through 107 of this act shall
8 constitute a new chapter in Title 43 RCW.

9 **PART II**

10 **COLLECTIVE BARGAINING FOR INSTITUTIONS OF HIGHER EDUCATION**

11 NEW SECTION. **Sec. 201.** A new section is added to chapter 41.56
12 RCW to read as follows:

13 In addition to the entities listed in RCW 41.56.020, this chapter
14 shall apply to institutions of higher education with respect to the
15 employees classified under chapter 41.06 RCW or included in a
16 bargaining unit that has exercised the option specified in section
17 203(3) of this act.

18 **Sec. 202.** RCW 41.56.030 and 1992 c 36 s 2 and 1991 c 363 s 119 are
19 each reenacted and amended to read as follows:

20 As used in this chapter:

21 (1) "Public employer" means any officer, board, commission,
22 council, or other person or body acting on behalf of any public body
23 governed by this chapter (~~as designated by RCW 41.56.020,~~) or any
24 subdivision of such public body. For the purposes of this section, the
25 public employer of district court or superior court employees for wage-
26 related matters is the respective county legislative authority, or
27 person or body acting on behalf of the legislative authority, and the
28 public employer for nonwage-related matters is the judge or judge's
29 designee of the respective district court or superior court.

30 (2) "Public employee" means any employee of a public employer
31 except any person (a) elected by popular vote, or (b) appointed to
32 office pursuant to statute, ordinance or resolution for a specified
33 term of office by the executive head or body of the public employer, or
34 (c) whose duties as deputy, administrative assistant or secretary
35 necessarily imply a confidential relationship to the executive head or

1 body of the applicable bargaining unit, or any person elected by
2 popular vote or appointed to office pursuant to statute, ordinance or
3 resolution for a specified term of office by the executive head or body
4 of the public employer, or (d) who is a personal assistant to a
5 district court judge, superior court judge, or court commissioner. For
6 the purpose of (d) of this subsection, no more than one assistant for
7 each judge or commissioner may be excluded from a bargaining unit.

8 (3) "Bargaining representative" means any lawful organization which
9 has as one of its primary purposes the representation of employees in
10 their employment relations with employers.

11 (4) "Collective bargaining" means the performance of the mutual
12 obligations of the public employer and the exclusive bargaining
13 representative to meet at reasonable times, to confer and negotiate in
14 good faith, and to execute a written agreement with respect to
15 grievance procedures and collective negotiations on personnel matters,
16 including wages, hours and working conditions, which may be peculiar to
17 an appropriate bargaining unit of such public employer, except that by
18 such obligation neither party shall be compelled to agree to a proposal
19 or be required to make a concession unless otherwise provided in this
20 chapter. In the case of the Washington state patrol, "collective
21 bargaining" shall not include wages and wage-related matters.

22 (5) "Commission" means the public employment relations commission.

23 (6) "Executive director" means the executive director of the
24 commission.

25 (7) "Uniformed personnel" means (a) law enforcement officers as
26 defined in RCW 41.26.030 as now or hereafter amended, of cities with a
27 population of fifteen thousand or more or law enforcement officers
28 employed by the governing body of any county with a population of
29 seventy thousand or more, or (b) fire fighters as that term is defined
30 in RCW 41.26.030, as now or hereafter amended.

31 (8) "Institutions of higher education" means the same as defined in
32 RCW 28B.10.016 but does not include technical colleges.

33 NEW SECTION. Sec. 203. A new section is added to chapter 41.56
34 RCW to read as follows:

35 On the effective date of this section, all collective bargaining
36 rights and obligations concerning relations between the institutions of
37 higher education and their employees classified under chapter 41.06 RCW
38 shall be transferred to this chapter, subject to the following:

1 (1) The commission shall recognize, in their current form, all
2 bargaining units certified by the higher education personnel board as
3 of the effective date of this section.

4 (2) Except as provided in subsection (3) of this section:

5 (a) Collective bargaining under this section is limited to
6 negotiation of grievance procedures and personnel matters over which
7 the institution of higher education or related boards may lawfully
8 exercise discretion; and

9 (b) Terms of a collective bargaining agreement negotiated under
10 this section, if in conflict with rules or policies established by the
11 director of human services under RCW 41.06.150, are void and
12 unenforceable to the extent of the conflict.

13 (3) At any time after the effective date of this section, an
14 institution of higher education and the exclusive bargaining
15 representative of a bargaining unit of employees classified under
16 chapter 41.06 RCW may exercise their option to have their relationship
17 and corresponding obligations governed entirely by the provisions of
18 chapter 41.56 RCW by filing notice of the parties' intent to be so
19 governed, subject to the mutual adoption of a collective bargaining
20 agreement recognizing the notice of intent. The parties shall provide
21 the notice to the director of human resources and the commission. On
22 the first day of the month following the month during which a
23 collective bargaining agreement is executed by the parties recognizing
24 the notice of intent and notice of the execution of the agreement and
25 a copy of the agreement are received by the director and commission,
26 chapter 41.06 RCW shall cease to apply to all employees in the
27 bargaining unit covered by the agreement, and the limitations on
28 collective bargaining contained in subsection (2) of this section shall
29 cease to apply to that bargaining unit.

30 (4) If an institution of higher education and the exclusive
31 bargaining representative of a bargaining unit of its employees agree
32 to exercise the option to have their relationship and corresponding
33 obligations governed entirely by this chapter, salary increases
34 negotiated thereafter for the employees in the bargaining unit shall be
35 subject to the following:

36 (a) Salary increases shall continue to be appropriated by the
37 legislature. The exclusive bargaining representative shall meet before
38 a legislative session with the governor or governor's designee and the
39 representative of the institution of higher education concerning the

1 total dollar amount for salary increases and health care contributions
2 that will be contained in the appropriations proposed by the governor
3 under RCW 43.88.060.

4 (b) The collective bargaining agreements may provide for salary
5 increases that are different from or that exceed the amount or
6 percentage for salary increases provided by the legislature in the
7 appropriations act for the institution of higher education or allocated
8 to the board of trustees by the state board for community and technical
9 colleges, but the base for salary increases provided by the legislature
10 under (a) of this subsection shall include only those amounts
11 appropriated by the legislature and the base shall not include any
12 additional salary increases provided under this subsection (4)(b).

13 (c) Any provisions of the collective bargaining agreements
14 pertaining to salary increases provided under (a) of this subsection
15 shall be subject to modification by the legislature. If any provision
16 of a salary increase provided under (a) of this subsection is changed
17 by subsequent modification of the appropriations act by the
18 legislature, both parties shall immediately enter into collective
19 bargaining for the sole purpose of arriving at a mutually agreed upon
20 replacement for the modified provision.

21 (5) Nothing in this section may be construed to require any
22 institution of higher education to bargain collectively with any
23 exclusive bargain representative concerning any matter covered by
24 chapter 41.05 RCW, except for the related cost or dollar contributions,
25 or chapter 41.32 or 41.40 RCW.

26 NEW SECTION. **Sec. 204.** A new section is added to chapter 41.06
27 RCW to read as follows:

28 At any time after the effective date of this section, an
29 institution of higher education and the exclusive bargaining
30 representative of a bargaining unit of employees classified under this
31 chapter may exercise their option to have their relationship and
32 corresponding obligations governed entirely by the provisions of
33 chapter 41.56 RCW as provided in section 203(3) of this act. The
34 parties shall provide notice to the director of human resources and the
35 public employment relations commission. On the first day of the month
36 following the month during which a collective bargaining is executed by
37 the parties recognizing the notice of intent and notice of the
38 execution of the agreement and a copy of the agreement are received by

1 the director and the commission, this chapter shall cease to apply to
2 all employees in the bargaining unit covered by the agreement.

3 NEW SECTION. **Sec. 205.** A new section is added to chapter 41.56
4 RCW to read as follows:

5 Collective bargaining for classified employees of technical
6 colleges covered under RCW 41.56.024 shall be subject to the following:

7 (1) Salary increases shall continue to be appropriated by the
8 legislature.

9 (2) The collective bargaining agreements may provide for salary
10 increases that are different from or that exceed the amount or
11 percentage for salary increases established by the legislature in the
12 appropriations act and allocated to the board of trustees by the state
13 board for community and technical colleges, but the base for salary
14 increases provided by the legislature shall include only those amounts
15 appropriated by the legislature and the base shall not include any
16 salary increases that exceed the amount appropriated.

17 (3) Any provisions of the collective bargaining agreements
18 pertaining to salary increases provided under subsection (1) of this
19 section shall be subject to modification. If any provision of a salary
20 increase provided under subsection (1) of this section is changed by
21 subsequent modification of the appropriations act by the legislature,
22 both parties shall immediately enter into collective bargaining for the
23 sole purpose of arriving at a mutually agreed upon replacement for the
24 modified provision.

25 (4) Nothing in this chapter may be construed to require any board
26 of trustees of a technical college to bargain collectively with any
27 exclusive bargaining representative concerning any matter covered by
28 chapter 41.05, 41.32, or 41.40 RCW.

29 **Sec. 206.** RCW 28B.50.140 and 1991 c 238 s 39 and 1991 c 58 s 1 are
30 each reenacted and amended to read as follows:

31 Each board of trustees:

32 (1) Shall operate all existing community and technical colleges in
33 its district;

34 (2) Shall create comprehensive programs of community and technical
35 college education and training and maintain an open-door policy in
36 accordance with the provisions of RCW 28B.50.090(3). However,
37 technical colleges, and college districts containing only technical

1 colleges, shall maintain programs solely for occupational education,
2 basic skills, and literacy purposes. For as long as a need exists,
3 technical colleges may continue those programs, activities, and
4 services they offered during the twelve-month period preceding
5 September 1, 1991;

6 (3) Shall employ for a period to be fixed by the board a college
7 president for each community and technical college and, may appoint a
8 president for the district, and fix their duties and compensation,
9 which may include elements other than salary. Compensation under this
10 subsection shall not affect but may supplement retirement, health care,
11 and other benefits that are otherwise applicable to the presidents as
12 state employees. The board shall also employ for a period to be fixed
13 by the board members of the faculty and such other administrative
14 officers and other employees as may be necessary or appropriate and fix
15 their salaries and duties. Compensation and salary increases under
16 this subsection shall not exceed the amount or percentage established
17 for those purposes in the state appropriations act by the legislature
18 as allocated to the board of trustees by the state board for community
19 and technical colleges, except that compensation and salary increases
20 for classified employees of technical colleges covered under chapter
21 41.56 RCW shall be governed by chapter 41.56 RCW as authorized in RCW
22 28B.50.874. The state board for community and technical colleges shall
23 adopt rules defining the permissible elements of compensation under
24 this subsection;

25 (4) May establish, under the approval and direction of the college
26 board, new facilities as community needs and interests demand.
27 However, the authority of boards of trustees to purchase or lease major
28 off-campus facilities shall be subject to the approval of the higher
29 education coordinating board pursuant to RCW 28B.80.340(5);

30 (5) May establish or lease, operate, equip and maintain
31 dormitories, food service facilities, bookstores and other self-
32 supporting facilities connected with the operation of the community and
33 technical college;

34 (6) May, with the approval of the college board, borrow money and
35 issue and sell revenue bonds or other evidences of indebtedness for the
36 construction, reconstruction, erection, equipping with permanent
37 fixtures, demolition and major alteration of buildings or other capital
38 assets, and the acquisition of sites, rights-of-way, easements,
39 improvements or appurtenances, for dormitories, food service

1 facilities, and other self-supporting facilities connected with the
2 operation of the community and technical college in accordance with the
3 provisions of RCW 28B.10.300 through 28B.10.330 where applicable;

4 (7) May establish fees and charges for the facilities authorized
5 hereunder, including reasonable rules and regulations for the
6 government thereof, not inconsistent with the rules and regulations of
7 the college board; each board of trustees operating a community and
8 technical college may enter into agreements, subject to rules and
9 regulations of the college board, with owners of facilities to be used
10 for housing regarding the management, operation, and government of such
11 facilities, and any board entering into such an agreement may:

12 (a) Make rules and regulations for the government, management and
13 operation of such housing facilities deemed necessary or advisable; and

14 (b) Employ necessary employees to govern, manage and operate the
15 same;

16 (8) May receive such gifts, grants, conveyances, devises and
17 bequests of real or personal property from private sources, as may be
18 made from time to time, in trust or otherwise, whenever the terms and
19 conditions thereof will aid in carrying out the community and technical
20 college programs as specified by law and the regulations of the state
21 college board; sell, lease or exchange, invest or expend the same or
22 the proceeds, rents, profits and income thereof according to the terms
23 and conditions thereof; and adopt regulations to govern the receipt and
24 expenditure of the proceeds, rents, profits and income thereof;

25 (9) May establish and maintain night schools whenever in the
26 discretion of the board of trustees it is deemed advisable, and
27 authorize classrooms and other facilities to be used for summer or
28 night schools, or for public meetings and for any other uses consistent
29 with the use of such classrooms or facilities for community and
30 technical college purposes;

31 (10) May make rules and regulations for pedestrian and vehicular
32 traffic on property owned, operated, or maintained by the district;

33 (11) Shall prescribe, with the assistance of the faculty, the
34 course of study in the various departments of the community and
35 technical college or colleges under its control, and publish such
36 catalogues and bulletins as may become necessary;

37 (12) May grant to every student, upon graduation or completion of
38 a course of study, a suitable diploma, nonbaccalaureate degree or
39 certificate. Technical colleges shall offer only nonbaccalaureate

1 technical degrees, certificates, or diplomas for occupational courses
2 of study under rules of the college board. Technical colleges in
3 districts twenty-eight and twenty-nine may offer nonbaccalaureate
4 associate of technical or applied arts degrees only in conjunction with
5 a community college the district of which overlaps with the district of
6 the technical college, and these degrees may only be offered after a
7 contract or agreement is executed between the technical college and the
8 community college. The authority and responsibility to offer transfer
9 level academic support and general education for students of districts
10 twenty-one and twenty-five shall reside exclusively with Whatcom
11 Community College. The board, upon recommendation of the faculty, may
12 also confer honorary associate of arts degrees upon persons other than
13 graduates of the community college, in recognition of their learning or
14 devotion to education, literature, art, or science. No degree may be
15 conferred in consideration of the payment of money or the donation of
16 any kind of property;

17 (13) Shall enforce the rules and regulations prescribed by the
18 state board for community and technical colleges for the government of
19 community and technical colleges, students and teachers, and promulgate
20 such rules and regulations and perform all other acts not inconsistent
21 with law or rules and regulations of the state board for community and
22 technical colleges as the board of trustees may in its discretion deem
23 necessary or appropriate to the administration of college districts:
24 PROVIDED, That such rules and regulations shall include, but not be
25 limited to, rules and regulations relating to housing, scholarships,
26 conduct at the various community and technical college facilities, and
27 discipline: PROVIDED, FURTHER, That the board of trustees may suspend
28 or expel from community and technical colleges students who refuse to
29 obey any of the duly promulgated rules and regulations;

30 (14) May, by written order filed in its office, delegate to the
31 president or district president any of the powers and duties vested in
32 or imposed upon it by this chapter. Such delegated powers and duties
33 may be exercised in the name of the district board;

34 (15) May perform such other activities consistent with this chapter
35 and not in conflict with the directives of the college board;

36 (16) Notwithstanding any other provision of law, may offer
37 educational services on a contractual basis other than the tuition and
38 fee basis set forth in chapter 28B.15 RCW for a special fee to private
39 or governmental entities, consistent with rules and regulations adopted

1 by the state board for community and technical colleges: PROVIDED,
2 That the whole of such special fee shall go to the college district and
3 be not less than the full instructional costs of such services
4 including any salary increases authorized by the legislature for
5 community and technical college employees during the term of the
6 agreement: PROVIDED FURTHER, That enrollments generated hereunder
7 shall not be counted toward the official enrollment level of the
8 college district for state funding purposes;

9 (17) Notwithstanding any other provision of law, may offer
10 educational services on a contractual basis, charging tuition and fees
11 as set forth in chapter 28B.15 RCW, counting such enrollments for state
12 funding purposes, and may additionally charge a special supplemental
13 fee when necessary to cover the full instructional costs of such
14 services: PROVIDED, That such contracts shall be subject to review by
15 the state board for community and technical colleges and to such rules
16 as the state board may adopt for that purpose in order to assure that
17 the sum of the supplemental fee and the normal state funding shall not
18 exceed the projected total cost of offering the educational service:
19 PROVIDED FURTHER, That enrollments generated by courses offered on the
20 basis of contracts requiring payment of a share of the normal costs of
21 the course will be discounted to the percentage provided by the
22 college;

23 (18) Shall be authorized to pay dues to any association of trustees
24 that may be formed by the various boards of trustees; such association
25 may expend any or all of such funds to submit biennially, or more often
26 if necessary, to the governor and to the legislature, the
27 recommendations of the association regarding changes which would affect
28 the efficiency of such association;

29 (19) Subject to the approval of the higher education coordinating
30 board pursuant to RCW 28B.80.340(4), may participate in higher
31 education centers and consortia that involve any four-year public or
32 independent college or university; and

33 (20) Shall perform any other duties and responsibilities imposed by
34 law or rule and regulation of the state board.

35
36

PART III
COLLECTIVE BARGAINING FOR STATE EMPLOYEES

1 NEW SECTION. **Sec. 301.** DEFINITIONS. Unless the context clearly
2 requires otherwise, the definitions in this section apply throughout
3 this chapter.

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

6 (2) "Collective bargaining" means the performance of the mutual
7 obligation of the representatives of the employer and the exclusive
8 bargaining representative to meet at reasonable times and to bargain in
9 good faith in an effort to reach agreement with respect to the subjects
10 of bargaining specified under section 305 of this act except by such
11 obligation neither party shall be compelled to agree to a proposal or
12 be required to make a concession.

13 (3) "Commission" means the public employment relations commission
14 created by chapter 41.58 RCW.

15 (4) "Confidential employee" means an employee who, in the regular
16 course of his or her duties, assists in a confidential capacity persons
17 who formulate, determine, and effectuate management policies with
18 regard to labor relations or who, in the regular course of his or her
19 duties, has authorized access to information relating to the
20 effectuation or review of the employer's collective bargaining policies
21 thereto or who assists or aids managerial employees.

22 (5) "Employee" means any employee covered by chapter 41.06 RCW,
23 including employees whose work has ceased in connection with the
24 pursuit of lawful activities protected by this chapter, except:

25 (a) Employees covered by chapter 41.56 RCW;

26 (b) Confidential employees;

27 (c) Management employees;

28 (d) Internal auditors in any agency; and

29 (e) Any employee of the commission, the personnel appeals board,
30 the office of financial management, the department of human resources,
31 or the attorney general's office or their successor organizations.

32 (6) "Employee organization" means any organization, union, or
33 association in which employees participate and that exists for the
34 purpose, in whole or in part, of collective bargaining.

35 (7) "Employer" means the state of Washington as represented by the
36 governor or the governor's designee.

37 (8) "Essential services personnel" means corrections officers
38 employed by the division of prisons of the department of corrections.

1 (9) "Exclusive bargaining representative" means any employee
2 organization that has been certified or recognized under this chapter
3 as the representative of the employees in an appropriate bargaining
4 unit.

5 (10) "Executive director" means the executive director of the
6 public employment relations commission.

7 (11) "Labor dispute" means any controversy concerning terms,
8 tenure, or conditions of employment, or concerning the association or
9 representation of persons in negotiating, fixing, maintaining,
10 changing, or seeking to arrange terms or conditions of employment with
11 respect to the subjects of bargaining provided in this chapter,
12 regardless of whether the disputants stand in the proximate relation of
13 employer and employee.

14 (12) "Managers" or "management employees" means employees who:

15 (a) Formulate policy or direct the work of an agency or subdivision
16 thereof; or

17 (b) Are responsible to administer and carry out policies and
18 programs of an agency or subdivision thereof; or

19 (c) Manage, administer, and control a local branch office of an
20 agency or subdivision thereof, including the physical, financial, or
21 personnel resources thereof; or

22 (d) Have substantial responsibility in personnel administration,
23 legislative relations, public information, or the preparation and
24 administration of budgets; or

25 (e) Functionally or organizationally are above the first level of
26 supervision.

27 (13) "Supervisor" means any employee who has authority, in the
28 interest of the employer, to hire, transfer, suspend, lay off, recall,
29 promote, discharge, assign, reward, or discipline other employees, or
30 to adjust employee grievances, or to effectively recommend such an
31 action, if, in connection with the foregoing, the exercise of authority
32 is not of a merely routine or clerical nature but requires the
33 consistent use of independent judgment. "First level of supervision"
34 and "first level supervisor" means the lowest level at which an
35 employee functions as a supervisor.

36 (14) "Unfair labor practice" means any unfair labor practice listed
37 in section 314 of this act.

38 (15) "Union security provision" means a provision in a collective
39 bargaining agreement under which some or all of the employees in the

1 bargaining unit may be required, as a condition of continued employment
2 on or after the thirtieth day following the beginning of such
3 employment or the effective date of the provision, whichever is later,
4 to become a member of the exclusive bargaining representative or pay a
5 representation fee not greater than the periodic dues and initiation
6 fees uniformly required as a condition of acquiring or retaining
7 membership in the exclusive bargaining representative.

8 (16) "Work stoppage" means any suspension, curtailment, or other
9 interruption of normal work in connection with a labor dispute under
10 this chapter or occurring during the course of collective bargaining,
11 including a strike, which means any action by employees or employee
12 organizations, acting in concert, wherein any or all of such employees
13 withhold or otherwise fail or refuse to perform fully their normal
14 duties or services as employees.

15 NEW SECTION. **Sec. 302.** DUTIES OF THE COMMISSION. Within the
16 provisions set forth in this chapter, the duties of the commission
17 shall be as follows:

18 (1) Through its executive director, to provide mediation services,
19 either upon its own motion or upon the request of one or more of the
20 parties to a labor dispute arising under this chapter:

21 (a) A mediator appointed by the commission shall meet with the
22 representatives of the parties, either jointly or separately and shall
23 take such other steps as the mediator deems appropriate in order to
24 persuade the parties to resolve their differences and effect an
25 agreement. A mediator does not have a power of compulsion;

26 (b) If the executive director is not able to bring the parties to
27 agreement by mediation within a reasonable time the executive director
28 shall seek to induce the parties voluntarily to seek other means of
29 settling the dispute without resort to a work stoppage or other
30 coercion, including submission to the employees in the bargaining unit
31 of the employer's last offer of settlement for approval or rejection in
32 a secret ballot. The failure or refusal of either party to agree to
33 any procedure suggested by the executive director shall not be deemed
34 a violation of any duty or obligation imposed by this chapter;

35 (c) No person who has served as a mediator under this chapter may
36 thereafter be compelled in any civil hearing or proceeding to give
37 testimony or produce evidence concerning any information obtained in
38 the course of his or her activities as mediator;

1 (2) To resolve disputes concerning the assignment of
2 classifications covered by this chapter to the appropriate bargaining
3 unit established under section 309 of this act;

4 (3) To resolve any unfair labor practice filed by any employee,
5 employee organization, or employer;

6 (4) To resolve any issue arising under this chapter with respect to
7 representation matters covered by section 308 of this act.

8 NEW SECTION. **Sec. 303.** RULES. (1) The commission may adopt,
9 amend, and rescind rules in the manner prescribed by chapter 34.05 RCW
10 as necessary to carry out the provisions of this chapter, consistent
11 with the best standards of labor management relations.

12 (2) In adopting rules under this chapter the commission shall give
13 notice to, and consider proposals from, employee representatives and
14 affected agencies. Complete and current compilations of all rules of
15 the commission in printed form shall be available to the public free of
16 charge.

17 NEW SECTION. **Sec. 304.** EMPLOYEE RIGHTS. Employees shall have the
18 right to self-organize, form, join, or assist employee organizations,
19 to bargain collectively through representatives of their own choosing,
20 and to engage in other lawful concerted activities for the purposes of
21 collective bargaining or other mutual aid or protection, free from
22 interference, restraint, or coercion, and may also refrain from any or
23 all such activities except to the extent that employees may be required
24 to pay a fee to an exclusive bargaining representative under a union
25 security provision authorized by this chapter.

26 NEW SECTION. **Sec. 305.** SCOPE OF BARGAINING. (1) Except as
27 otherwise provided in this section, the matters subject to collective
28 bargaining are wages, hours, and other terms and conditions of
29 employment, and the negotiation of any question arising under a
30 collective bargaining agreement.

31 (2) The scope of bargaining shall not include matters pertaining
32 to:

33 (a) Merit system principles related to recruitment, examinations,
34 certification, and appointments of employees; classification, including
35 reclassification, of positions; position qualification standards; and
36 the career executive program, the Washington management services

1 program, veteran's preferences, and equal opportunity and affirmative
2 action plans;

3 (b) Any retirement system, retirement benefit, or retirement
4 statute of the state of Washington;

5 (c) Health care benefits or other employee insurance benefits but
6 the cost or dollar contributions related thereto may be bargained; and

7 (d) Inherent managerial policy, which shall include such areas of
8 discretion or policy as the functions, programs, business hours, and
9 organizational structure of the employer, the employer's overall
10 budget, the decision to use technology, and the selection and direction
11 of employees.

12 (3) In the event of a dispute between the employer and the
13 exclusive bargaining representative over which matters are mandatory
14 subjects for bargaining, the dispute shall be submitted to the
15 commission for determination. Prior law, practice, or interpretation
16 shall be neither restrictive, expansive, nor determinative with respect
17 to the scope of bargaining.

18 NEW SECTION. Sec. 306. COLLECTIVE BARGAINING AGREEMENTS. (1) The
19 parties to a collective bargaining agreement shall reduce the agreement
20 to writing and both shall execute it.

21 (2) A collective bargaining agreement shall contain provisions
22 that:

23 (a) Require that the factors to be considered in determining the
24 order of layoffs and subsequent reemployment include both seniority and
25 the implementation and maintenance of approved affirmative action
26 plans;

27 (b) Require processing of disciplinary actions or termination of
28 employment entirely under the procedures of the collective bargaining
29 agreement if an employee covered under this chapter has a right to
30 contest the disciplinary action or termination of employment;

31 (c) Identify management rights; and

32 (d) Provide for joint labor/management committees at the levels
33 within the agency deemed appropriate by the parties.

34 (3) If a collective bargaining agreement between an employer and
35 the exclusive bargaining representative is concluded after the
36 termination date of the previous collective bargaining agreement
37 between the employer and an employee organization representing the same
38 or a substantially similar bargaining unit, the effective date of the

1 collective bargaining agreement may be the day after the termination of
2 the previous collective bargaining agreement, and some or all benefits
3 included in the new collective bargaining agreement, including wage or
4 salary increases, may accrue beginning with that effective date.

5 NEW SECTION. **Sec. 307.** ENFORCEMENT OF COLLECTIVE BARGAINING
6 AGREEMENTS. (1) Collective bargaining agreements negotiated under this
7 chapter shall contain provisions for the final and binding arbitration
8 of all disputes arising over the interpretation or application of the
9 agreement.

10 (2) The parties to a collective bargaining agreement may agree on
11 one or more permanent umpires to serve as arbitrator, may agree on any
12 impartial person to serve as an ad hoc arbitrator, or may agree to
13 select arbitrators from any source available to them including federal
14 and private agencies or a list of arbitrators maintained by the
15 commission.

16 (3) An arbitrator may require any person to attend as a witness and
17 to bring with him or her any book, record, document, or other evidence.
18 Subpoenas shall be issued and signed by the arbitrator and shall be
19 served in the same manner as subpoenas to testify before a court of
20 record in this state. The fees for attendance shall be paid by the
21 party requesting issuance of the subpoena and shall be the same as the
22 fees of witnesses in the superior court. If any person so summoned to
23 testify refuses or neglects to obey the subpoena, upon petition
24 authorized by the arbitrator, the superior court may compel the
25 attendance of the person before the arbitrator or punish the person for
26 contempt in the same manner provided for the attendance of witnesses or
27 the punishment of them in the courts of this state.

28 (4) The arbitrator shall establish a time and place for a hearing
29 and shall provide reasonable notice thereof to the parties to the
30 dispute. The arbitrator may adjourn the hearing from time to time as
31 may be necessary and, on application of either party and for good
32 cause, postpone the hearing to a time not extending beyond a date fixed
33 by the collective bargaining agreement for making the award. The
34 arbitrator shall have the power to administer oaths. Each party shall
35 have the opportunity to present evidence and make argument at the
36 hearing. The rules of evidence prevailing in judicial proceedings may
37 be considered, but are not binding, and any oral testimony or
38 documentary evidence or other data deemed relevant by the arbitrator

1 may be received in evidence. The arbitrator shall issue a written
2 decision, which shall be signed by the arbitrator. The arbitrator
3 shall promptly serve a copy of the decision on each of the parties or
4 their attorneys.

5 (5) If a party to a collective bargaining agreement negotiated
6 under this chapter refuses to submit a grievance for arbitration, the
7 other party to the collective bargaining agreement may petition the
8 jurisdiction of the superior court of Thurston county for issuance of
9 an order compelling arbitration. Disputes concerning compliance with
10 grievance procedures shall be reserved for determination by the
11 arbitrator. Arbitration shall be ordered if the grievance states a
12 claim which on its face is covered by the collective bargaining
13 agreement, and doubts as to the arbitrability of an issue shall be
14 referred to the arbitrator to be decided before hearing the merits of
15 the case. Disputes concerning compliance with grievance procedures
16 shall be reserved for determination by the arbitrator.

17 (6) If a party to a collective bargaining agreement negotiated
18 under this chapter refuses to comply with the award of an arbitrator
19 determining a grievance arising under the collective bargaining
20 agreement, the other party to the collective bargaining agreement may
21 petition the superior court of Thurston county for issuance of an order
22 enforcing the arbitration award. The court shall not substitute its
23 judgment for that of the arbitrator, and shall enforce any arbitration
24 award that is based on the collective bargaining agreement, except that
25 an arbitration award shall not be enforced if the court is satisfied
26 that substantial rights of the parties have been prejudiced by:

27 (a) The arbitration award having been procured by corruption,
28 fraud, or undue means; or

29 (b) Evident partiality or corruption in the arbitrator or
30 arbitrators; or

31 (c) The arbitrator or arbitrators were guilty of misconduct in
32 refusing to postpone a hearing upon sufficient cause shown or in
33 refusing to hear evidence pertinent and material to the controversy, or
34 of any other misbehavior by which the rights of any party have been
35 prejudiced; or

36 (d) The arbitrator or arbitrators have exceeded their powers, or so
37 imperfectly executed them that a final and definite award on the
38 subject matter was not made.

1 (7) If an arbitration award is vacated, the court shall direct a
2 rehearing either before the same arbitrator or before a new arbitrator
3 to be chosen in the manner provided in the collective bargaining
4 agreement for the selection of the original arbitrator. Any provision
5 limiting the time in which the arbitrator may make a decision shall be
6 deemed applicable to the new arbitration and to commence from the date
7 of the court's order.

8 (8) Nothing in this chapter or rules adopted under it may be
9 construed to authorize the commission or an arbitrator to direct in any
10 manner the method, means, and number, and kinds of personnel by which
11 agency operations are to be conducted or the number of clients to be
12 served by agency programs and operations, or to spend money not already
13 appropriated by the legislature, or that would have the effect of
14 increasing the future appropriations or diminishing established
15 programs.

16 (9) If there is any conflict between any collective bargaining
17 agreement and any resolution, rule, or policy of the employer or its
18 agents, the terms of the collective bargaining agreement shall prevail
19 except with respect to those terms that conflict with section 305(2) of
20 this act.

21 NEW SECTION. **Sec. 308.** REPRESENTATION. (1) Transition from
22 bargaining units certified under RCW 41.06.150 to bargaining units
23 established by this chapter shall be in accordance with section 311 of
24 this act. All subsequent questions pertaining to the issue of
25 representation shall be resolved by the commission in accordance with
26 the procedures in this section.

27 (a) Questions concerning representation may not be raised within
28 one year following certification of an exclusive bargaining
29 representative under this section.

30 (b) Questions concerning representation may not be raised within
31 one year following an election or cross-check in which the employees
32 failed to designate an exclusive bargaining representative.

33 (c) If there is a valid collective bargaining agreement in effect,
34 questions concerning representation may not be raised except during the
35 period not more than ninety nor less than sixty days before the
36 expiration date of the agreement. In the event a valid collective
37 bargaining agreement, together with any renewals or extensions thereof,
38 has been or will be in existence for more than three years, questions

1 concerning representation may be raised not more than ninety nor less
2 than sixty days before the third anniversary date or any subsequent
3 anniversary date of the agreement. If the exclusive bargaining
4 representative is removed as the result of this procedure, the
5 collective bargaining agreement shall be deemed to be terminated as of
6 the date of the certification.

7 (d) An employee organization seeking certification as exclusive
8 bargaining representative of a bargaining unit of employees, or
9 bargaining unit employees seeking decertification of their exclusive
10 bargaining representative, shall make a confidential showing to the
11 commission of credible evidence demonstrating that at least thirty
12 percent of the employees in the bargaining unit are in support of the
13 petition.

14 (e) A petition filed by an employer shall be supported by credible
15 evidence demonstrating the good faith basis on which the employer
16 claims the existence of a question concerning the representation among
17 its employees.

18 (f) Any employee organization that makes a confidential showing to
19 the commission of credible evidence demonstrating that it has the
20 support of at least ten percent of the employees in the bargaining unit
21 involved may intervene in the proceedings under this section, and may
22 have its name listed as a choice on the ballot in an election conducted
23 by the commission.

24 (g) The commission shall determine any question concerning
25 representation by conducting a secret ballot election among the
26 employees in the bargaining unit, except:

27 (i) If only one employee organization is seeking certification as
28 exclusive bargaining representative of a bargaining unit for which
29 there is no incumbent exclusive bargaining representative, the
30 commission may, upon the concurrence of the employer and the employee
31 organization, determine the question concerning representation by
32 conducting a cross-check comparing the employee organization's
33 membership records or bargaining authorization cards against the
34 employment records of the employer; or

35 (ii) Where the commission determines that a serious unfair labor
36 practice has been committed that interfered with the election process
37 and precludes the holding of a fair election, the commission may
38 determine the question concerning representation by conducting a cross-
39 check comparing the employee organization's membership records or

1 bargaining authorization cards against the employment records of the
2 employer.

3 (h) The representation election ballot shall contain a choice for
4 each employee organization qualifying under subsection (d) or (f) of
5 this section, together with a choice for no representation. The
6 representation election shall be determined by the majority of the
7 valid ballots cast. Where there are three or more choices on the
8 ballot and none of the choices receives a majority of the valid ballots
9 cast, a runoff election shall be conducted between the two choices
10 receiving the highest and second highest numbers of votes.

11 (2) The employee organization that has been designated or selected
12 by the majority of the employees in an appropriate bargaining unit as
13 their representative for the purposes of collective bargaining shall be
14 the exclusive bargaining representative of, and shall be required to
15 represent, all the employees within the bargaining unit without regard
16 to membership in that employee organization. However, any employee or
17 group of employees may at any time present complaints or concerns to
18 the employer and have such complaints or concerns adjusted without
19 intervention of the exclusive bargaining representative, as long as the
20 exclusive bargaining representative has been given an opportunity to be
21 present at the adjustment and to make its views known, and as long as
22 the adjustment is not inconsistent with the terms of a collective
23 bargaining agreement then in effect.

24 NEW SECTION. **Sec. 309.** BARGAINING UNITS. The legislature finds
25 that to foster meaningful collective bargaining, units must be
26 structured to avoid excessive fragmentation whenever possible. In
27 accordance with this policy, collective bargaining units under this
28 chapter shall be structured on a state-wide basis and limited to one
29 collective bargaining unit for each of the following:

30 (1) Clerical, office, and administrative support including but not
31 limited to nonprofessional clerical and administrative classes:
32 Typists, secretaries, accounting clerks, computer operators, office
33 service personnel, and similar classes;

34 (2) Maintenance, services, operations support, trades, and
35 technical classes including but not limited to generally recognized
36 blue collar and technical classes, including highway maintenance
37 workers, carpenters, plumbers, electricians, auto mechanics,
38 engineering aides and associates, and similar classes;

1 (3) Health and human care professionals, including but not limited
2 to community health, nutrition and health service professional
3 employees, pharmacists, dietitians, licensed therapists, and similar
4 classes;

5 (4) Direct care institutions and related nonprofessional classes
6 involved in health and human care including but not limited to
7 institutional care classes, including nursing aides, psychiatric aides,
8 therapy aides, and similar classes;

9 (5) Corrections custody classes in adult corrections institutions,
10 excluding employees of the division of community corrections;

11 (6) Engineering, science and resources, including but not limited
12 to specialized professional scientific occupations, civil and other
13 engineers, architects, chemists, biologists, geologists, surveyors, and
14 similar classes;

15 (7) Professional and technical employees involved in financial and
16 revenue collection, auditing, and examination;

17 (8) Professional and technical employees involved in nonfinancial
18 regulatory and inspection activities;

19 (9) Professional and technical employees involved in forestry,
20 natural resources, environmental, and related classes;

21 (10) Professional employees, excluding professional employees who
22 meet the standards of other professional units;

23 (11) Teachers of the school for the blind and school for the deaf;

24 (12) Highway and transportation engineers, engineering technicians,
25 and related classes;

26 (13) Liquor store clerks and related classes;

27 (14) Driver's licensing examiners;

28 (15) Registered nurses and job classes requiring licensure as a
29 registered nurse;

30 (16) Licensed physicians, psychiatrists, psychologists, and
31 dentists;

32 (17) Law enforcement, including all classes with power to arrest,
33 whose work involves primarily the enforcement of statutes, ordinances,
34 and rules and the preservation of public order; and

35 (18) Supervisory employees. However, an employee organization that
36 is certified to represent nonsupervisory employees covered under this
37 chapter that becomes the exclusive bargaining representative for this
38 unit shall create a separate local for supervisory employees within its
39 organization.

1 NEW SECTION. **Sec. 310.** UNION SECURITY. (1) The parties to a
2 collective bargaining agreement may negotiate, as a condition of
3 employment, a union security provision. However, agreements involving
4 union security provisions shall safeguard the right of nonassociation
5 based on employee preference or on bona fide religious tenets or
6 teachings of a church or religious body of which the public employee is
7 a member. Payment of dues or a representation fee shall begin on the
8 thirtieth day following the beginning of employment or thirty days
9 after the date of ratification of an agreement containing a union
10 security provision, whichever is later. The failure of an employee to
11 comply with such a condition of employment constitutes cause for
12 dismissal. An exclusive bargaining representative may not require a
13 bargaining unit employee to pay initiation, reinstatement, or any other
14 fees or fines.

15 (2) Each employee organization shall establish a procedure by which
16 any employee so requesting may obtain a rebate of that part of the
17 membership dues or representation fee, if any, that represents a pro
18 rata share of expenditures for purposes not germane to the collective
19 bargaining process or to contract administration.

20 (3) Upon filing with the employer the voluntary written
21 authorization of a bargaining unit employee under this chapter, the
22 employee organization that is the exclusive bargaining representative
23 of the bargaining unit has the right to have deducted from the salary
24 of the employee an amount equal to the dues and/or fees uniformly
25 required as a condition of acquiring or retaining membership in the
26 employee organization. The dues and/or fees shall be deducted each pay
27 period from the pay of all employees who have given authorization for
28 the deduction and shall be transmitted by the employer as provided for
29 by agreement between the employer and the employee organization. The
30 right to deduct dues and/or fees shall be an exclusive right of the
31 employee organization that represents the unit in which the employee is
32 employed.

33 (4) To safeguard the right of nonassociation of employees, based on
34 bona fide religious tenets or teachings of a church or religious body
35 of which the employee is a member, the employee shall pay to a
36 charitable organization mutually agreed to between the employee and the
37 employee organization, an amount of money not greater than the dues
38 and/or fees assessed all other members or nonmembers of the
39 organization. The employee shall be required to provide the employee

1 organization with a monthly receipt from the charitable organization
2 showing the amount of the cash contribution. Such an employee shall
3 not be a member of the employee organization but is entitled to all the
4 representation rights of a member of the employee organization.
5 Disputes regarding the bona fide religious objections or charitable
6 contributions shall be decided by the commission.

7 (5) Until an exclusive bargaining representative is selected for a
8 bargaining unit under this chapter or July 1, 1995, whichever is
9 earlier, employee organizations that, before the effective date of this
10 section, were entitled to the union shop dues or representation fees
11 pursuant to preexisting law or rules shall continue to be entitled to
12 such dues and fees until an exclusive bargaining representative is
13 certified under this chapter. Upon the selection of an exclusive
14 bargaining representative, only the exclusive bargaining representative
15 for the bargaining unit is entitled to the rights established under
16 this section.

17 NEW SECTION. **Sec. 311.** TRANSITION OF BARGAINING REPRESENTATIVES
18 AND UNITS. The transition of exclusive bargaining representatives and
19 bargaining units existing before the effective date of this section to
20 the units prescribed in section 309 of this act and to exclusive
21 bargaining representatives under this chapter shall be implemented as
22 follows:

23 (1) Any bargaining representative that has been certified under
24 prior law and rules to represent employees now included in a unit
25 established in section 309 of this act may use the number of its
26 regular dues paying members included in the new unit to establish its
27 status as a petitioner or intervenor under section 308 of this act if:

28 (a) One and only one employee organization has a majority of the
29 employees in the unit who are regular dues paying members, then the
30 employee organization shall be entitled to a certification as the
31 exclusive bargaining representative by the commission for the new
32 bargaining unit without the necessity of a representation election;

33 (b) Two or more employee organizations have more than a majority of
34 the employees in the unit established in section 309 of this act as
35 regular dues paying members, then an election shall be held under the
36 provisions of section 308 of this act to determine which such employee
37 organization shall be entitled to a certification as the exclusive

1 bargaining representative by the commission for the new bargaining
2 unit;

3 (c) On the effective date of this section, less than a majority of
4 the employees to be included in a bargaining unit prescribed in section
5 309 of this act are represented by a single existing certified
6 bargaining representative as evidenced by the number of employees
7 paying regular dues to the organization, representation of employees in
8 the new bargaining unit shall be determined pursuant to section 308 of
9 this act.

10 (2) An employee organization that has been the certified exclusive
11 bargaining representative of employees under any other law or rule
12 before the effective date of this section may continue to represent
13 such employees until they are included in a unit established under
14 section 309 of this act. However, agencies may not renegotiate any
15 existing agreement, enter into a new collective bargaining agreement,
16 or extend an existing agreement beyond the agreement's expiration date
17 in effect on the effective date of this section. No provision in any
18 such agreement may be unilaterally changed by the employer before its
19 next expiration date, or the date of certification of the new exclusive
20 bargaining representative under this chapter, whichever occurs first,
21 without the employer giving ninety days' advance notice to the
22 certified exclusive bargaining representative and, if requested,
23 bargaining with the representative over the proposed changes under the
24 provisions of this chapter.

25 (3) An employee organization may not be initially certified as an
26 exclusive bargaining representative in any bargaining unit established
27 by this chapter if a dispute exists over the classification to be
28 included in the unit that could affect the determination of its status
29 as the representative of a majority of the employees included in the
30 unit including the employees in disputed classifications.

31 NEW SECTION. Sec. 312. NEGOTIATION AND RATIFICATION OF COLLECTIVE
32 BARGAINING AGREEMENTS. (1) Collective bargaining agreement
33 negotiations under this chapter shall commence no later than October 1,
34 1994, for collective bargaining agreements that are to become effective
35 no earlier than July 1, 1995, for those units in which an exclusive
36 bargaining representative has been selected, or as soon thereafter as
37 an exclusive bargaining representative has been selected for a

1 bargaining unit. For subsequent agreements, negotiations shall
2 commence and contracts become effective as the parties agree.

3 (2) After ratification of a tentative agreement by the employees in
4 the bargaining unit, the items requiring funding shall be submitted to
5 the joint committee on collective bargaining created in subsection (4)
6 of this section. If the committee approves the submitted items, the
7 governor shall request legislation necessary to implement the items
8 requiring funding. If the legislature fails to act on the legislation
9 submitted or rejects all or part of the legislation submitted, the
10 tentative agreement shall be returned to the parties for renegotiation.

11 (3) Any provisions of these agreements pertaining to salary
12 increases shall be subject to modification by the legislature. If any
13 provision of a salary increase is changed by subsequent modification of
14 the appropriations act by the legislature, both parties shall
15 immediately enter into collective bargaining for the sole purpose of
16 arriving at a mutually agreed upon replacement for the modified
17 provision.

18 (4) The joint committee on collective bargaining is created, to
19 consist of the speaker of the house of representatives, the majority
20 leader of the house of representatives, the minority leader of the
21 house of representatives, the chair of the house of representatives
22 committee on appropriations, or successor committee, the majority
23 leader of the senate, the minority leader of the senate, the president
24 pro tempore of the senate, and the chair of the senate committee on
25 ways and means, or successor committee.

26 NEW SECTION. **Sec. 313.** ESSENTIAL SERVICES PERSONNEL. (1) If,
27 sixty days after commencement of negotiations, no agreement has been
28 reached between essential services personnel and their employer, then
29 at any time thereafter either party may declare that an impasse exists
30 and may submit a request for mediation to the commission, with or
31 without the concurrence of the other party. Until a new collective
32 bargaining agreement involving essential services personnel is
33 negotiated, the terms and conditions of the previous collective
34 bargaining agreement shall remain in effect.

35 (2) This section does not prohibit the parties from agreeing to
36 substitute at their own expense some other mediator or mediation
37 procedure.

1 (3) Work stoppages involving essential services personnel are
2 hereby expressly prohibited.

3 NEW SECTION. **Sec. 314.** UNFAIR LABOR PRACTICES. (1) It shall be
4 an unfair labor practice for an employer to:

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

7 (b) Control, dominate, or interfere with the formation or
8 administration of any employee organization or contribute financial or
9 other support to it. However, an employer shall not be prohibited from
10 permitting employees to confer with it or its representatives or agents
11 during working hours without loss of time or pay;

12 (c) Encourage or discourage membership in any employee organization
13 by discrimination with regard to hiring, tenure of employment, or any
14 term or condition of employment, but this subsection does not prevent
15 an employer from enforcing a union security provision authorized by
16 this chapter;

17 (d) Discharge or otherwise discriminate against an employee who has
18 filed charges or given testimony under this chapter; or

19 (e) Refuse to bargain collectively with the exclusive bargaining
20 representative of its employees.

21 (2) It shall be an unfair labor practice for an employee
22 organization or its agents to:

23 (a) Restrain or coerce:

24 (i) Employees in the exercise of the rights guaranteed in this
25 chapter. However, this subsection does not impair the right of an
26 employee organization to prescribe its own rules with respect to the
27 acquisition or retention of membership therein; or

28 (ii) The employer in the selection of its representatives for the
29 purposes of collective bargaining or the adjustment of grievances;

30 (b) Cause or attempt to cause the employer to discriminate against
31 an employee in violation of subsection (1)(c) of this section, or to
32 discriminate against an employee with respect to whom membership in
33 such organization has been denied or terminated on some ground other
34 than his or her failure to tender the amounts required under a union
35 security provision authorized by this chapter;

36 (c) Discriminate against an employee because he or she has filed
37 charges or given testimony under this chapter;

1 (d) Refuse to bargain collectively with the employer of an employee
2 for whom it is the exclusive bargaining representative;

3 (e) Cause or attempt to cause the employer to pay or deliver or
4 agree to pay or deliver any money or other thing of value, in the
5 nature of an exaction, for services that are not performed or not to be
6 performed; or

7 (f) Breach its duty of fair representation with respect to any
8 employee or employees in a bargaining unit for which the employee
9 organization is exclusive bargaining representative, by action or
10 inaction that is arbitrary, discriminatory, perfunctory, or lacking in
11 good faith. It is not a violation of this section for an employee
12 organization to refuse to pursue a grievance on behalf of one or more
13 employees where, following investigation of the facts and
14 circumstances, the employee organization makes a determination in good
15 faith that the grievance is without merit.

16 (3) The expressing of any views, argument, or opinion, or the
17 dissemination thereof, whether in written, printed, graphic, or visual
18 form, shall not constitute or be evidence of an unfair labor practice
19 under any of the provisions of this chapter, if the expression contains
20 no threat of reprisal or force or promise of benefit.

21 NEW SECTION. **Sec. 315.** UNFAIR LABOR PRACTICE PROCEDURES. The
22 commission shall resolve any unfair labor practice dispute in
23 accordance with the procedures specified in this section.

24 (1) A complaint charging unfair labor practices shall be filed
25 within six months following the act or event in question.

26 (2) The person or persons named as respondent in a complaint
27 charging unfair labor practices may file an answer to the complaint and
28 appear in person or otherwise to give testimony at the place and time
29 set by the commission for hearing.

30 (3) If the commission determines that a person has engaged in or is
31 engaging in any unfair labor practice, then the commission shall issue
32 and cause to be served upon the person an order requiring the person to
33 cease and desist from the unfair labor practice and to take such
34 affirmative action as will effectuate the purposes and the policy of
35 this chapter, including the reinstatement of employees with back pay.

36 (4) The commission may petition the Thurston county superior court
37 for appropriate temporary relief or for the enforcement of its order.

1 NEW SECTION. **Sec. 316.** EMPLOYER RESPONSIBILITIES. (1) The
2 governor may appoint a designee to fulfill the collective bargaining
3 responsibilities as the state employer under this chapter.

4 (2) As directed by the governor, the designee shall:

5 (a) Develop and implement labor relations policies and programs;

6 (b) Represent the governor in: Negotiations with certified
7 bargaining representatives; the determination of classifications to be
8 included in bargaining units; elections to determine certified
9 bargaining agents; and other proceedings arising under this chapter;
10 and any other activities necessary to implement the collective
11 bargaining policies established by this chapter;

12 (c) Consult with and involve agency representatives as appropriate
13 during collective bargaining. The designee and the exclusive
14 bargaining representative may agree to form negotiation subcommittees
15 to address issues specific to one or more agencies or specific subjects
16 as the designee and exclusive bargaining representative deem
17 appropriate;

18 (d) Administer and interpret collective bargaining agreements, and
19 coordinate and direct agency activities as necessary to promote
20 consistent policies and practices;

21 (e) Coordinate the state's resources as needed to represent the
22 state in collective bargaining under this chapter; and

23 (f) Provide advice on labor relations to the various departments
24 and agencies of state government, including providing for necessary
25 supervisory and managerial training.

26 (3) All state departments and agencies shall provide such
27 assistance, services, and information as required by the governor or
28 his or her designee, and shall take such administrative or other action
29 as directed to implement and administer the provisions of any binding
30 agreement between the state and certified bargaining representatives
31 entered into under this chapter.

32 **Sec. 317.** RCW 41.04.230 and 1993 c 2 s 26 (Initiative Measure No.
33 134) and 1992 c 192 s 1 are each reenacted and amended to read as
34 follows:

35 Any official of the state authorized to disburse funds in payment
36 of salaries and wages of public officers or employees is authorized,
37 upon written request of the officer or employee, to deduct from the
38 salaries or wages of the officers or employees, the amount or amounts

1 of subscription payments, premiums, contributions, or continuation
2 thereof, for payment of the following:

3 (1) Credit union deductions: PROVIDED, That twenty-five or more
4 employees of a single state agency or a total of one hundred or more
5 state employees of several agencies have authorized such a deduction
6 for payment to the same credit union. An agency may, in its own
7 discretion, establish a minimum participation requirement of fewer than
8 twenty-five employees.

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

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

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

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

28 ~~(6) Labor or employee organization dues may be deducted in the
29 event that a payroll deduction is not provided under a collective
30 bargaining agreement under the provisions of RCW 41.06.150: PROVIDED,
31 That twenty five or more officers or employees of a single agency, or
32 a total of one hundred or more officers or employees of several
33 agencies have authorized such a deduction for payment to the same labor
34 or employee organization: PROVIDED, FURTHER, That labor or employee
35 organizations with five hundred or more members in state government may
36 have payroll deduction for employee benefit programs.~~

37 ~~(7))~~ Insurance contributions to the authority for payment of
38 premiums under contracts authorized by the state health care authority.

1 preservation of the public peace, health, or safety, or support of the
2 state government and its existing public institutions, and shall take
3 effect July 1, 1993.

4 NEW SECTION. **Sec. 404.** Section 317 of this act shall take effect
5 July 1, 1995.

6 NEW SECTION. **Sec. 405.** Sections 110 and 116 of this act shall
7 expire June 30, 1994.

8 NEW SECTION. **Sec. 406.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

--- END ---