
SENATE BILL 5941

State of Washington

53rd Legislature

1993 Regular Session

By Senators Moore, Gaspard, Sellar, Jesernig, Wojahn, Williams and Rinehart; by request of Governor Lowry

Read first time 03/01/93. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to state government; amending RCW 41.06.030,
2 41.06.070, 41.06.080, 41.06.140, 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, 41.06.350, 41.06.380, 41.06.400, 41.06.410,
5 41.06.420, 41.06.430, 41.06.450, 41.06.475, 41.06.490, 43.17.010,
6 43.17.020, and 41.56.100; amending 1982 c 208 s 9 (uncodified);
7 reenacting and amending RCW 41.06.020, 41.56.030, and 41.04.230;
8 adding new sections to chapter 41.06 RCW; adding new sections to
9 chapter 41.56 RCW; adding a new chapter to Title 43 RCW; adding a new
10 chapter to Title 41 RCW; creating new sections; repealing RCW
11 28B.16.010, 28B.16.020, 28B.16.030, 28B.16.040, 28B.16.041, 28B.16.042,
12 28B.16.043, 28B.16.060, 28B.16.070, 28B.16.080, 28B.16.090, 28B.16.100,
13 28B.16.101, 28B.16.105, 28B.16.110, 28B.16.112, 28B.16.113, 28B.16.116,
14 28B.16.120, 28B.16.130, 28B.16.140, 28B.16.150, 28B.16.160, 28B.16.170,
15 28B.16.180, 28B.16.190, 28B.16.200, 28B.16.210, 28B.16.220, 28B.16.230,
16 28B.16.240, 28B.16.255, 28B.16.265, 28B.16.275, 28B.16.300, 28B.16.900,
17 28B.16.910, 28B.16.920, 28B.16.930, 41.06.010, 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, and
19 41.06.340; providing effective dates; and declaring an emergency.

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

1 salary to be fixed by the governor in accordance with RCW 43.03.040.
2 If a vacancy occurs in the position while the senate is not in session,
3 the governor shall make a temporary appointment until the next meeting
4 of the senate.

5 NEW SECTION. **Sec. 105.** It is the intent of the legislature
6 wherever possible to place the internal affairs of the department under
7 the control of the director. Therefore, whenever the director's
8 authority is not specifically limited by law, the director shall have
9 complete charge and supervisory powers over the department. The
10 director may create such administrative structures as the director
11 considers appropriate, except as otherwise specified by law. The
12 director may employ such assistants and personnel as may be necessary
13 for the general administration of the department. This employment
14 shall be in accordance with the state civil service law, chapter 41.06
15 RCW, except as otherwise provided.

16 NEW SECTION. **Sec. 106.** The department of human resources shall be
17 subdivided into divisions. Except as otherwise specified or as federal
18 requirements may differently require, these divisions shall be
19 established and organized in accordance with plans to be prepared by
20 the director and approved by the governor. In preparing such plans,
21 the director shall endeavor to promote efficient public management, to
22 improve programs, and to take full advantage of the economies, both
23 fiscal and administrative, to be gained from the consolidation of
24 functions and agencies under this chapter.

25 NEW SECTION. **Sec. 107.** Any power or duty vested in or transferred
26 to the director by law, or executive order, may be delegated by the
27 director to the deputy director or to any other assistant or
28 subordinate; but the director shall be responsible for the official
29 acts of the officers and employees of the department.

30 NEW SECTION. **Sec. 108.** The director may appoint such advisory
31 committees or councils as may be required by any federal legislation as
32 a condition to the receipt of federal funds by the department. The
33 director may also appoint state-wide committees or councils on such
34 subject matters as are or come within the department's
35 responsibilities.

1 Members of such state advisory committees or councils may be paid
2 their travel expenses in accordance with RCW 43.03.050 and 43.03.060.

3 NEW SECTION. **Sec. 109.** In furtherance of the policy of the state
4 to cooperate with the federal government in all of the programs under
5 the jurisdiction of the department, such rules as may become necessary
6 to entitle the state to participate in federal funds may be adopted,
7 unless expressly prohibited by law. Any internal reorganization
8 carried out under the terms of this chapter shall meet federal
9 requirements which are a necessary condition to state receipt of
10 federal funds. Any section or provision of law dealing with the
11 department which may be susceptible to more than one construction shall
12 be interpreted in favor of the construction most likely to comply with
13 federal laws entitling this state to receive federal funds for the
14 various programs of the department. If any law dealing with the
15 department is ruled to be in conflict with federal requirements which
16 are a prescribed condition of the allocation of federal funds to the
17 state, or to any departments or agencies thereof, the conflicting part
18 is declared to be inoperative solely to the extent of the conflict.

19 NEW SECTION. **Sec. 110.** A new section is added to chapter 41.06
20 RCW to read as follows:

21 In addition to the exemptions under RCW 41.06.070, this chapter
22 shall not apply in the department of human resources to the director,
23 the director's personal secretary, the deputy director, all division
24 directors and assistant directors, and one confidential secretary for
25 each of these officers.

26 **Sec. 111.** RCW 41.06.020 and 1985 c 461 s 1 and 1985 c 365 3 are
27 each reenacted and amended to read as follows:

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

30 (1) "Agency" means an office, department, board, commission,
31 institution of higher education and related boards, or other separate
32 unit or division, however designated, of the state government and all
33 personnel thereof; it includes any unit of state government established
34 by law, the executive officer or members of which are either elected or
35 appointed, upon which the statutes confer powers and impose duties in

1 connection with operations of either a governmental or proprietary
2 nature.

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

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

8 ~~((4))~~ (3) "Competitive service" means all positions in the
9 classified service for which a competitive examination is required as
10 a condition precedent to appointment.

11 ~~((5))~~ (4) "Comparable worth" means the provision of similar
12 salaries for positions that require or impose similar responsibilities,
13 judgments, knowledge, skills, and working conditions.

14 ~~((6))~~ (5) "Noncompetitive service" means all positions in the
15 classified service for which a competitive examination is not required.

16 (6) "Managers" or "management" means employees who:

17 (a) Formulate policy or direct the work of an agency or subdivision
18 thereof; or

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

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

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

27 (e) Functionally or organizationally are above the first level of
28 supervision.

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

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

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

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

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

8 (~~(10)~~) (12) "Director" means the director of (~~(personnel~~
9 ~~appointed under the provisions of RCW 41.06.130)~~) human resources.

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

15 **Sec. 112.** RCW 41.06.030 and 1961 c 1 s 3 are each amended to read
16 as follows:

17 A department of (~~(personnel, governed by a state personnel board~~
18 ~~and)~~) human resources administered by a director of (~~(personnel)~~) human
19 resources, is hereby established as a separate agency within the state
20 government.

21 **Sec. 113.** RCW 41.06.070 and 1990 c 60 s 101 are each amended to
22 read as follows:

23 The provisions of this chapter do not apply to:

24 (1) The members of the legislature or to any employee of, or
25 position in, the legislative branch of the state government including
26 members, officers, and employees of the legislative council,
27 legislative budget committee, statute law committee, and any interim
28 committee of the legislature;

29 (2) The justices of the supreme court, judges of the court of
30 appeals, judges of the superior courts or of the inferior courts, or to
31 any employee of, or position in the judicial branch of state
32 government;

33 (3) Officers(~~(,)~~) and academic personnel(~~(, and employees)~~) of
34 state institutions of higher education, and the state board for
35 community and technical colleges (~~(education, and the higher education~~
36 ~~personnel board)~~);

37 (4) The officers of the Washington state patrol;

1 (5) Elective officers of the state;

2 (6) The chief executive officer of each agency;

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

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

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

12 (b) If the members of the board, commission, or committee serve on
13 a part-time basis and there is a statutory executive officer: (i) The
14 secretary of the board, commission, or committee; (ii) the chief
15 executive officer of the board, commission, or committee; and (iii) the
16 confidential secretary of the chief executive officer of the board,
17 commission, or committee;

18 (c) If the members of the board, commission, or committee serve on
19 a full-time basis: (i) The chief executive officer or administrative
20 officer as designated by the board, commission, or committee; and (ii)
21 a confidential secretary to the chairman of the board, commission, or
22 committee;

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

26 (9) The confidential secretaries and administrative assistants in
27 the immediate offices of the elective officers of the state;

28 (10) Assistant attorneys general;

29 (11) Commissioned and enlisted personnel in the military service of
30 the state;

31 (12) Inmate, student, part-time, or temporary employees, and part-
32 time professional consultants, as defined by the (~~state personnel~~
33 ~~board or the board having jurisdiction~~) director of human resources;

34 (13) The public printer or to any employees of or positions in the
35 state printing plant;

36 (14) Officers and employees of the Washington state fruit
37 commission;

38 (15) Officers and employees of the Washington state apple
39 advertising commission;

1 (16) Officers and employees of the Washington state dairy products
2 commission;

3 (17) Officers and employees of the Washington tree fruit research
4 commission;

5 (18) Officers and employees of the Washington state beef
6 commission;

7 (19) Officers and employees of any commission formed under the
8 provisions of chapter 191, Laws of 1955, and chapter 15.66 RCW;

9 (20) Officers and employees of the state wheat commission formed
10 under the provisions of chapter 87, Laws of 1961 (chapter 15.63 RCW);

11 (21) Officers and employees of agricultural commissions formed
12 under the provisions of chapter 256, Laws of 1961 (chapter 15.65 RCW);

13 (22) Officers and employees of the nonprofit corporation formed
14 under chapter 67.40 RCW;

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

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

31 (25) In each agency with fifty or more employees: Deputy agency
32 heads, assistant directors or division directors, and not more than
33 three principal policy assistants who report directly to the agency
34 head or deputy agency heads;

35 (26) All employees of the marine employees' commission;

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

1 (28) In addition to the exemptions specifically provided by this
2 chapter, the ~~((state personnel board))~~ director may provide for further
3 exemptions pursuant to the following procedures. The governor or other
4 appropriate elected official may submit requests for exemption to the
5 ~~((personnel board))~~ director stating the reasons for requesting such
6 exemptions. ~~((The personnel board shall hold a public hearing, after
7 proper notice, on requests submitted pursuant to this subsection.))~~ If
8 the ~~((board))~~ director determines that the position for which exemption
9 is requested is one involving substantial responsibility for the
10 formulation of basic agency or executive policy or one involving
11 directing and controlling program operations of an agency or a major
12 administrative division thereof, the ~~((personnel board))~~ director shall
13 grant the request and such determination shall be final. The total
14 number of additional exemptions permitted under this subsection shall
15 not exceed ~~((one hundred eighty seven))~~ two percent of the number of
16 employees in the classified service not including employees of higher
17 education, for those agencies not directly under the authority of any
18 elected public official other than the governor, and shall not exceed
19 a total of twenty-five for all agencies under the authority of elected
20 public officials other than the governor~~((-))~~;

21 (29) The following classifications, positions, and employees of
22 institutions of higher education and related boards are hereby exempted
23 from coverage of this chapter:

24 (a) Members of the governing board of each institution and related
25 boards, all presidents, vice-presidents and their confidential
26 secretaries, administrative and personal assistants; deans, directors,
27 and chairpersons; academic personnel; and executive heads of major
28 administrative or academic divisions employed by institutions of higher
29 education; principal assistants to executive heads of major
30 administrative or academic divisions; other managerial or professional
31 employees in an institution or related board having substantial
32 responsibility for directing or controlling program operations and
33 accountable for allocation of resources and program results, or for the
34 formulation of institutional policy, or for carrying out personnel
35 administration or labor relations functions, legislative relations,
36 public information, development, senior computer systems and network
37 programming, or internal audits and investigations; and any employee of
38 a community college district whose place of work is one that is
39 physically located outside the state of Washington and who is employed

1 pursuant to RCW 28B.50.092 and assigned to an educational program
2 operating outside of the state of Washington;

3 (b) Students, part-time, or temporary employees, and part-time
4 professional consultants, as defined by the department, employed by
5 institutions of higher education and related boards;

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

9 (d) The governing board of each institution, and related boards,
10 may also be exempt from this chapter, subject to the employees' right
11 of appeal to the director, classifications involving research
12 activities, counseling of students, extension or continuing education
13 activities, and graphic arts or publications activities requiring
14 prescribed academic preparation or special training, as determined by
15 the director, however no nonacademic employee engaged in office,
16 clerical, maintenance, or food and trade services may be exempted by
17 the director under this subsection (29)(d);

18 (30) The governor's designee for collective bargaining and any
19 employees working for the governor's designee;

20 (31) The ((state personnel board)) director shall report to each
21 regular session of the legislature during an odd-numbered year all
22 exemptions granted under subsections (24), (25), and (28) of this
23 section, together with the reasons for such exemptions.

24 The salary and fringe benefits of all positions presently or
25 hereafter exempted except for the chief executive officer of each
26 agency, full-time members of boards and commissions, administrative
27 assistants and confidential secretaries in the immediate office of an
28 elected state official, and the personnel listed in subsections (10)
29 through (22) and (29) of this section, shall be determined by the
30 ((state personnel board)) director.

31 Any person holding a classified position subject to the provisions
32 of this chapter shall, when and if such position is subsequently
33 exempted from the application of this chapter, be afforded the
34 following rights: If such person previously held permanent status in
35 another classified position, such person shall have a right of
36 reversion to the highest class of position previously held, or to a
37 position of similar nature and salary.

38 Any classified employee having civil service status in a classified
39 position who accepts an appointment in an exempt position shall have

1 the right of reversion to the highest class of position previously
2 held, or to a position of similar nature and salary.

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

6 **Sec. 114.** RCW 41.06.080 and 1970 ex.s. c 12 s 2 are each amended
7 to read as follows:

8 Notwithstanding the provisions of this chapter, the department (~~of~~
9 ~~personnel~~) may make its services available on request, on a
10 reimbursable basis, to:

11 (1) Either the legislative or the judicial branch of the state
12 government;

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

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

17 NEW SECTION. **Sec. 115.** A new section is added to chapter 41.06
18 RCW to read as follows:

19 The director may delegate to any agency the authority to perform
20 administrative and technical personnel activities if the agency
21 requests such authority and the director is satisfied that the agency
22 has the personnel management capabilities to effectively perform the
23 delegated activities. The director shall prescribe standards and
24 guidelines for the performance of delegated activities. If the
25 director determines that an agency is not performing delegated
26 activities within the prescribed standards and guidelines, the director
27 shall withdraw the authority from the agency to perform such
28 activities.

29 NEW SECTION. **Sec. 116.** A new section is added to chapter 41.06
30 RCW to read as follows:

31 Each institution of higher education and related boards shall
32 designate an officer who shall perform duties as personnel officer.
33 The personnel officer at each institution or related board shall
34 direct, supervise, and manage administrative and technical personnel
35 activities for the classified service at the institution or related
36 board consistent with policies established by the institution or

1 related board and in accordance with the provisions of this chapter and
2 the rules adopted under it. Institutions of higher education may
3 undertake jointly with one or more other institutions of higher
4 education to appoint a person qualified to perform the duties of
5 personnel officer, provide staff and financial support, and may engage
6 consultants to assist in the performance of specific projects.

7 The state board for community and technical college shall have
8 general supervision and control over activities undertaken by the
9 various state community and technical colleges under this section.

10 **Sec. 117.** RCW 41.06.140 and 1961 c 1 s 14 are each amended to read
11 as follows:

12 It shall be the duty of the ~~((board))~~ director to make rules ~~((and~~
13 ~~regulations))~~ providing for employee participation in the development
14 and administration of personnel policies. To assure this right,
15 permanent personnel policies, rules, classification and pay plans, and
16 amendments thereto, shall be acted on only after the ~~((board))~~ director
17 has given twenty days notice to, and considered proposals from,
18 employee representatives and agencies affected. Complete and current
19 compilations of all rules ~~((and regulations))~~ of the ~~((board in~~
20 ~~printed, mimeographed or multigraphed form))~~ department shall be
21 available to the public in the office of the director ~~((of personnel~~
22 ~~free of charge))~~.

23 **Sec. 118.** RCW 41.06.150 and 1990 c 60 s 103 are each amended to
24 read as follows:

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

29 (1) The reduction, dismissal, suspension, or demotion of an
30 employee;

31 (2) Certification of names for vacancies, including departmental
32 promotions, ~~((with the number of names equal to four more names than~~
33 ~~there are vacancies to be filled, such names representing applicants~~
34 ~~rated highest on eligibility lists: PROVIDED, That when))~~ which shall
35 consist of the top fifteen names of the eligible register. If other
36 applicants have scores equal to the lowest score among the names
37 certified, their names shall also be certified;

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

3 (4) Appointments;

4 (5) Training and career development;

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

9 (7) Transfers;

10 (8) Sick leaves and vacations;

11 (9) Hours of work;

12 (10) Layoffs when necessary and subsequent reemployment, ((both
13 according to)) based on seniority and maintenance and implementation of
14 approved affirmative action plans;

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

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

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

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

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

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

26 ~~((16))~~ (12) Allocation and reallocation of positions within the
27 classification plan;

28 ~~((17))~~ (13) Adoption and revision of a state salary schedule to
29 reflect the prevailing rates in Washington state private industries and
30 other governmental units but the rates in the salary schedules or plans
31 shall be increased if necessary to attain comparable worth under an
32 implementation plan under RCW 41.06.155, such adoption and revision
33 subject to approval by the director of financial management in
34 accordance with the provisions of chapter 43.88 RCW;

35 ~~((18))~~ (14) Increment increases within the series of steps for
36 each pay grade based on length of service for all employees whose
37 standards of performance are such as to permit them to retain job
38 status in the classified service;

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

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

29 (~~(21)~~) (17) Assuring persons who are or have been employed in
30 classified positions (~~under chapter 28B.16 RCW~~) in the state's
31 general government or higher education systems will be eligible for
32 employment, reemployment, transfer, and promotion in respect to
33 classified positions covered by this chapter;

34 (~~(22)~~) (18) Affirmative action in appointment, promotion,
35 transfer, layoff and reemployment, recruitment, training, and career
36 development; development and implementation of affirmative action goals
37 and timetables; and monitoring of progress against those goals and
38 timetables.

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

7 Rules adopted pursuant to this section supersede collective
8 bargaining agreements relative to matters covered by sections 306(2)
9 and 307 of this act for classified employees bargaining under chapter
10 41.-- RCW (sections 301 through 317 of this act).

11 The provisions of a collective bargaining agreement covering
12 employees of institutions of higher education that are not negotiated
13 under RCW 41.--.--- (2) and (3) (section 204 (2) and (3) of this act)
14 shall not prevail if in conflict with rules adopted by the director of
15 human resources pursuant to this section.

16 NEW SECTION. Sec. 119. A new section is added to chapter 41.06
17 RCW to read as follows:

18 (1) Rules adopted by the director shall provide for local
19 administration and management by the institutions of higher education
20 and related boards, subject to periodic audit and review by the
21 department, of the following:

- 22 (a) Appointment, promotion, and transfer of employees;
- 23 (b) Dismissal, suspension, or demotion of an employee;
- 24 (c) Examinations for all positions in the competitive and
25 noncompetitive service;
- 26 (d) Probationary periods of six to twelve months and rejections
27 therein;
- 28 (e) Sick leaves and vacations;
- 29 (f) Hours of work;
- 30 (g) Layoffs when necessary and subsequent reemployment;
- 31 (h) Allocation and reallocation of positions within the
32 classification plans;
- 33 (i) Training programs; and
- 34 (j) Maintenance of personnel records.

35 (2) The director may authorize local administration and management
36 by agencies other than institutions of higher education and related
37 boards.

1 **Sec. 120.** RCW 41.06.160 and 1985 c 94 s 2 are each amended to read
2 as follows:

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

29 In the case of comprehensive salary and fringe benefit surveys, the
30 department shall furnish the following supplementary data in support of
31 its recommended salary schedule:

32 (1) A total dollar figure which reflects the recommended increase
33 or decrease in state salaries as a direct result of the specific salary
34 and fringe benefit survey that has been conducted and which is
35 categorized to indicate what portion of the increase or decrease is
36 represented by salary survey data and what portion is represented by
37 fringe benefit survey data;

38 (2) An additional total dollar figure which reflects the impact of
39 recommended increases or decreases to state salaries based on other

1 factors rather than directly on prevailing rate data obtained through
2 the survey process and which is categorized to indicate the sources of
3 the requests for deviation from prevailing rates and the reasons for
4 the changes;

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

8 (a) Those salary ranges which do not substantially conform to the
9 prevailing rates developed from the salary and fringe benefit survey
10 distinctly marked and an explanation of the reason for the deviation
11 included; and

12 (b) Those department of personnel classes which are substantially
13 the same as classes being used by the higher education personnel board
14 clearly marked to show the commonality of the classes between the two
15 jurisdictions;

16 (4) A supplemental salary schedule which indicates the additional
17 salary to be paid state employees for hazardous duties or other
18 considerations requiring extra compensation under specific
19 circumstances. Additional compensation for these circumstances shall
20 not be included in the basic salary schedule but shall be maintained as
21 a separate pay schedule for purposes of full disclosure and visibility;
22 and

23 (5) A supplemental salary schedule which indicates those cases
24 where the board determines that prevailing rates do not provide similar
25 salaries for positions that require or impose similar responsibilities,
26 judgment, knowledge, skills, and working conditions. This
27 supplementary salary schedule shall contain proposed salary adjustments
28 necessary to eliminate any such dissimilarities in compensation.
29 Additional compensation needed to eliminate such salary dissimilarities
30 shall not be included in the basic salary schedule but shall be
31 maintained as a separate salary schedule for purposes of full
32 disclosure and visibility.

33 It is the intention of the legislature that requests for funds to
34 support recommendations for salary deviations from the prevailing rate
35 survey data shall be kept to a minimum, and that the requests be fully
36 documented when forwarded by the department of personnel. Further, it
37 is the intention of the legislature that the department of personnel
38 and the higher education personnel board jointly determine job classes
39 which are substantially common to both jurisdictions and that basic

1 ~~salaries for these job classes shall be equal based on salary and~~
2 ~~fringe benefit survey findings.))~~

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

7 The first comprehensive salary and fringe benefit survey required
8 by this section shall be completed and forwarded to the governor and
9 the director of financial management by September 30, 1986. The first
10 trend salary and fringe benefit survey required by this section shall
11 be completed and forwarded to the governor and the director of
12 financial management by September 30, 1988.

13 **Sec. 121.** RCW 41.06.167 and 1991 c 196 s 1 are each amended to
14 read as follows:

15 The department of (~~personnel~~) human resources shall undertake
16 comprehensive compensation surveys for officers and entry-level officer
17 candidates of the Washington state patrol, with such surveys to be
18 conducted in the year prior to the convening of every other one hundred
19 five day regular session of the state legislature. In the year prior
20 to the convening of each one hundred five day regular session during
21 which a comprehensive compensation survey is not conducted, the
22 department of human resources shall conduct a trend compensation
23 survey. This survey shall measure average compensation movement which
24 has occurred since the last comprehensive compensation survey was
25 conducted. The results of each comprehensive and trend survey shall be
26 completed and forwarded by September 30th, after review and preparation
27 of recommendations by the chief of the Washington state patrol, to the
28 governor and director of financial management for their use in
29 preparing budgets to be submitted to the succeeding legislature. A
30 copy of the data and supporting documentation shall be furnished by the
31 department of (~~personnel~~) human resources to the legislative
32 transportation committee and the standing committees for appropriations
33 of the senate and house of representatives. The office of financial
34 management shall analyze the survey results and conduct investigations
35 which may be necessary to arbitrate differences between interested
36 parties regarding the accuracy of collected survey data and the use of
37 such data for salary adjustment.

1 Surveys conducted by the department of (~~personnel~~) human
2 resources for the Washington state patrol shall be undertaken in a
3 manner consistent with statistically accurate sampling techniques,
4 including comparisons of medians, base ranges, and weighted averages of
5 salaries. The surveys shall compare competitive labor markets of law
6 enforcement officers. This service performed by the department of
7 (~~personnel~~) human resources shall be on a reimbursable basis in
8 accordance with the provisions of RCW 41.06.080.

9 A comprehensive compensation survey plan and the recommendations of
10 the chief of the Washington state patrol shall be submitted jointly by
11 the department of (~~personnel~~) human resources and the Washington
12 state patrol to the director of financial management, the legislative
13 transportation committee, the committee on ways and means of the
14 senate, and the committee on appropriations of the house of
15 representatives six months before the beginning of each periodic
16 survey.

17 **Sec. 122.** RCW 41.06.169 and 1985 c 461 s 3 are each amended to
18 read as follows:

19 After consultation with state agency heads, employee organizations,
20 and other interested parties, the (~~state personnel~~) director shall
21 develop standardized employee performance evaluation procedures and
22 forms which shall be used by state agencies for the appraisal of
23 employee job performance at least annually. These procedures shall
24 include means whereby individual agencies may supplement the
25 standardized evaluation process with special performance factors
26 peculiar to specific organizational needs. Performance evaluation
27 procedures shall place primary emphasis on recording how well the
28 employee has contributed to efficiency, effectiveness, and economy in
29 fulfilling state agency and job objectives.

30 **Sec. 123.** RCW 41.06.170 and 1981 c 311 s 19 are each amended to
31 read as follows:

32 (1) The (~~board~~) director, in the (~~promulgation~~) adoption of
33 rules (~~and regulations~~) governing suspensions for cause, shall not
34 authorize an appointing authority to suspend an employee for more than
35 fifteen calendar days as a single penalty or more than thirty calendar
36 days in any one calendar year as an accumulation of several penalties.
37 The (~~board~~) director shall require that the appointing authority give

1 written notice to the employee not later than one day after the
2 suspension takes effect, stating the reasons for and the duration
3 thereof. (~~The authority shall file a copy of the notice with the~~
4 ~~director of personnel.~~)

5 (2) Any employee who is reduced, dismissed, suspended, or demoted,
6 after completing his or her probationary period of service as provided
7 by the rules (~~and regulations~~) of the (~~board~~) director, or any
8 employee who is adversely affected by a violation of the state civil
9 service law, chapter 41.06 RCW(~~, as now or hereafter amended~~), or
10 rules (~~promulgated pursuant thereto~~) adopted under it, shall have the
11 right to appeal to the personnel appeals board created by RCW 41.64.010
12 not later than thirty days after the effective date of such action.
13 The employee shall be furnished with specified charges in writing when
14 a reduction, dismissal, suspension, or demotion action is taken. Such
15 appeal shall be in writing.

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

21 (4) Any employee who feels that his or her classification should
22 not be exempt may appeal the action to the personnel appeals board.

23 **Sec. 124.** RCW 41.06.186 and 1985 c 461 s 5 are each amended to
24 read as follows:

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

28 **Sec. 125.** RCW 41.06.196 and 1985 c 461 s 6 are each amended to
29 read as follows:

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

35 **Sec. 126.** RCW 41.06.220 and 1961 c 1 s 22 are each amended to read
36 as follows:

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

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

8 **Sec. 127.** RCW 41.06.260 and 1961 c 1 s 26 are each amended to read
9 as follows:

10 If any part of this chapter shall be found to be in conflict with
11 federal requirements which are a condition precedent to the allocation
12 of federal funds to the state, such conflicting part of this chapter is
13 hereby declared to be inoperative solely to the extent of such conflict
14 and with respect to the agencies directly affected, and such findings
15 or determination shall not affect the operation of the remainder of
16 this chapter in its application to the agencies concerned. The
17 ((~~board~~)) director shall make such rules ((~~and regulations~~)) as may be
18 necessary to meet federal requirements which are a condition precedent
19 to the receipt of federal funds by the state.

20 **Sec. 128.** RCW 41.06.270 and 1979 c 151 s 61 are each amended to
21 read as follows:

22 A disbursing officer shall not pay any employee holding a position
23 covered by this chapter unless the employment is in accordance with
24 this chapter or the rules, regulations and orders issued hereunder.
25 The ((~~board~~)) director and the director of financial management shall
26 jointly establish procedures for the certification of payrolls.

27 **Sec. 129.** RCW 41.06.280 and 1987 c 248 s 4 are each amended to
28 read as follows:

29 There is hereby created a fund within the state treasury,
30 designated as the "department of ((~~Personnel~~)) human resources service
31 fund," to be used by the ((~~board~~)) director as a revolving fund for the
32 payment of salaries, wages, and operations required for the
33 administration of the provisions of this chapter, applicable provisions
34 of chapter 41.04 RCW, and chapter 41.60 RCW. An amount not to exceed
35 one percent of the approved allotments of salaries and wages for all
36 positions in the classified service in each of the agencies subject to

1 this chapter, except the institutions of higher (~~learning~~) education
2 which shall be charged an amount not to exceed one-half of one percent,
3 shall be charged to the operations appropriations of each agency and
4 credited to the department of (~~personnel~~) human resources service
5 fund as the allotments are approved pursuant to chapter 43.88 RCW.
6 Subject to the above limitations, the amount shall be charged against
7 the allotments pro rata, at a rate to be fixed by the director from
8 time to time which, together with income derived from services rendered
9 under RCW 41.06.080, will provide the department with funds to meet its
10 anticipated expenditures during the allotment period.

11 The director of (~~personnel~~) human resources shall fix the terms
12 and charges for services rendered by the department of (~~personnel~~)
13 human resources pursuant to RCW 41.06.080, which amounts shall be
14 credited to the department of (~~personnel~~) human resources service
15 fund and charged against the proper fund or appropriation of the
16 recipient of such services on a quarterly basis. Payment for services
17 so rendered under RCW 41.06.080 shall be made on a quarterly basis to
18 the state treasurer and deposited by him or her in the department of
19 (~~personnel~~) human resources service fund.

20 If employees cease to be classified under this chapter pursuant to
21 an agreement authorized by section 204 of this act, each institution of
22 higher education and the state board for community and technical
23 colleges shall continue, for six months after the effective date of the
24 agreement, to make contributions to the department of human resources
25 service fund based on employee salaries and wages that includes the
26 employees under the agreement. At the expiration of the six-month
27 period, the director of financial management shall make across-the-
28 board reductions in allotments of the department of human resources
29 service fund for the remainder of the biennium so that the charge to
30 the institutions of higher education and state board based on the
31 salaries and wages of the remaining employees classified under this
32 chapter does not increase during the biennium, unless an increase is
33 authorized by the legislature. The director of financial management
34 shall report the amount and impact of any across-the-board reductions
35 made under this section to the appropriations committee of the house of
36 representatives and the ways and means committee of the senate, or
37 appropriate successor committees, within thirty days of making the
38 reductions.

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

4 **Sec. 130.** RCW 41.06.350 and 1969 ex.s. c 152 s 1 are each amended
5 to read as follows:

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

11 **Sec. 131.** RCW 41.06.380 and 1979 ex.s. c 46 s 2 are each amended
12 to read as follows:

13 (1) Nothing contained in this chapter shall prohibit any
14 department, as defined in RCW 41.06.020, from purchasing services by
15 contract with individuals or business entities if such (~~services were~~
16 regularly purchased by valid contract by such department prior to April
17 23, 1979: PROVIDED, That no such contract may be executed or renewed
18 if it would have the effect of terminating classified employees or
19 classified employee positions existing at the time of the execution or
20 renewal of the contract)) purchase would be fiscally prudent and result
21 in reduced expenditures of public funds. Decisions to contract out
22 shall be made only after the affected agency has conducted a
23 feasibility study determining the potential costs and benefits that
24 would result from contracting out the work in question and the decision
25 has been reviewed and approved by the director of financial management
26 who shall assure that the prospective subcontractor will pay salaries
27 and wages to its employees who will perform the contract work that are
28 similar to those generally paid for such work in the locality in which
29 the work is to be performed and will provide benefits that are similar
30 to those paid state employees who would otherwise perform the work.

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

35 **Sec. 132.** RCW 41.06.400 and 1980 c 118 s 4 are each amended to
36 read as follows:

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

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

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

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

14 (c) Promote interagency sharing of resources for training and
15 career development;

16 (d) Monitor and review the impact of training and career
17 development programs to ensure that the responsibilities of the state
18 to provide equal employment opportunities are diligently carried out.
19 The director shall report to the ((board)) governor the impact of
20 training and career development programs on the fulfillment of such
21 responsibilities.

22 (3) At an agency's request, the director may provide training and
23 career development programs for an agency's internal use which may be
24 conducted more efficiently and economically by the department of
25 ((personnel)) human resources.

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

32 **Sec. 133.** RCW 41.06.410 and 1980 c 118 s 5 are each amended to
33 read as follows:

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

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

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

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

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

8 **Sec. 134.** RCW 41.06.420 and 1980 c 118 s 6 are each amended to
9 read as follows:

10 (1) The ((~~board~~)) director, by rule, shall prescribe the conditions
11 under which an employee appointed to a supervisory or management
12 position after June 12, 1980, shall be required to successfully
13 complete an entry-level management training course as approved by the
14 director. The training course shall focus on the critical knowledge,
15 skills, and abilities for successful management performance and include
16 instruction on managing and valuing diversity in the workplace. Such
17 training shall not be required of any employee who has completed a
18 management training course prior to the employee's appointment which
19 is, in the judgment of the director, at least equivalent to the entry-
20 level course required by this section.

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

26 (3) Agencies subject to the provisions of this chapter, in
27 accordance with rules prescribed by the ((~~board~~)) director, shall
28 designate individual positions, or groups of positions, as being
29 "supervisory" or "management" positions. Such designations shall be
30 subject to review by the director as part of the director's evaluation
31 of training and career development programs prescribed by RCW
32 41.06.400(2).

33 **Sec. 135.** RCW 41.06.430 and 1990 c 60 s 102 are each amended to
34 read as follows:

35 (1) The ((~~board~~)) director, by rule, shall develop a career
36 executive program which recognizes the profession of management and
37 recognizes excellence in managerial skills in order to (a) identify,

1 attract, and retain highly qualified executive candidates, (b) provide
2 outstanding employees a broad opportunity for career development, and
3 (c) provide for the mobility of such employees among agencies, it being
4 to the advantage of the state to make the most beneficial use of
5 individual managerial skills.

6 (2) To accomplish the purposes of subsection (1) of this section,
7 the board, notwithstanding any other provision of this chapter, may
8 provide policies and standards for recruitment, appointment,
9 examination, training, probation, employment register control,
10 certification, classification, salary administration, transfer,
11 promotion, reemployment, conditions of employment, and separation
12 separate from procedures established for other employment.

13 (3) The director, in consultation with affected agencies, shall
14 (~~recommend to the board~~) determine the classified positions which may
15 be filled by participants in the career executive program. Upon the
16 request of an agency, management positions that are exempt from the
17 state civil service law pursuant to RCW 41.06.070 may be included in
18 all or any part of the career executive program: PROVIDED, That an
19 agency may at any time, after providing written notice to the (~~board~~)
20 director, withdraw an exempt position from the career executive
21 program. No employee may be placed in the career executive program
22 without the employee's consent.

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

26 (5) The director shall monitor and review the impact of the career
27 executive program to ensure that the responsibilities of the state to
28 provide equal employment opportunities are diligently carried out. The
29 director shall report to the (~~board~~) governor the impact of the
30 career executive program on the fulfillment of such responsibilities.

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

36 NEW SECTION. Sec. 136. A new section is added to chapter 41.06
37 RCW to read as follows:

1 (1) The Washington management service is created. The purpose of
2 the management service is to strive for excellence in the management of
3 the state's resources, attract and retain qualified managers, and
4 establish a management identity in state government through separate
5 personnel rules that are unique to the responsibilities of management
6 employees.

7 (2) Notwithstanding any other provisions of this chapter, the
8 director, after consultation with state agencies and employee
9 organizations, shall adopt personnel rules for the classified members
10 of the management service. These rules shall govern recruitment,
11 appointment, classification and allocation of positions, examination,
12 training and career development, hours of work, probation,
13 certification, compensation, transfer, affirmative action, promotion,
14 layoff, reemployment, performance appraisals, discipline, and other
15 personnel practices. These rules shall be separate from rules
16 established for other employees.

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

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

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

24 (c) To establish a performance appraisal system that emphasizes
25 individual accountability for program results and efficient management
26 of resources; effective planning, organization, and communication
27 skills; valuing and managing workplace diversity; development of
28 leadership and interpersonal abilities; and employee development;

29 (d) To strengthen management training and career development
30 programs that build critical management knowledge, skills, and
31 abilities; focus on managing and valuing workplace diversity; and
32 enhance mobility and career advancement opportunities;

33 (e) To permit flexible recruitment and hiring procedures that
34 enable agencies to compete effectively with other employers, both
35 public and private, for managers with appropriate skills and training;
36 allow consideration of all qualified candidates for positions in the
37 management service; and achieve affirmative action goals and diversity
38 in the workplace; and

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

3 NEW SECTION. **Sec. 137.** A new section is added to chapter 41.06
4 RCW to read as follows:

5 (1) The legislature recognizes that:

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

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

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

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

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

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

22 (i) Voluntary mentorship programs;

23 (ii) Alternative testing practices for persons of disability where
24 deemed appropriate;

25 (iii) Career counseling;

26 (iv) Training opportunities, including management and employee
27 awareness and skills training, English as a second language, and
28 individual tutoring;

29 (v) Recruitment strategies;

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

32 (vii) Alternative work arrangements.

33 (3) The department shall coordinate implementation of this section
34 with the office of financial management and related institutions and
35 boards to reduce duplication of effort.

36 **Sec. 138.** RCW 41.06.450 and 1982 c 208 s 10 are each amended to
37 read as follows:

1 (1) (~~By January 1, 1983,~~) The (~~personnel board~~) director shall
2 adopt rules applicable to each agency to ensure that information
3 relating to employee misconduct or alleged misconduct is destroyed or
4 maintained as follows:

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

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

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

14 (2) Notwithstanding subsection (1) of this section, an agency may
15 retain information relating to employee misconduct or alleged
16 misconduct if:

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

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

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

24 **Sec. 139.** 1982 c 208 s 9 (uncodified) is amended to read as
25 follows:

26 The legislature finds that, under some circumstances, maintaining
27 information relating to state employee misconduct or alleged misconduct
28 is unfair to employees and serves no useful function to the state. The
29 purpose of RCW 41.06.450 is to direct the (~~personnel board~~) director
30 of human resources to adopt rules governing maintenance of employee
31 records so that the records are maintained in a manner which is fair to
32 employees, which ensures proper management of state governmental
33 affairs, and which adequately protects the public interest.

34 **Sec. 140.** RCW 41.06.475 and 1986 c 269 s 2 are each amended to
35 read as follows:

36 The (~~state personnel board~~) director shall adopt rules, in
37 cooperation with the secretary of social and health services, for the

1 background investigation of persons being considered for state
2 employment in positions directly responsible for the supervision, care,
3 or treatment of children or developmentally disabled persons.

4 **Sec. 141.** RCW 41.06.490 and 1990 c 204 s 3 are each amended to
5 read as follows:

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

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

12 (b) Provide for eligibility in the return-to-work program, for a
13 minimum of two years from the date the temporary disability commenced,
14 for any permanent employee who is receiving compensation under RCW
15 51.32.090 and who is, by reason of his or her temporary disability,
16 unable to return to his or her previous work, but who is physically
17 capable of carrying out work of a lighter or modified nature;

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

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

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

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

28 (g) Coordinate participation of applicable employee assistance
29 programs, as appropriate.

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

34 NEW SECTION. **Sec. 142.** A new section is added to chapter 41.06
35 RCW to read as follows:

36 The comprehensive system for personnel administration and
37 collective bargaining provided for in chapter . . . , Laws of 1993 (this

1 act) is the exclusive system for all state employees covered by this
2 chapter. The procedures provided in this chapter or negotiated in
3 collective bargaining agreements under RCW 41.56.030 or 41.56.100 or
4 sections 201, 204, or 205 of this act or chapter 41.-- RCW (sections
5 301 through 317 of this act) provide the exclusive forums for
6 addressing all appeals, actions, complaints, grievances, claims, and
7 remedies related to or arising from any incident of such employee's
8 employment, except actions under other statutes applicable to state
9 employees, and all such actions are governed solely by this chapter,
10 the provisions of collective bargaining agreements, or chapter 41.64
11 RCW.

12 NEW SECTION. **Sec. 143.** All reports, documents, surveys, books,
13 records, files, papers, or written material in the possession of the
14 department of personnel, state personnel board, and higher education
15 personnel board except for matters relating to collective bargaining
16 shall be delivered to the custody of the department of human resources.
17 All cabinets, furniture, office equipment, motor vehicles, and other
18 tangible property employed in connection with the powers, duties, and
19 functions transferred under this section shall be made available to the
20 department of human resources. All funds, credits, or other assets
21 held in connection with the powers, duties, and functions transferred
22 under this section shall be assigned to the department of human
23 resources.

24 Any appropriations made in connection with the powers, duties, and
25 functions transferred under this section shall, on the effective date
26 of this section, be transferred and credited to the department of human
27 resources.

28 Whenever any question arises as to the transfer of any personnel,
29 funds, books, documents, records, papers, files, equipment, or other
30 tangible property used or held in the exercise of the powers and the
31 performance of the duties and functions transferred, or as to the
32 powers, duties, and functions transferred, the director of financial
33 management shall make a determination as to the proper allocation and
34 certify the same to the state agencies concerned.

35 NEW SECTION. **Sec. 144.** All employees other than those employees
36 to be transferred in accordance with section 152 of this act, employed
37 in connection with the powers, duties, and functions transferred under

1 section 143 of this act are transferred to the jurisdiction of the
2 department of human resources. All employees classified under chapter
3 41.06 or 28B.16 RCW, the state civil service and higher education
4 personnel law, are assigned to the department of human resources to
5 perform their usual duties upon the same terms as formerly, without any
6 loss of rights, subject to any action that may be appropriate
7 thereafter in accordance with the laws and rules governing state civil
8 service.

9 NEW SECTION. **Sec. 145.** All rules adopted by the state personnel
10 board pursuant to chapter 41.06 RCW and all rules adopted by the higher
11 education personnel board that relate to functions transferred to the
12 department of human resources shall continue in effect until acted upon
13 by the director. All pending business before any agency of state
14 government pertaining to the powers, duties, and functions transferred
15 under section 143 of this act shall be continued and acted upon by the
16 department of human resources. All existing contracts and obligations
17 shall remain in full force and shall be performed by the department of
18 human resources.

19 NEW SECTION. **Sec. 146.** The transfer of the powers, duties,
20 functions, and personnel shall not affect the validity of any act
21 performed before the effective date of this section.

22 NEW SECTION. **Sec. 147.** If apportionments of budgeted funds are
23 required because of the transfers directed by sections 143 through 146
24 of this act, the director of financial management shall certify the
25 apportionments to the agencies affected, the state auditor, and the
26 state treasurer. Each of these shall make the appropriate transfer and
27 adjustments in funds and appropriation accounts and equipment records
28 in accordance with the certification.

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

31 There shall be departments of the state government which shall be
32 known as (1) the department of social and health services, (2) the
33 department of ecology, (3) the department of labor and industries, (4)
34 the department of agriculture, (5) the department of fisheries, (6) the
35 department of wildlife, (7) the department of transportation, (8) the

1 department of licensing, (9) the department of general administration,
2 (10) the department of trade and economic development, (11) the
3 department of veterans affairs, (12) the department of revenue, (13)
4 the department of retirement systems, (14) the department of
5 corrections, (15) the department of community development, ((and)) (16)
6 the department of health, and (17) the department of human resources
7 which shall be charged with the execution, enforcement, and
8 administration of such laws, and invested with such powers and required
9 to perform such duties, as the legislature may provide.

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

12 There shall be a chief executive officer of each department to be
13 known as: (1) The secretary of social and health services, (2) the
14 director of ecology, (3) the director of labor and industries, (4) the
15 director of agriculture, (5) the director of fisheries, (6) the
16 director of wildlife, (7) the secretary of transportation, (8) the
17 director of licensing, (9) the director of general administration, (10)
18 the director of trade and economic development, (11) the director of
19 veterans affairs, (12) the director of revenue, (13) the director of
20 retirement systems, (14) the secretary of corrections, (15) the
21 director of community development, ((and)) (16) the secretary of
22 health, and (17) the department of human resources.

23 Such officers, except the secretary of transportation, shall be
24 appointed by the governor, with the consent of the senate, and hold
25 office at the pleasure of the governor. The director of wildlife,
26 however, shall be appointed according to the provisions of RCW
27 77.04.080. If a vacancy occurs while the senate is not in session, the
28 governor shall make a temporary appointment until the next meeting of
29 the senate. A temporary director of wildlife shall not serve more than
30 one year. The secretary of transportation shall be appointed by the
31 transportation commission as prescribed by RCW 47.01.041.

32 NEW SECTION. **Sec. 150.** All powers, duties, and functions of the
33 department of personnel, the personnel board, and the higher education
34 personnel board pertaining to collective bargaining are transferred to
35 the public employment relations commission except that arbitration of
36 grievances filed under a collective bargaining agreement existing
37 before July 1, 1993, shall be transferred to the personnel appeals

1 board unless the parties thereto agree to submit the matter to an
2 independent arbitrator for resolution of the grievance.

3 NEW SECTION. **Sec. 151.** All reports, documents, surveys, books,
4 records, files, papers, or written material in the possession of the
5 department of personnel, the personnel board, and the higher education
6 personnel board pertaining to the powers, functions, and duties
7 transferred in section 150 of this act shall be delivered to the
8 custody of the public employment relations commission. All cabinets,
9 furniture, office equipment, motor vehicles, and other tangible
10 property employed by the department of personnel in carrying out the
11 powers, functions, and duties transferred in section 150 of this act
12 shall be made available to the public employment relations commission.
13 All funds, credits, or other assets held in connection with the powers,
14 functions, and duties transferred in section 150 of this act shall be
15 assigned to the public employment relations commission.

16 Any appropriations made to the department of personnel, the
17 personnel board, or the higher education personnel board for carrying
18 out the powers, functions, and duties transferred in section 150 of
19 this act shall, on the effective date of this section, be transferred
20 and credited to the public employment relations commission.

21 Whenever any question arises as to the transfer of any personnel,
22 funds, books, documents, records, papers, files, equipment, or other
23 tangible property used or held in the exercise of the powers and the
24 performance of the duties and functions transferred, the director of
25 financial management shall make a determination as to the proper
26 allocation and certify the same to the state agencies concerned.

27 NEW SECTION. **Sec. 152.** All employees of the department of
28 personnel engaged in performing the powers, functions, and duties
29 transferred in section 150 of this act are transferred to the
30 jurisdiction of the public employment relations commission. All
31 employees classified under chapter 41.06 RCW, the state civil service
32 law, are assigned to the public employment relations commission without
33 any loss of rights, subject to any action that may be appropriate
34 thereafter in accordance with the laws and rules governing state civil
35 service.

1 NEW SECTION. **Sec. 153.** All business pending before the department
2 of personnel, the personnel board, and the higher education personnel
3 board pertaining to the powers, functions, and duties transferred in
4 section 150 of this act shall be continued and acted upon by the public
5 employment relations commission under the rules in effect at the time
6 of the transfer. All existing contracts and obligations of the
7 department of personnel, the personnel board, and the higher education
8 personnel board shall remain in full force and shall be performed by
9 the public employment relations commission.

10 NEW SECTION. **Sec. 154.** The transfer of the powers, duties,
11 functions, and personnel of the department of personnel, the personnel
12 board, and the higher education personnel board shall not affect the
13 validity of any act performed before the effective date of this
14 section.

15 NEW SECTION. **Sec. 155.** If apportionments of budgeted funds are
16 required because of the transfers directed by sections 151 through 154
17 or 157 of this act, the director of financial management shall certify
18 the apportionments to the agencies affected, the state auditor, and the
19 state treasurer. Each of these shall make the appropriate transfer and
20 adjustments in funds and appropriation accounts and equipment records
21 in accordance with the certification.

22 NEW SECTION. **Sec. 156.** All rules adopted by the state personnel
23 board pursuant to chapter 41.06 RCW and all rules adopted by the higher
24 education personnel board that relate to functions transferred to the
25 public employment relations commission or the personnel appeals board
26 pursuant to section 150 of this act shall continue in effect until
27 acted upon by the agency assuming those functions.

28 NEW SECTION. **Sec. 157.** All business pending before the department
29 of personnel pertaining to arbitration of grievances filed under a
30 collective bargaining agreement existing before July 1, 1993, shall be
31 continued and acted upon by the personnel appeals board. All existing
32 contracts and obligations under the rules in effect at the time of the
33 transfer shall remain in full force and shall be performed by the
34 personnel appeals board.

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

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

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

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

8 (4) RCW 28B.16.040 and 1990 c 60 s 201, 1982 1st ex.s. c 53 s 15,
9 1977 ex.s. c 94 s 1, & 1969 ex.s. c 36 s 4;

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

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

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

13 (8) RCW 28B.16.060 and 1984 c 287 s 63, 1981 c 338 s 19, 1975-'76
14 2nd ex.s. c 34 s 73, & 1969 ex.s. c 36 s 6;

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

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

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

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

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

21 (14) RCW 28B.16.105 and 1985 c 461 s 10, 1982 1st ex.s. c 53 s 17,
22 & 1977 ex.s. c 152 s 13;

23 (15) RCW 28B.16.110 and 1985 c 94 s 1, 1980 c 11 s 3, 1979 c 151 s
24 16, 1977 ex.s. c 152 s 10, 1975 1st ex.s. c 122 s 2, & 1969 ex.s. c 36
25 s 11;

26 (16) RCW 28B.16.112 and 1987 c 185 s 3, 1986 c 158 s 4, 1979 c 151
27 s 17, & 1977 ex.s. c 152 s 11;

28 (17) RCW 28B.16.113 and 1977 ex.s. c 152 s 12;

29 (18) RCW 28B.16.116 and 1983 1st ex.s. c 75 s 3;

30 (19) RCW 28B.16.120 and 1969 ex.s. c 36 s 12;

31 (20) RCW 28B.16.130 and 1969 ex.s. c 36 s 13;

32 (21) RCW 28B.16.140 and 1969 ex.s. c 36 s 14;

33 (22) RCW 28B.16.150 and 1969 ex.s. c 36 s 15;

34 (23) RCW 28B.16.160 and 1988 c 202 s 27, 1971 c 81 s 72, & 1969
35 ex.s. c 36 s 16;

36 (24) RCW 28B.16.170 and 1969 ex.s. c 36 s 26;

37 (25) RCW 28B.16.180 and 1973 1st ex.s. c 46 s 3 & 1969 ex.s. c 36
38 s 17;

39 (26) RCW 28B.16.190 and 1969 ex.s. c 36 s 19;

- 1 (27) RCW 28B.16.200 and 1979 c 151 s 18 & 1969 ex.s. c 36 s 20;
2 (28) RCW 28B.16.210 and 1969 ex.s. c 36 s 29;
3 (29) RCW 28B.16.220 and 1969 ex.s. c 36 s 31;
4 (30) RCW 28B.16.230 and 1973 c 62 s 6 & 1969 ex.s. c 215 s 14;
5 (31) RCW 28B.16.240 and 1979 ex.s. c 46 s 1;
6 (32) RCW 28B.16.255 and 1985 c 461 s 11;
7 (33) RCW 28B.16.265 and 1985 c 461 s 12;
8 (34) RCW 28B.16.275 and 1985 c 461 s 13;
9 (35) RCW 28B.16.300 and 1990 c 204 s 4;
10 (36) RCW 28B.16.900 and 1969 ex.s. c 36 s 18;
11 (37) RCW 28B.16.910 and 1969 ex.s. c 36 s 27;
12 (38) RCW 28B.16.920 and 1969 ex.s. c 36 s 30;
13 (39) RCW 28B.16.930 and 1969 ex.s. c 36 s 28;
14 (40) RCW 41.06.010 and 1980 c 118 s 1 & 1961 c 1 s 1;
15 (41) RCW 41.06.110 and 1984 c 287 s 69 & 1982 c 10 s 8;
16 (42) RCW 41.06.120 and 1981 c 311 s 17, 1975-'76 2nd ex.s. c 43 s
17 2, & 1961 c 1 s 12;
18 (43) RCW 41.06.130 and 1982 1st ex.s. c 53 s 3 & 1961 c 1 s 13;
19 (44) RCW 41.06.163 and 1987 c 185 s 9, 1986 c 158 s 6, 1979 c 151
20 s 59, & 1977 ex.s. c 152 s 3;
21 (45) RCW 41.06.165 and 1977 ex.s. c 152 s 4;
22 (46) RCW 41.06.230 and 1961 c 1 s 23;
23 (47) RCW 41.06.240 and 1961 c 1 s 24;
24 (48) RCW 41.06.310 and 1969 c 45 s 2; and
25 (49) RCW 41.06.340 and 1969 ex.s. c 215 s 13.

26 NEW SECTION. **Sec. 159.** Sections 101 through 109 of this act shall
27 constitute a new chapter in Title 43 RCW.

28 **PART II**

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

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

32 In addition to the entities listed in RCW 41.56.020, this chapter
33 shall apply to institutions of higher education with respect to the
34 employees classified under chapter 41.06 RCW or covered by a bargaining
35 agreement under section 204(2) of this act or by RCW 28B.50.874.

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

3 As used in this chapter:

4 (1) "Public employer" means any officer, board, commission,
5 council, institution of higher education, or other person or body
6 acting on behalf of any public body governed by this chapter as
7 designated by RCW 41.56.020, 41.56.022, 41.56.024, and section 201 of
8 this act, or any subdivision of such public body. For the purposes of
9 this section, the public employer of district court or superior court
10 employees for wage-related matters is the respective county legislative
11 authority, or person or body acting on behalf of the legislative
12 authority, and the public employer for nonwage-related matters is the
13 judge or judge's designee of the respective district court or superior
14 court.

15 (2) "Public employee" means any employee of a public employer
16 except any person (a) elected by popular vote, or (b) appointed to
17 office pursuant to statute, ordinance or resolution for a specified
18 term of office by the executive head or body of the public employer, or
19 (c) whose duties as deputy, administrative assistant or secretary
20 necessarily imply a confidential relationship to the executive head or
21 body of the applicable bargaining unit, or any person elected by
22 popular vote or appointed to office pursuant to statute, ordinance or
23 resolution for a specified term of office by the executive head or body
24 of the public employer, or (d) who is a personal assistant to a
25 district court judge, superior court judge, or court commissioner. For
26 the purpose of (d) of this subsection, no more than one assistant for
27 each judge or commissioner may be excluded from a bargaining unit.

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

31 (4) "Collective bargaining" means the performance of the mutual
32 obligations of the public employer and the exclusive bargaining
33 representative to meet at reasonable times, to confer and negotiate in
34 good faith, and to execute a written agreement with respect to
35 grievance procedures and collective negotiations on personnel matters,
36 including wages, hours and working conditions, which may be peculiar to
37 an appropriate bargaining unit of such public employer, except that by
38 such obligation neither party shall be compelled to agree to a proposal
39 or be required to make a concession unless otherwise provided in this

1 chapter. In the case of the Washington state patrol, "collective
2 bargaining" shall not include wages and wage-related matters.

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

4 (6) "Executive director" means the executive director of the
5 commission.

6 (7) "Uniformed personnel" means (a) law enforcement officers as
7 defined in RCW 41.26.030 as now or hereafter amended, of cities with a
8 population of fifteen thousand or more or law enforcement officers
9 employed by the governing body of any county with a population of
10 seventy thousand or more, or (b) fire fighters as that term is defined
11 in RCW 41.26.030, as now or hereafter amended.

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

14 **Sec. 203.** RCW 41.56.100 and 1989 c 45 s 1 are each amended to read
15 as follows:

16 (1) A public employer shall have the authority to engage in
17 collective bargaining with the exclusive bargaining representative and
18 no public employer shall refuse to engage in collective bargaining with
19 the exclusive bargaining representative(~~(:—PROVIDED, That))~~). Except
20 as otherwise authorized in section 204 of this act, nothing contained
21 herein shall require any public employer to bargain collectively with
22 any bargaining representative concerning any matter which by ordinance,
23 resolution or charter of (~~said~~) the public employer, or by statute,
24 has been delegated to any civil service commission or personnel board
25 similar in scope, structure and authority to the (~~board created by~~
26 ~~chapter 41.06 RCW~~) state personnel board before the effective date of
27 this section.

28 (2) Upon the failure of the public employer and the exclusive
29 bargaining representative to conclude a collective bargaining
30 agreement, any matter in dispute may be submitted by either party to
31 the commission. If a public employer implements its last and best
32 offer where there is no contract settlement, allegations that either
33 party is violating the terms of the implemented offer shall be subject
34 to grievance arbitration procedures if and as such procedures are set
35 forth in the implemented offer, or, if not in the implemented offer, if
36 and as such procedures are set forth in the parties' last contract.

1 NEW SECTION. **Sec. 204.** A new section is added to chapter 41.56

2 RCW to read as follows:

3 (1) On the effective date of this section, the commission shall
4 recognize, in their current form, all bargaining units certified by the
5 higher education personnel board as of June 30, 1993.

6 (2) At any time after the effective date of this section, a
7 bargaining unit at an institution of higher education certified under
8 this chapter or recognized under subsection (1) of this section and the
9 public employer may agree to have their relationship and corresponding
10 obligations governed entirely by the provisions of chapter 41.56 RCW by
11 mutual adoption of a collective bargaining agreement stating the
12 parties' intent to be so governed. The parties shall provide notice
13 and a copy of the agreement to the department of human resources and
14 the commission. On the first day of the month following the month
15 during which notice is received by the agencies, chapter 41.06 RCW
16 shall cease to apply to all employees in the bargaining unit covered by
17 the agreement, and the limitations on bargaining contained in RCW
18 41.56.100(1) shall cease to apply to the institution.

19 (3) If a bargaining unit and an institution mutually agree to a
20 collective bargaining agreement permitted in subsection (2) of this
21 section, salary increases for the employees in the bargaining unit
22 shall be subject to the following:

23 (a) Salary increases shall continue to be appropriated by the
24 legislature and, except as otherwise provided under (c) of this
25 subsection, contract provisions relating to salary increases shall not
26 exceed the amount or percentage established by the legislature in the
27 appropriations act for the institutions or as allocated to the board of
28 trustees by the state board for community and technical colleges.

29 (b) Any provisions of the contracts pertaining to salary increases
30 shall not be binding upon future actions of the legislature. If any
31 provision of a salary increase provided under (a) of this subsection is
32 changed by subsequent modification of the appropriations act by the
33 legislature, both parties shall immediately enter into collective
34 bargaining for the sole purpose of arriving at a mutually agreed upon
35 replacement for the modified provision.

36 (c) The agreements may provide for salary increases that are in
37 addition to increases provided by the legislature. However, the base
38 for salary increases provided by the legislature under (a) of this
39 subsection shall include only those amounts appropriated by the

1 legislature and the base shall not include any additional salary
2 increases provided under this subsection (3)(c).

3 (4) No collective bargaining agreement may contain any provision
4 relating to any retirement benefits, retirement system, or retirement
5 law, or relating to any health care benefits or employee insurance
6 benefits.

7 (5) A bargaining unit recognized under this chapter that does not
8 agree with the public employer to bargain under the provisions in
9 subsection (2) of this section shall be covered by chapter 41.06 RCW.
10 Collective bargaining for such employees and their exclusive bargaining
11 representatives is limited to negotiations on a grievance procedure and
12 personnel matters over which the institution or related board may
13 lawfully exercise discretion as defined by RCW 28B.16.100(2) before the
14 effective date of this section.

15 NEW SECTION. **Sec. 205.** A new section is added to chapter 41.06
16 RCW to read as follows:

17 At any time after the effective date of this section, a bargaining
18 unit at an institution of higher education certified or recognized
19 under chapter 41.56 RCW and the institution may agree to have their
20 relationship and corresponding obligations governed entirely by the
21 provisions of chapter 41.56 RCW by mutual adoption of a collective
22 bargaining agreement stating the parties' intent to be so governed.
23 The parties shall provide notice and a copy of the agreement to the
24 director of human resources and the public employment relations
25 commission. On the first day of the month following the month during
26 which notice is received by the agencies, this chapter shall cease to
27 apply to all employees in the bargaining unit covered by the agreement.

28 **PART III**

29 **COLLECTIVE BARGAINING FOR STATE EMPLOYEES**

30 NEW SECTION. **Sec. 301.** DEFINITIONS. Unless the context clearly
31 requires otherwise, the definitions in this section apply throughout
32 this chapter.

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

35 (2) "Collective bargaining" means the performance of the mutual
36 obligation of the representatives of the employer and the exclusive

1 bargaining representative to meet at reasonable times and to bargain in
2 good faith in an effort to reach agreement with respect to the subjects
3 of bargaining specified under section 306 of this act except by such
4 obligation neither party shall be compelled to agree to a proposal or
5 be required to make a concession.

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

8 (4) "Confidential employee" means an employee who, in the regular
9 course of his or her duties, assists in a confidential capacity persons
10 who formulate, determine, and effectuate management policies with
11 regard to labor relations or who, in the regular course of his or her
12 duties, has authorized access to information relating to the
13 effectuation or review of the employer's collective bargaining policies
14 thereto or who assists or aids managerial employees.

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

18 (a) Employees covered by RCW 41.56.030, 41.56.100 or sections 201,
19 204, or 205 of this act;

20 (b) Confidential employees;

21 (c) Managerial employees;

22 (d) Internal auditors in any agency;

23 (e) Any employee of the commission; and

24 (f) Any employee of the office of financial management, the
25 department of human resources, or the attorney general's office or
26 their successor organizations.

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

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

32 (8) "Exclusive bargaining representative" means any employee
33 organization that has been certified or recognized under this chapter
34 as the representative of the employees in an appropriate bargaining
35 unit.

36 (9) "Executive director" means the executive director of the public
37 employment relations commission.

38 (10) "Labor dispute" means any controversy concerning terms,
39 tenure, or conditions of employment, or concerning the association or

1 representation of persons in negotiating, fixing, maintaining,
2 changing, or seeking to arrange terms or conditions of employment with
3 respect to the subjects of bargaining provided in this chapter,
4 regardless of whether the disputants stand in the proximate relation of
5 employer and employee.

6 (11) "Managerial employees" means employees who:

7 (a) Formulate policy or direct the work of an agency or subdivision
8 thereof; or

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

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

14 (d) Have a substantial responsibility in personnel administration,
15 legislative relations, public information, or the preparation and
16 administration of budgets at the central level of state government or
17 for any agency, department, board, or commission or subdivision
18 thereof; or

19 (e) Functionally or organizationally are above the first level of
20 supervision.

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

30 (13) "Unfair labor practice" means any unfair labor practice listed
31 in section 315 of this act.

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

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

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

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

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

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

25 (2) To resolve disputes concerning the assignment of
26 classifications covered by this chapter to the appropriate bargaining
27 unit established under section 310 of this act;

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

30 (4) To resolve any issue arising under this chapter with respect to
31 representation matters covered by section 309 of this act.

32 Work stoppages arising from disputes involving subsections (2),
33 (3), and (4) of this section are expressly prohibited.

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

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

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

15 NEW SECTION. **Sec. 305.** MANAGEMENT RIGHTS. This chapter shall not
16 interfere with the right of the employer to carry out its statutory
17 mandate. An employer shall not be required to bargain over matters of
18 inherent managerial policy, which shall include such areas of
19 discretion or policy as the functions and programs of the employer, its
20 hours of operation, standards of service, use of technology, and
21 organizational structure. Management rights, which in addition to all
22 powers, duties, and rights established by constitutional provision,
23 statute or special act, also include, but are not limited to, the
24 exclusive power and right to:

25 (1) Direct, supervise, evaluate, or hire employees;

26 (2) Maintain and improve the efficiency and effectiveness of
27 governmental operations;

28 (3) Determine and implement methods, process, means, procedures and
29 type and number of personnel by which governmental operations are to be
30 conducted;

31 (4) Suspend, reduce pay, demote, or discharge for just cause, or
32 lay off, transfer, assign, schedule, promote, or retain employees; and

33 (5) Take whatever actions are deemed necessary to carry out the
34 mission of the state and its agencies during an emergency.

35 NEW SECTION. **Sec. 306.** SCOPE OF BARGAINING. (1) Except as
36 otherwise provided in this section, the matters subject to collective

1 bargaining are wages, hours, and other terms and conditions of
2 employment, and the negotiation of any question arising under a
3 collective bargaining agreement.

4 (2) The scope of bargaining shall not include matters pertaining
5 to:

6 (a) Rules, policies, practices, and procedures regarding merit
7 system principles relating to:

8 (i) Original appointments and promotions including recruitment,
9 examinations, grading, certification, probationary and trial service
10 periods and appointments;

11 (ii) The job evaluation system including position classification
12 and reclassification, position qualification standards, establishment
13 and abolition of classifications, allocation and reallocation of
14 positions to classifications, and the determination of an incumbent's
15 status resulting from position reallocations;

16 (iii) Training and career development, the career executive
17 program, veteran's preferences, and equal opportunity and affirmative
18 action;

19 (b) Any retirement system, retirement benefit, or retirement
20 statute of the state of Washington;

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

23 (d) Management rights as covered by section 305 of this act.

24 (3) In the event of a dispute between the employer and the
25 exclusive bargaining representative over which matters are mandatory
26 subjects for bargaining, the dispute shall be submitted to the
27 commission for determination. Prior law, practice, or interpretation
28 shall be neither restrictive, expansive, nor determinative with respect
29 to the scope of bargaining. Work stoppages arising from disputes
30 involving this subsection and subsection (2) of this section are
31 expressly prohibited.

32 NEW SECTION. Sec. 307. COLLECTIVE BARGAINING AGREEMENTS. (1) The
33 parties to a collective bargaining agreement shall reduce the agreement
34 to writing and both shall execute it.

35 (2) A collective bargaining agreement shall contain provisions
36 that:

1 (a) Require layoffs and subsequent reemployment to be implemented
2 based on seniority and the maintenance and implementation of approved
3 affirmative action plans; and

4 (b) Require processing of disciplinary actions or termination of
5 employment entirely under the procedures of the collective bargaining
6 agreement if an employee covered under this chapter has a right to
7 contest the disciplinary action or termination of employment.

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

17 NEW SECTION. **Sec. 308.** ENFORCEMENT OF COLLECTIVE BARGAINING
18 AGREEMENTS. (1) Collective bargaining agreements negotiated under this
19 chapter shall contain provisions for the final and binding arbitration
20 of all disputes arising over the interpretation or application of the
21 agreement.

22 (2) The parties to a collective bargaining agreement may agree on
23 one or more permanent umpires to serve as arbitrator, may agree on any
24 impartial person to serve as an ad hoc arbitrator, or may agree to
25 select arbitrators from any source available to them including federal
26 and private agencies or a list of arbitrators maintained by the
27 commission.

28 (3) An arbitrator may require any person to attend as a witness and
29 to bring with him or her any book, record, document, or other evidence.
30 Subpoenaes shall be issued and signed by the arbitrator and shall be
31 served in the same manner as subpoenaes to testify before a court of
32 record in this state. The fees for attendance shall be paid by the
33 party requesting issuance of the subpoena and shall be the same as the
34 fees of witnesses in the superior court. If any person so summoned to
35 testify refuses or neglects to obey the subpoena, upon petition
36 authorized by the arbitrator, the superior court may compel the
37 attendance of the person before the arbitrator or punish the person for

1 contempt in the same manner provided for the attendance of witnesses or
2 the punishment of them in the courts of this state.

3 (4) The arbitrator shall establish a time and place for a hearing
4 and shall provide reasonable notice thereof to the parties to the
5 dispute. The arbitrator may adjourn the hearing from time to time as
6 may be necessary and, on application of either party and for good
7 cause, postpone the hearing to a time not extending beyond a date fixed
8 by the collective bargaining agreement for making the award. The
9 arbitrator shall have the power to administer oaths. Each party shall
10 have the opportunity to present evidence and make argument at the
11 hearing. The rules of evidence prevailing in judicial proceedings may
12 be considered, but are not binding, and any oral testimony or
13 documentary evidence or other data deemed relevant by the arbitrator
14 may be received in evidence. The arbitrator shall issue a written
15 decision, which shall be signed by the arbitrator. The arbitrator
16 shall promptly serve a copy of the decision on each of the parties or
17 their attorneys.

18 (5) If a party to a collective bargaining agreement negotiated
19 under this chapter refuses to submit a grievance for arbitration, the
20 other party to the collective bargaining agreement may petition the
21 jurisdiction of the superior court of Thurston county for issuance of
22 an order compelling arbitration. Disputes concerning compliance with
23 grievance procedures shall be reserved for determination by the
24 arbitrator. Arbitration shall be ordered if the grievance states a
25 claim which on its face is covered by the collective bargaining
26 agreement, and doubts as to the arbitrability of an issue shall be
27 referred to the arbitrator to be decided before hearing the merits of
28 the case. Disputes concerning compliance with grievance procedures
29 shall be reserved for determination by the arbitrator.

30 (6) If a party to a collective bargaining agreement negotiated
31 under this chapter refuses to comply with the award of an arbitrator
32 determining a grievance arising under the collective bargaining
33 agreement, the other party to the collective bargaining agreement may
34 petition the superior court of Thurston county for issuance of an order
35 enforcing the arbitration award. The court shall not substitute its
36 judgment for that of the arbitrator, and shall enforce any arbitration
37 award that is based on the collective bargaining agreement, except that
38 an arbitration award shall not be enforced if the court is satisfied
39 that substantial rights of the parties have been prejudiced by:

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

3 (b) Evident partiality or corruption in the arbitrator or
4 arbitrators; or

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

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

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

20 (8) Nothing in this chapter or rules adopted under it may be
21 construed to authorize the commission or an arbitrator to direct in any
22 manner the method, means, and number, and kinds of personnel by which
23 agency operations are to be conducted or the number of clients to be
24 served by agency programs and operations, or to spend money not already
25 appropriated by the legislature, or that would have the effect of
26 increasing the future appropriations or diminishing established
27 programs.

28 (9) If there is any conflict between any collective bargaining
29 agreement and any resolution, rule, policy, or regulation of the
30 employer or its agents, the terms of the collective bargaining
31 agreement shall prevail.

32 (10) Work stoppages arising from grievance disputes subject to
33 arbitration under this section are expressly prohibited.

34 NEW SECTION. **Sec. 309.** REPRESENTATION. Transition from
35 bargaining units certified under RCW 41.06.150 to bargaining units
36 established by this chapter shall be in accordance with section 312 of
37 this act. All subsequent questions pertaining to the issue of

1 representation shall be resolved by the commission in accordance with
2 the procedures in this section.

3 (1) Questions concerning representation may not be raised within
4 one year following certification of an exclusive bargaining
5 representative under this section.

6 (2) Questions concerning representation may not be raised within
7 one year following an election or cross-check in which the employees
8 failed to designate an exclusive bargaining representative.

9 (3) If there is a valid collective bargaining agreement in effect,
10 questions concerning representation may not be raised except during the
11 period not more than ninety nor less than sixty days before the
12 expiration date of the agreement. In the event a valid collective
13 bargaining agreement, together with any renewals or extensions thereof,
14 has been or will be in existence for more than three years, questions
15 concerning representation may be raised not more than ninety nor less
16 than sixty days before the third anniversary date or any subsequent
17 anniversary date of the agreement. If the exclusive bargaining
18 representative is removed as the result of this procedure, the
19 collective bargaining agreement shall be deemed to be terminated as of
20 the date of the certification.

21 (4) An employee organization seeking certification as exclusive
22 bargaining representative of a bargaining unit of employees, or
23 bargaining unit employees seeking decertification of their exclusive
24 bargaining representative, shall make a confidential showing to the
25 commission of credible evidence demonstrating that at least thirty
26 percent of the employees in the bargaining unit are in support of the
27 petition.

28 (5) A petition filed by an employer shall be supported by credible
29 evidence demonstrating the good faith basis on which the employer
30 claims the existence of a question concerning the representation among
31 its employees.

32 (6) Any employee organization that makes a confidential showing to
33 the commission of credible evidence demonstrating that it has the
34 support of at least ten percent of the employees in the bargaining unit
35 involved may intervene in the proceedings under this section, and may
36 have its name listed as a choice on the ballot in an election conducted
37 by the commission.

1 (7) The commission shall determine any question concerning
2 representation by conducting a secret ballot election among the
3 employees in the bargaining unit, except:

4 (a) If only one employee organization is seeking certification as
5 exclusive bargaining representative of a bargaining unit for which
6 there is no incumbent exclusive bargaining representative, the
7 commission may, upon the concurrence of the employer and the employee
8 organization, determine the question concerning representation by
9 conducting a cross-check comparing the employee organization's
10 membership records or bargaining authorization cards against the
11 employment records of the employer; or

12 (b) Where the commission determines that a serious unfair labor
13 practice has been committed that interfered with the election process
14 and precludes the holding of a fair election, the commission may
15 determine the question concerning representation by conducting a cross-
16 check comparing the employee organization's membership records or
17 bargaining authorization cards against the employment records of the
18 employer.

19 (8) The representation election ballot shall contain a choice for
20 each employee organization qualifying under subsection (4) or (6) of
21 this section, together with a choice for no representation. The
22 representation election shall be determined by the majority of the
23 valid ballots cast. Where there are three or more choices on the
24 ballot and none of the choices receives a majority of the valid ballots
25 cast, a runoff election shall be conducted between the two choices
26 receiving the highest and second highest numbers of votes.

27 NEW SECTION. **Sec. 310.** BARGAINING UNITS. The legislature finds
28 that to foster meaningful collective bargaining, units must be
29 structured to avoid excessive fragmentation whenever possible. In
30 accordance with this policy, collective bargaining units under this
31 chapter shall be structured on a state-wide basis and limited to one
32 collective bargaining unit for each of the following:

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

37 (2) Maintenance, trades, and technical classes including but not
38 limited to generally recognized blue collar and technical classes,

1 including highway maintenance workers, carpenters, plumbers,
2 electricians, auto mechanics, engineering aides and associates, liquor
3 store clerks, and similar classes;

4 (3) Health and human care professionals, including but not limited
5 to community health, nutrition and health service professional
6 employees, nurses, doctors, psychologists, pharmacists, dietitians,
7 licensed therapists, and similar classes;

8 (4) Health and human care nonprofessional including but not limited
9 to institutional care classes, including nursing aides, psychiatric
10 aides, therapy aides, and similar classes;

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

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

17 (7) Professional employees not already included in a specific unit,
18 including but not limited to employees with general business
19 responsibilities such as accountants, buyers, computer programmers and
20 technicians, teachers and trainers, other than teachers in the K-12 or
21 higher education systems, research analysts, and similar classes;

22 (8) Regulatory, inspection, examining and licensing, including but
23 not limited to employees empowered to review certain public and
24 business activities such as driver licensing personnel, revenue agents,
25 bank and insurance examiners, various public health and protection
26 inspectors, and similar classes;

27 (9) Law enforcement, including all classes with power to arrest,
28 whose work involves primarily the enforcement of statutes, ordinances,
29 and rules and the preservation of public order; and

30 (10) Supervisory employees, however an employee organization that
31 is certified to represent nonsupervisory employees covered under this
32 chapter that becomes the certified bargaining agent for this unit shall
33 create a separate local for supervisory employees within its
34 organization.

35 NEW SECTION. **Sec. 311.** UNION SECURITY. (1) The parties to a
36 collective bargaining agreement may negotiate, as a condition of
37 employment, a union security provision. However, agreements involving
38 union security provisions shall safeguard the right of nonassociation

1 based on employee preference or on bona fide religious tenets or
2 teachings of a church or religious body of which the public employee is
3 a member. Payment of dues or a representation fee shall begin on the
4 thirtieth day following the beginning of employment or thirty days
5 after the date of ratification of an agreement containing a union
6 security provision, whichever is later. The failure of an employee to
7 comply with such a condition of employment constitutes cause for
8 dismissal. An exclusive bargaining representative may not require a
9 bargaining unit employee to pay initiation, reinstatement, or any other
10 fees or fines.

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

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

28 (4) To safeguard the right of nonassociation of employees, based on
29 bona fide religious tenets or teachings of a church or religious body
30 of which the employee is a member, the employee shall pay to a
31 charitable organization mutually agreed to between the employee and the
32 employee organization, an amount of money not greater than the dues
33 and/or fees assessed all other members or nonmembers of the
34 organization. The employee shall be required to provide the employee
35 organization with a monthly receipt from the charitable organization
36 showing the amount of the cash contribution. Such an employee shall
37 not be a member of the employee organization but is entitled to all the
38 representation rights of a member of the employee organization.

1 Disputes regarding the bona fide religious objections or charitable
2 contributions shall be decided by the commission.

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

12 NEW SECTION. **Sec. 312.** TRANSITION OF BARGAINING REPRESENTATIVES
13 AND UNITS. The transition of exclusive bargaining representatives and
14 bargaining units existing before the effective date of this section to
15 the units prescribed in section 310 of this act and to exclusive
16 bargaining representatives under this chapter shall be implemented as
17 follows:

18 (1) Any bargaining representative that has been certified under
19 prior law and rules to represent employees now included in a unit
20 established in section 310 of this act may use the number of its
21 regular dues paying members included in the new unit to establish its
22 status as a petitioner or intervenor under section 310 of this act if:

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

28 (b) Two or more employee organizations have more than a majority of
29 the employees in the unit established in section 310 of this act as
30 regular dues paying members, then an election shall be held under the
31 provisions of section 309 of this act to determine which such employee
32 organization shall be entitled to a certification as the exclusive
33 bargaining representative by the commission for the new bargaining
34 unit;

35 (c) On the effective date of this section, less than a majority of
36 the employees to be included in a bargaining unit prescribed in section
37 310 of this act are represented by a single existing certified
38 bargaining representative as evidenced by the number of employees

1 paying regular dues to the organization, representation of employees in
2 the new bargaining unit shall be determined pursuant to section 309 of
3 this act.

4 (2) An employee organization that has been the certified exclusive
5 bargaining representative of employees under any other law or rule
6 before the effective date of this section may continue to represent
7 such employees until they are included in a unit established under
8 section 310 of this act. However, agencies may not renegotiate any
9 existing agreement, enter into a new collective bargaining agreement,
10 or extend an existing agreement beyond the expiration date in effect on
11 the effective date of this section. No provision in any such agreement
12 may be unilaterally changed by the employer before its next expiration
13 date, or the date of certification of the new exclusive bargaining
14 representative under this chapter, whichever occurs first, without the
15 employer giving ninety days' advance notice to the certified exclusive
16 bargaining representative and, if requested, bargaining with the
17 representative over the proposed changes under the provisions of this
18 chapter.

19 (3) An employee organization may not be initially certified as an
20 exclusive bargaining agent in any bargaining unit established by this
21 chapter if a dispute exists over the classification to be included in
22 the unit that could affect the determination of its status as the
23 representative of a majority of the employees included in the unit
24 including the employees in disputed classifications.

25 NEW SECTION. **Sec. 313.** NEGOTIATION AND RATIFICATION OF COLLECTIVE
26 BARGAINING AGREEMENTS. (1) Collective bargaining agreement
27 negotiations under this chapter shall commence no later than October 1,
28 1994, for collective bargaining agreements that are to become effective
29 no earlier than July 1, 1995, for those units in which an exclusive
30 representative has been selected, or as soon thereafter as an exclusive
31 representative has been selected for a bargaining unit. For subsequent
32 agreements, negotiations shall commence and contracts become effective
33 as the parties agree.

34 (2) After ratification of a tentative agreement by the employees in
35 the bargaining unit, the governor or the governor's designee shall
36 prepare legislation necessary to implement the agreement. If the
37 legislature rejects any part of the legislation submitted, the
38 tentative agreement shall be returned to the parties for renegotiation.

1 (3) Any provisions of these agreements pertaining to salary
2 increases shall not be binding upon future actions of the legislature.
3 If any provision of a salary increase is changed by subsequent
4 modification of the appropriations act by the legislature, both parties
5 shall immediately enter into collective bargaining for the sole purpose
6 of arriving at a mutually agreed upon replacement for the modified
7 provision.

8 NEW SECTION. **Sec. 314.** STRIKES. (1) Employees covered by this
9 chapter who are eligible for collective bargaining may strike under the
10 following circumstances:

11 (a) The collective bargaining agreement between their exclusive
12 representative and their employer has expired or, if there is no
13 agreement between their exclusive representative and their employer, an
14 impasse has occurred; and

15 (b) The exclusive representative and the employer have participated
16 in mediation for a reasonable time and the executive director certifies
17 that the parties remain at impasse over certain issues identified by
18 each of the parties; or

19 (c) The legislature rejects or fails to ratify a negotiated
20 agreement.

21 (2) In addition to the other requirements of this section, an
22 employee may not strike unless written certified notification of intent
23 to strike and a statement delineating the affected employee
24 organization's last position on each issue in dispute and the reasons
25 for its intent to strike is served on the employer and the executive
26 director by the exclusive representative at least ten days before the
27 commencement of the strike. Notification of intent to strike under
28 this subsection may not be served until the collective bargaining
29 agreement has expired, or if there is no agreement, on or after the
30 date the commission certifies that the parties remain at impasse after
31 mediation and, if requested by the employer, after a majority of the
32 employees in a collective bargaining unit vote by secret ballot to (a)
33 reject the employer's last offer at the close of mediation and (b)
34 affirmatively authorize a strike.

35 (3) The employer may apply to the superior court in Thurston county
36 for an order enjoining any strike. A strike may be enjoined if it can
37 be shown that it has begun to or will likely threaten the health,
38 safety, or welfare of the public or is a violation of this chapter.

1 NEW SECTION. **Sec. 315.** UNFAIR LABOR PRACTICES. (1) It shall be
2 an unfair labor practice for an employer to:

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

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

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

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

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

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

21 (a) Restrain or coerce:

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

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

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

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

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

38 (e) Cause or attempt to cause the employer to pay or deliver or
39 agree to pay or deliver any money or other thing of value, in the

1 nature of an exaction, for services that are not performed or not to be
2 performed; or

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

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

17 NEW SECTION. **Sec. 316.** UNFAIR LABOR PRACTICE PROCEDURES. The
18 commission shall resolve any unfair labor practice dispute in
19 accordance with the procedures specified in this section.

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

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

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

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

34 NEW SECTION. **Sec. 317.** EMPLOYER RESPONSIBILITIES. (1) The
35 governor may designate someone as his or her designee to fulfill the
36 collective bargaining responsibilities as the state employer under this
37 chapter.

1 (2) As directed by the governor, the designee shall:
2 (a) Develop and implement labor relations policies and programs;
3 (b) Represent the governor in: Negotiations with certified
4 bargaining representatives; the determination of classifications to be
5 included in bargaining units; elections to determine certified
6 bargaining agents; and other proceedings arising under this chapter;
7 and any other activities necessary to implement the collective
8 bargaining policies established by this chapter;
9 (c) Consult with agencies as appropriate concerning agency-unique
10 issues involved in the collective bargaining under this chapter;
11 (d) Administer and interpret collective bargaining agreements, and
12 coordinate and direct agency activities as necessary to promote
13 consistent policies and practices;
14 (e) Coordinate the state's resources as needed to represent the
15 state in collective bargaining under this chapter; and
16 (f) Provide advice on labor relations to the various departments
17 and agencies of state government, including providing for necessary
18 supervisory and managerial training.
19 (3) All state departments and agencies shall provide such
20 assistance, services, and information as required by the governor or
21 his or her designee, and shall take such administrative or other action
22 as directed to implement and administer the provisions of any binding
23 agreement between the state and certified bargaining representatives
24 entered into under this chapter.

25 **Sec. 318.** RCW 41.04.230 and 1993 c 2 s 26 (Initiative Measure No.
26 134, approved November 3, 1992) and 1992 c 192 s 1 are each reenacted
27 and amended to read as follows:

28 Any official of the state authorized to disburse funds in payment
29 of salaries and wages of public officers or employees is authorized,
30 upon written request of the officer or employee, to deduct from the
31 salaries or wages of the officers or employees, the amount or amounts
32 of subscription payments, premiums, contributions, or continuation
33 thereof, for payment of the following:

34 (1) Credit union deductions: PROVIDED, That twenty-five or more
35 employees of a single state agency or a total of one hundred or more
36 state employees of several agencies have authorized such a deduction
37 for payment to the same credit union. An agency may, in its own

1 discretion, establish a minimum participation requirement of fewer than
2 twenty-five employees.

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

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

11 (4) Board, lodging or uniform deductions when such board, lodging
12 and uniforms are furnished by the state, or deductions for academic
13 tuitions or fees or scholarship contributions payable to the employing
14 institution.

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

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

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

33 ~~((+8)) (6) Deductions to a bank, savings bank, or savings and loan
34 association if (a) the bank, savings bank, or savings and loan
35 association is authorized to do business in this state; and (b) twenty-
36 five or more employees of a single agency, or fewer, if a lesser number
37 is established by such agency, or a total of one hundred or more state
38 employees of several agencies have authorized a deduction for payment
39 to the same bank, savings bank, or savings and loan association.~~

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

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

12 NEW SECTION. **Sec. 319.** Sections 301 through 317 of this act shall
13 constitute a new chapter in Title 41 RCW.

14 **PART IV**
15 **MISCELLANEOUS**

16 NEW SECTION. **Sec. 401.** Captions and part headings as used in this
17 act do not constitute any part of the law.

18 NEW SECTION. **Sec. 402.** Sections 1 through 317, 401, and 404 of
19 this act are necessary for the immediate preservation of the public
20 peace, health, or safety, or support of the state government and its
21 existing public institutions, and shall take effect July 1, 1993.

22 NEW SECTION. **Sec. 403.** Section 318 of this act shall take effect
23 July 1, 1995.

24 NEW SECTION. **Sec. 404.** If any provision of this act or its
25 application to any person or circumstance is held invalid, the
26 remainder of the act or the application of the provision to other
27 persons or circumstances is not affected.

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