

**SUBSTITUTE HOUSE BILL 2810**

**State of Washington**

**53rd Legislature**

**1994 Regular Session**

**By** House Committee on Appropriations (originally sponsored by Representatives Heavey, King, Brumsickle, J. Kohl, Conway, Wolfe, Romero, Eide, Chandler, Jones, Kessler, Brown, Zellinsky, Mielke, Chappell, Patterson, Flemming, Morris, Voloria, Reams, G. Cole, Karahalios, Dunshee, Wood, Ogden, Mastin, Johanson, Carlson, Anderson, R. Johnson, Wineberry, Campbell, Sheldon, Rayburn, Kremen, Caver, Dellwo, Van Luven, Leonard, Holm, Roland, Pruitt, Lemmon, Thibaudeau, Basich, Shin, Finkbeiner and Springer)

Read first time 03/09/94.

1 AN ACT Relating to civil service and collective bargaining reform  
2 for state government; amending RCW 41.06.030, 41.06.150, 41.06.022,  
3 41.06.110, 41.06.160, 41.06.167, 41.06.170, 41.06.186, 41.06.196,  
4 41.06.270, 41.06.350, 41.06.400, 41.06.410, 41.06.450, 41.06.475,  
5 41.06.490, 34.05.030, 34.12.020, 41.04.340, 41.50.804, 43.06.425,  
6 43.33A.100, 43.131.090, 49.46.010, 28B.16.015, and 41.06.340;  
7 reenacting and amending RCW 41.06.150, 41.06.070, and 28B.12.060;  
8 adding new sections to chapter 41.06 RCW; adding a new chapter to Title  
9 41 RCW; creating new sections; recodifying RCW 28B.16.015; repealing  
10 RCW 41.06.140, 41.06.163, 41.06.165, 41.50.804, 41.06.380, 41.06.382,  
11 41.64.010, 41.64.020, 41.64.030, 41.64.040, 41.64.050, 41.64.060,  
12 41.64.070, 41.64.080, 41.64.090, 41.64.100, 41.64.110, 41.64.120,  
13 41.64.130, 41.64.140, and 41.64.910; prescribing penalties; and  
14 providing effective dates.

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

16 **PART I**  
17 **LEGISLATIVE INTENT**

1 NEW SECTION. **Sec. 101.** SHORT TITLE. This act shall be known and  
2 may be cited as the civil service and collective bargaining reform act.

3 NEW SECTION. **Sec. 102.** POLICY. (1) The legislature finds that  
4 civil service reform and collective bargaining reform are necessary to  
5 modernize and improve the state personnel system and to assure the  
6 effective and orderly operations of state government. The legislature  
7 also finds that recognizing the principles of collective bargaining  
8 through negotiations about wages, hours, and other terms and conditions  
9 of employment with the state's employees can promote constructive  
10 relationships and encourage the involvement of employees and their  
11 representatives in the efficient improvement and effective delivery of  
12 government services.

13 (2) It is the purpose of this act to create flexible personnel  
14 policies for state government to make it possible for government to  
15 become more cost-effective, to operate more efficiently, and to deliver  
16 public services of the highest quality. It is also the intent of the  
17 legislature to develop the best possible procedures for involving state  
18 employees and their representatives in the effort to modernize and  
19 streamline state government and public services, through better  
20 communications and development of flexible responses to changing  
21 conditions.

22 **PART II**  
23 **CIVIL SERVICE REFORM**

24 **Sec. 201.** RCW 41.06.030 and 1993 c 281 s 20 are each amended to  
25 read as follows:

26 A department of personnel, governed in part by the Washington  
27 personnel resources board and governed in part and administered by a  
28 director of personnel, is hereby established as a separate agency  
29 within the state government.

30 **Sec. 202.** RCW 41.06.150 and 1993 sp.s. c 24 s 913 and 1993 c 281  
31 s 27 are each reenacted and amended to read as follows:

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

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

3 (2) Certification of names for vacancies, including departmental  
4 promotions, with the number of names equal to six more names than there  
5 are vacancies to be filled, such names representing applicants rated  
6 highest on eligibility lists: PROVIDED, That when other applicants  
7 have scores equal to the lowest score among the names certified, their  
8 names shall also be certified;

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

11 (4) Appointments;

12 (5) Training and career development;

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

17 (7) Transfers;

18 (8) Sick leaves and vacations;

19 (9) Hours of work;

20 (10) Layoffs when necessary and subsequent reemployment, both  
21 according to seniority;

22 (11)(a) Determination of appropriate bargaining units within any  
23 agency: PROVIDED, That in making such determination the board shall  
24 consider the duties, skills, and working conditions of the employees,  
25 the history of collective bargaining by the employees and their  
26 bargaining representatives, the extent of organization among the  
27 employees, and the desires of the employees;

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

1 bargaining unit and upon petition of thirty percent of the members of  
2 a bargaining unit the director shall hold an election to determine  
3 whether a majority wish to rescind such condition of employment:  
4 PROVIDED FURTHER, That for purposes of this clause, membership in the  
5 certified exclusive bargaining representative is satisfied by the  
6 payment of monthly or other periodic dues and does not require payment  
7 of initiation, reinstatement, or any other fees or fines and includes  
8 full and complete membership rights: AND PROVIDED FURTHER, That in  
9 order to safeguard the right of nonassociation of public employees,  
10 based on bona fide religious tenets or teachings of a church or  
11 religious body of which such public employee is a member, such public  
12 employee shall pay to the union, for purposes within the program of the  
13 union as designated by such employee that would be in harmony with his  
14 or her individual conscience, an amount of money equivalent to regular  
15 union dues minus any included monthly premiums for union-sponsored  
16 insurance programs, and such employee shall not be a member of the  
17 union but is entitled to all the representation rights of a union  
18 member;

19 ~~((13))~~ (c) Agreements between agencies and certified exclusive  
20 bargaining representatives providing for grievance procedures and  
21 collective negotiations on all personnel matters over which the  
22 appointing authority of the appropriate bargaining unit of such agency  
23 may lawfully exercise discretion;

24 ~~((14))~~ (d) Written agreements may contain provisions for payroll  
25 deductions of employee organization dues upon authorization by the  
26 employee member and for the cancellation of such payroll deduction by  
27 the filing of a proper prior notice by the employee with the appointing  
28 authority and the employee organization: PROVIDED, That nothing  
29 contained herein permits or grants to any employee the right to strike  
30 or refuse to perform his or her official duties;

31 ~~((15))~~ (e) A collective bargaining agreement entered into before  
32 July 1, 1995, covering employees affected by sections 301 through 319  
33 of this act that expires after July 1, 1995, shall, unless a  
34 superseding agreement complying with sections 301 through 319 of this  
35 act is negotiated by the parties, remain in full force during its  
36 duration, but the agreement may not be renewed or extended beyond July  
37 1, 1997, or until superseded by a collective bargaining agreement  
38 entered into under sections 301 through 319 of this act, whichever is  
39 later. No collective bargaining agreement under this section may take

1 effect after July 1, 1997. This subsection (11) shall not apply to  
2 collective bargaining negotiations or collective bargaining agreements  
3 entered into under sections 301 through 319 of this act. This  
4 subsection (e) does not apply to institutions of higher education;

5 (12) Adoption and revision of a comprehensive classification plan  
6 for all positions in the classified service, based on investigation and  
7 analysis of the duties and responsibilities of each such position.  
8 However, beginning July 1, 1993, through June 30, 1995, the board shall  
9 not adopt job classification revisions or class studies unless  
10 implementation of the proposed revision or study will result in net  
11 cost savings, increased efficiencies, or improved management of  
12 personnel or services, and the proposed revision or study has been  
13 approved by the director of financial management in accordance with  
14 chapter 43.88 RCW;

15 (~~(16)~~) (13) Allocation and reallocation of positions within the  
16 classification plan;

17 (~~(17)~~) (14) Adoption and revision of a state salary schedule to  
18 reflect the prevailing rates in Washington state private industries and  
19 other governmental units but the rates in the salary schedules or plans  
20 shall be increased if necessary to attain comparable worth under an  
21 implementation plan under RCW 41.06.155 and that, for institutions of  
22 higher education and related boards, shall be competitive for positions  
23 of a similar nature in the state or the locality in which an  
24 institution of higher education or related board is located, such  
25 adoption and revision subject to approval by the director of financial  
26 management in accordance with the provisions of chapter 43.88 RCW;

27 (~~(18)~~) (15) Increment increases within the series of steps for  
28 each pay grade based on length of service for all employees whose  
29 standards of performance are such as to permit them to retain job  
30 status in the classified service. However, beginning July 1, 1993,  
31 through June 30, 1995, increment increases shall not be provided to any  
32 classified or exempt employees under the jurisdiction of the board  
33 whose monthly salary on or after July 1, 1993, exceeds three thousand  
34 seven hundred fifty dollars;

35 (~~(19)~~) (16) Providing for veteran's preference as required by  
36 existing statutes, with recognition of preference in regard to layoffs  
37 and subsequent reemployment for veterans and their surviving spouses by  
38 giving such eligible veterans and their surviving spouses additional  
39 credit in computing their seniority by adding to their unbroken state

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

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

24 ~~((+21+))~~ (18) Assuring persons who are or have been employed in  
25 classified positions under chapter 28B.16 RCW before July 1, 1993, will  
26 be eligible for employment, reemployment, transfer, and promotion in  
27 respect to classified positions covered by this chapter;

28 ~~((+22+))~~ (19) Affirmative action in appointment, promotion,  
29 transfer, recruitment, training, and career development; development  
30 and implementation of affirmative action goals and timetables; and  
31 monitoring of progress against those goals and timetables.

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

37 **Sec. 203.** RCW 41.06.150 and 1994 c . . . s 202 (section 202 of  
38 this act) are each amended to read as follows:

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

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

7       (2) Certification of names for vacancies(~~(, including departmental~~  
8 ~~promotions, with the number of names equal to six more names than there~~  
9 ~~are vacancies to be filled, such names representing applicants rated~~  
10 ~~highest on eligibility lists: PROVIDED, That when other applicants~~  
11 ~~have scores equal to the lowest score among the names certified, their~~  
12 ~~names shall also be certified))~~);

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

15       (4) Appointments;

16       (5) Training and career development;

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

21       (7) Transfers;

22       (8) Sick leaves and vacations;

23       (9) Hours of work;

24       (10) Layoffs when necessary and subsequent reemployment(~~(, both))~~  
25 which, until July 1, 1997, shall both be according to seniority;

26       (11)(a) Determination of appropriate bargaining units within any  
27 agency: PROVIDED, That in making such determination the board shall  
28 consider the duties, skills, and working conditions of the employees,  
29 the history of collective bargaining by the employees and their  
30 bargaining representatives, the extent of organization among the  
31 employees, and the desires of the employees;

32       (b) Certification and decertification of exclusive bargaining  
33 representatives: PROVIDED, That after certification of an exclusive  
34 bargaining representative and upon the representative's request, the  
35 director shall hold an election among employees in a bargaining unit to  
36 determine by a majority whether to require as a condition of employment  
37 membership in the certified exclusive bargaining representative on or  
38 after the thirtieth day following the beginning of employment or the  
39 date of such election, whichever is the later, and the failure of an

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

22 (c) Agreements between agencies and certified exclusive bargaining  
23 representatives providing for grievance procedures and collective  
24 negotiations on all personnel matters over which the appointing  
25 authority of the appropriate bargaining unit of such agency may  
26 lawfully exercise discretion;

27 (d) Written agreements may contain provisions for payroll  
28 deductions of employee organization dues upon authorization by the  
29 employee member and for the cancellation of such payroll deduction by  
30 the filing of a proper prior notice by the employee with the appointing  
31 authority and the employee organization: PROVIDED, That nothing  
32 contained herein permits or grants to any employee the right to strike  
33 or refuse to perform his or her official duties;

34 (e) A collective bargaining agreement entered into before July 1,  
35 1995, covering employees affected by sections 301 through 319 of this  
36 act that expires after July 1, 1995, shall, unless a superseding  
37 agreement complying with sections 301 through 319 of this act is  
38 negotiated by the parties, remain in full force during its duration,  
39 but the agreement may not be renewed or extended beyond July 1, 1997,



1 or until superseded by a collective bargaining agreement entered into  
2 under sections 301 through 319 of this act, whichever is later. No  
3 collective bargaining agreement under this section may take effect  
4 after July 1, 1997. This subsection (11) shall not apply to collective  
5 bargaining negotiations or collective bargaining agreements entered  
6 into under sections 301 through 319 of this act. This subsection (e)  
7 does not apply to institutions of higher education;

8 (12) Adoption and revision of a comprehensive classification plan,  
9 in accordance with rules adopted by the board under section 204 of this  
10 act, for all positions in the classified service, based on  
11 investigation and analysis of the duties and responsibilities of each  
12 such position and allocation and reallocation of positions within the  
13 classification plan. However, beginning July 1, 1993, through June 30,  
14 1995, the ((board)) director shall not adopt job classification  
15 revisions or class studies unless implementation of the proposed  
16 revision or study will result in net cost savings, increased  
17 efficiencies, or improved management of personnel or services, and the  
18 proposed revision or study has been approved by the director of  
19 financial management in accordance with chapter 43.88 RCW;

20 ((13)) ~~((Allocation and reallocation of positions within the~~  
21 ~~classification plan;~~

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

32 ((15))) (14) Increment increases within the series of steps for  
33 each pay grade based on length of service for all employees whose  
34 standards of performance are such as to permit them to retain job  
35 status in the classified service. However, beginning July 1, 1993,  
36 through June 30, 1995, increment increases shall not be provided to any  
37 classified or exempt employees under the jurisdiction of the ((board))  
38 director whose monthly salary on or after July 1, 1993, exceeds three  
39 thousand seven hundred fifty dollars;

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

23       (~~(17)~~) (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       (~~(18)~~) (17) Assuring persons who are or have been employed in  
30 classified positions under chapter 28B.16 RCW before July 1, 1993, will  
31 be eligible for employment, reemployment, transfer, and promotion in  
32 respect to classified positions covered by this chapter;

33       (~~(19)~~) (18) Affirmative action in appointment, promotion,  
34 transfer, recruitment, training, and career development; development  
35 and implementation of affirmative action goals and timetables; and  
36 monitoring of progress against those goals and timetables.

37       The (~~board~~) director shall consult with the human rights  
38 commission in the development of rules pertaining to affirmative  
39 action. The department of personnel shall transmit a report annually

1 to the human rights commission which states the progress each state  
2 agency has made in meeting affirmative action goals and timetables.

3 Rules adopted by the director pursuant to subsections (1), (2) only  
4 with respect to the number of names to be certified, (4) except with  
5 regard to recruitment, the selection of applicants for initial  
6 recruitment to state service, and the selection of the names of  
7 appointees, (5) through (9), (10) except with regard to determining the  
8 financial basis for layoffs, (13) through (15), and (17) of this  
9 section may be superseded by the effect of a collective bargaining  
10 agreement negotiated pursuant to sections 301 through 319 of this act.  
11 However, the supersession of such rules shall only affect employees in  
12 the respective collective bargaining units.

13 NEW SECTION. Sec. 204. A new section is added to chapter 41.06  
14 RCW to read as follows:

15 (1) The board shall conduct a comprehensive review of all rules in  
16 effect on the effective date of this section governing the  
17 classification, allocation, and reallocation of positions within the  
18 classified service. In conducting this review, the board shall consult  
19 with state agencies, institutions of higher education, employee  
20 organizations, and members of the general public. The department shall  
21 assist the board in the conduct of this review, which shall be  
22 completed by the board no later than July 1, 1995.

23 (2) By September 15, 1995, the board shall adopt new rules  
24 governing the classification, allocation, and reallocation of positions  
25 in the classified service. In adopting such rules, the board shall  
26 adhere to the following goals:

27 (a) To improve the effectiveness and efficiency of the delivery of  
28 services to the citizens of the state through the use of the most  
29 current personnel management processes and to promote a workplace where  
30 the overall focus is on the recipient of governmental services;

31 (b) To develop the most simplified classification system that will  
32 substantially reduce the number of job classifications in the  
33 classified service and facilitate the most effective use of the state  
34 personnel resources;

35 (c) To develop the most flexible possible classification system to  
36 permit state agencies to respond to changing technologies, economic and  
37 social conditions, and the needs of its citizens;

38 (d) To value workplace diversity;

1 (e) To facilitate the reorganization and decentralization of  
2 governmental services; and

3 (f) To enhance mobility and career advancement opportunities.

4 (3) Rules adopted by the board under subsection (2) of this section  
5 shall permit an appointing authority and an employee organization  
6 representing classified employees of the appointing authority for  
7 collective bargaining purposes to make a joint request for the  
8 initiation of a classification study.

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

11 In accordance with rules adopted by the board under section 204 of  
12 this act, the director shall, by March 15, 1996, begin to implement a  
13 new classification system for positions in the classified service. Any  
14 employee who believes that the director has incorrectly applied the  
15 rules of the board in determining a job classification for a job held  
16 by that employee may appeal the director's decision to the board by  
17 filing a notice in writing within thirty days of the action from which  
18 the appeal is taken. Decisions of the board concerning such appeals  
19 are final.

20 **Sec. 206.** RCW 41.06.022 and 1993 c 281 s 8 are each amended to  
21 read as follows:

22 For purposes of this chapter, "manager" means any employee who:

23 (1) Formulates state-wide policy or directs the work of an agency  
24 or agency subdivision;

25 (2) Is responsible to administer one or more state-wide policies or  
26 programs of an agency or agency subdivision;

27 (3) Manages, administers, and controls a local branch office of an  
28 agency or agency subdivision, including the physical, financial, or  
29 personnel resources;

30 (4) Has substantial responsibility in personnel administration,  
31 legislative relations, public information, or the preparation and  
32 administration of budgets; or

33 (5) Functionally is above the first level of supervision and  
34 exercises authority that is not merely routine or clerical in nature  
35 and requires the consistent use of independent judgment.

1        No employee who is a member of the Washington management service as  
2 defined by the effect of this section may be included in a collective  
3 bargaining unit established under this chapter.

4        NEW SECTION. Sec. 207. A new section is added to chapter 41.06  
5 RCW to read as follows:

6        (1) A department, agency, or institution of higher education may  
7 purchase services provided by employees in classified service under  
8 this chapter by contracting with individuals or business entities.  
9 However, when proposals to contract will affect an existing classified  
10 employee or position, the mitigation of effects of such a proposal are  
11 subject to bargaining in accordance with this chapter.

12        (2) The office of financial management shall adopt rules to ensure  
13 that departments, agencies, or institutions of higher education:

14        (a) Can demonstrate that classified employees could not provide  
15 these services; or

16        (b) Have conducted a feasibility study demonstrating that the  
17 purchase would be fiscally prudent and result in reduced expenditure of  
18 public funds while maintaining quality services. The study shall  
19 include both direct and indirect costs and demonstrate why such savings  
20 cannot be achieved through alternative management practices or through  
21 the more efficient use of existing personnel.

22        (3) When proposals to contract for services are likely to affect  
23 the status of an existing classified employee or position, the  
24 exclusive bargaining representative shall have the right to offer  
25 alternatives to the proposed contract, including compensation  
26 alternatives, restructuring of work, work methods, and service delivery  
27 models, or to use the state employees in submitting an alternative to  
28 contracting out through the procurement process.

29        (4) Any provision contrary to or in conflict with this section in  
30 any collective bargaining agreement in effect on the effective date of  
31 this section shall become null and void upon the effective date of this  
32 section.

33        (5) This section does not apply to the purchase of services or to  
34 any contracting for services that was authorized by law prior to the  
35 effective date of this section.

36        (6) No involuntary layoffs from state service, relocation beyond a  
37 reasonable commute, or reduction in usual number of work hours shall

1 result from contracting for services under this section. This  
2 subsection (6) shall expire July 1, 1997.

3 (7) Once collective bargaining agreements are entered into in  
4 accordance with sections 301 through 319 of this act, agencies,  
5 departments, or institutions who have entered into collective  
6 bargaining agreements are no longer required to meet the conditions in  
7 subsections (2), (3), and (6) of this section.

8 **Sec. 208.** RCW 41.06.070 and 1993 sp.s. c 2 s 15 and 1993 c 379 s  
9 306 are each reenacted and amended to read as follows:

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

11 (a) The members of the legislature or to any employee of, or  
12 position in, the legislative branch of the state government including  
13 members, officers, and employees of the legislative council,  
14 legislative budget committee, statute law committee, and any interim  
15 committee of the legislature;

16 (b) The justices of the supreme court, judges of the court of  
17 appeals, judges of the superior courts or of the inferior courts, or to  
18 any employee of, or position in the judicial branch of state  
19 government;

20 (c) Officers, academic personnel, and employees of technical  
21 colleges;

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

23 (e) Elective officers of the state;

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

25 (g) In the departments of employment security(~~(7)~~) and social and  
26 health services, the director and the director's confidential  
27 secretary; in all other departments, the executive head of which is an  
28 individual appointed by the governor, the director, his or her  
29 confidential secretary, and his or her statutory assistant directors;

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

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

34 (ii) If the members of the board, commission, or committee serve on  
35 a part-time basis and there is a statutory executive officer: The  
36 secretary of the board, commission, or committee; the chief executive  
37 officer of the board, commission, or committee; and the confidential

1 secretary of the chief executive officer of the board, commission, or  
2 committee;

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

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

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

13 (j) Assistant attorneys general;

14 (k) Commissioned and enlisted personnel in the military service of  
15 the state;

16 (l) Inmate, student, part-time, or temporary employees, and part-  
17 time professional consultants, as defined by the (~~Washington personnel~~  
18 ~~resources board~~) director of personnel, unless coverage of students,  
19 part-time or temporary employees, or part-time professional consultants  
20 is provided by a collective bargaining agreement negotiated under  
21 sections 301 through 319 of this act;

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

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

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

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

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

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

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

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

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

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

3 (w) Liquor vendors appointed by the Washington state liquor control  
4 board pursuant to RCW 66.08.050: PROVIDED, HOWEVER, That rules adopted  
5 by the (~~Washington personnel resources board~~) director of personnel  
6 pursuant to RCW 41.06.150 regarding the basis for, and procedures to be  
7 followed for, the dismissal, suspension, or demotion of an employee,  
8 and appeals therefrom shall be fully applicable to liquor vendors  
9 except those part time agency vendors employed by the liquor control  
10 board when, in addition to the sale of liquor for the state, they sell  
11 goods, wares, merchandise, or services as a self-sustaining private  
12 retail business;

13 (x) Executive assistants for personnel administration and labor  
14 relations in all state agencies employing such executive assistants  
15 including but not limited to all departments, offices, commissions,  
16 committees, boards, or other bodies subject to the provisions of this  
17 chapter and this subsection shall prevail over any provision of law  
18 inconsistent herewith unless specific exception is made in such law;

19 (y) In each agency with fifty or more employees: Deputy agency  
20 heads, assistant directors or division directors, and not more than  
21 three principal policy assistants who report directly to the agency  
22 head or deputy agency heads;

23 (z) All employees of the marine employees' commission;

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

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

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



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

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

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

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

24 (3) In addition to the exemptions specifically provided by this  
25 chapter, the (~~Washington personnel resources board~~) director of  
26 personnel may provide for further exemptions pursuant to the following  
27 procedures. The governor or other appropriate elected official may  
28 submit requests for exemption to the (~~Washington personnel resources~~  
29 ~~board~~) director of personnel stating the reasons for requesting such  
30 exemptions. The (~~Washington personnel resources board~~) director of  
31 personnel shall hold a public hearing, after proper notice, on requests  
32 submitted pursuant to this subsection. If the (~~board~~) director of  
33 personnel determines that the position for which exemption is requested  
34 is one involving substantial responsibility for the formulation of  
35 basic agency or executive policy or one involving directing and  
36 controlling program operations of an agency or a major administrative  
37 division thereof, the (~~Washington personnel resources board~~) director  
38 of personnel shall grant the request and such determination shall be  
39 final as to any decision made before July 1, 1993. The total number of

1 additional exemptions permitted under this subsection shall not exceed  
2 one percent of the number of employees in the classified service not  
3 including employees of institutions of higher education and related  
4 boards for those agencies not directly under the authority of any  
5 elected public official other than the governor, and shall not exceed  
6 a total of twenty-five for all agencies under the authority of elected  
7 public officials other than the governor. The (~~Washington personnel~~  
8 ~~resources board~~) director of personnel shall report to each regular  
9 session of the legislature during an odd-numbered year all exemptions  
10 granted under subsections (1) (x) and (y) and (2) of this section,  
11 together with the reasons for such exemptions.

12 The salary and fringe benefits of all positions presently or  
13 hereafter exempted except for the chief executive officer of each  
14 agency, full-time members of boards and commissions, administrative  
15 assistants and confidential secretaries in the immediate office of an  
16 elected state official, and the personnel listed in subsections (1) (j)  
17 through (v) and (2) of this section, shall be determined by the  
18 (~~Washington personnel resources board~~) director of personnel.

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

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

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

33 **Sec. 209.** RCW 41.06.110 and 1993 c 281 s 25 are each amended to  
34 read as follows:

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

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

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

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

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

30 **Sec. 210.** RCW 41.06.160 and 1993 c 281 s 29 are each amended to  
31 read as follows:

32 In preparing classification and salary schedules as set forth in  
33 RCW 41.06.150 (~~((as now or hereafter amended))~~) the department of  
34 personnel shall give full consideration to prevailing rates in other  
35 public employment and in private employment in this state. For this  
36 purpose the department shall undertake comprehensive salary and fringe  
37 benefit surveys(~~(, with such surveys to be conducted in the year prior~~  
38 ~~to the convening of every other one hundred five day regular session of~~

1 the state legislature. In the year prior to the convening of each one  
2 hundred five day regular session during which a comprehensive salary  
3 and fringe benefit survey is not conducted, the department shall plan  
4 and conduct a trend salary and fringe benefit survey. This survey  
5 shall measure average salary and fringe benefit movement for broad  
6 occupational groups which has occurred since the last comprehensive  
7 salary and fringe benefit survey was conducted. The results of each  
8 comprehensive and trend salary and fringe benefit survey shall be  
9 completed and forwarded by September 30 with a recommended state salary  
10 schedule to the governor and director of financial management for their  
11 use in preparing budgets to be submitted to the succeeding legislature.  
12 A copy of the data and supporting documentation shall be furnished by  
13 the department of personnel to the standing committees for  
14 appropriations of the senate and house of representatives.

15 In the case of comprehensive salary and fringe benefit surveys, the  
16 department shall furnish the following supplementary data in support of  
17 its recommended salary schedule:

18 (1) A total dollar figure which reflects the recommended increase  
19 or decrease in state salaries as a direct result of the specific salary  
20 and fringe benefit survey that has been conducted and which is  
21 categorized to indicate what portion of the increase or decrease is  
22 represented by salary survey data and what portion is represented by  
23 fringe benefit survey data;

24 (2) An additional total dollar figure which reflects the impact of  
25 recommended increases or decreases to state salaries based on other  
26 factors rather than directly on prevailing rate data obtained through  
27 the survey process and which is categorized to indicate the sources of  
28 the requests for deviation from prevailing rates and the reasons for  
29 the changes;

30 (3) A list of class codes and titles indicating recommended monthly  
31 salary ranges for all state classes under the control of the department  
32 of personnel with those salary ranges which do not substantially  
33 conform to the prevailing rates developed from the salary and fringe  
34 benefit survey distinctly marked and an explanation of the reason for  
35 the deviation included;

36 (4) A supplemental salary schedule which indicates the additional  
37 salary to be paid state employees for hazardous duties or other  
38 considerations requiring extra compensation under specific  
39 circumstances. Additional compensation for these circumstances shall

1 not be included in the basic salary schedule but shall be maintained as  
2 a separate pay schedule for purposes of full disclosure and visibility;  
3 and

4 (5) ~~A supplemental salary schedule which indicates those cases~~  
5 ~~where the board determines that prevailing rates do not provide similar~~  
6 ~~salaries for positions that require or impose similar responsibilities,~~  
7 ~~judgment, knowledge, skills, and working conditions. This~~  
8 ~~supplementary salary schedule shall contain proposed salary adjustments~~  
9 ~~necessary to eliminate any such dissimilarities in compensation.~~  
10 ~~Additional compensation needed to eliminate such salary dissimilarities~~  
11 ~~shall not be included in the basic salary schedule but shall be~~  
12 ~~maintained as a separate salary schedule for purposes of full~~  
13 ~~disclosure and visibility.~~

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

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

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

28 **Sec. 211.** RCW 41.06.167 and 1991 c 196 s 1 are each amended to  
29 read as follows:

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

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

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

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

28 **Sec. 212.** RCW 41.06.170 and 1993 c 281 s 31 are each amended to  
29 read as follows:

30 (1) The ((board or)) director, in the adoption of rules governing  
31 suspensions for cause, shall not authorize an appointing authority to  
32 suspend an employee for more than fifteen calendar days as a single  
33 penalty or more than thirty calendar days in any one calendar year as  
34 an accumulation of several penalties. The ((board or)) director shall  
35 require that the appointing authority give written notice to the  
36 employee not later than one day after the suspension takes effect,  
37 stating the reasons for and the duration thereof.

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

13 (3) Any employee whose position has been exempted after July 1,  
14 1993, shall have the right to appeal either individually or through his  
15 or her authorized representative to the (~~personnel appeals~~) board  
16 (~~created by RCW 41.64.010~~) not later than thirty days after the  
17 effective date of such action.

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

24 (5) Subsections (1) and (2) of this section do not apply to any  
25 employee who is subject to the provisions of a collective bargaining  
26 agreement negotiated under sections 301 through 319 of this act.

27 **Sec. 213.** RCW 41.06.186 and 1993 c 281 s 32 are each amended to  
28 read as follows:

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

32 **Sec. 214.** RCW 41.06.196 and 1993 c 281 s 33 are each amended to  
33 read as follows:

34 The (~~Washington personnel resources board~~) director shall adopt  
35 rules designed to remove from supervisory positions those supervisors  
36 who in violation of the rules adopted under RCW 41.06.186 have

1 tolerated the continued employment of employees under their supervision  
2 whose performance has warranted termination from state employment.

3 **Sec. 215.** RCW 41.06.270 and 1979 c 151 s 61 are each amended to  
4 read as follows:

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

10 **Sec. 216.** RCW 41.06.350 and 1993 c 281 s 36 are each amended to  
11 read as follows:

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

17 **Sec. 217.** RCW 41.06.400 and 1980 c 118 s 4 are each amended to  
18 read as follows:

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

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

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

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

32 (c) Promote interagency sharing of resources for training and  
33 career development;

34 (d) Monitor and review the impact of training and career  
35 development programs to ensure that the responsibilities of the state  
36 to provide equal employment opportunities are diligently carried out.



1 (~~The director shall report to the board the impact of training and~~  
2 ~~career development programs on the fulfillment of such~~  
3 ~~responsibilities.~~)

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

8 **Sec. 218.** RCW 41.06.410 and 1980 c 118 s 5 are each amended to  
9 read as follows:

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

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

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

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

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

22 **Sec. 219.** RCW 41.06.450 and 1993 c 281 s 37 are each amended to  
23 read as follows:

24 (1) (~~By January 1, 1983, the Washington personnel resources~~  
25 ~~board~~) The director shall adopt rules applicable to each agency to  
26 ensure that information relating to employee misconduct or alleged  
27 misconduct is destroyed or maintained as follows:

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

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

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

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

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

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

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

11 **Sec. 220.** RCW 41.06.475 and 1993 c 281 s 38 are each amended to  
12 read as follows:

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

18 **Sec. 221.** RCW 41.06.490 and 1990 c 204 s 3 are each amended to  
19 read as follows:

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

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

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

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

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

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

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

6 (g) Coordinate participation of applicable employee assistance  
7 programs, as appropriate.

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

12 **Sec. 222.** RCW 28B.12.060 and 1993 sp.s. c 18 s 3 and 1993 c 281 s  
13 14 are each reenacted and amended to read as follows:

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

23 (1) Providing work under the college work-study program which will  
24 not result in the displacement of employed workers or impair existing  
25 contracts for services.

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

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

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

35 (c) Is not pursuing a degree in theology.

36 (3) Placing priority on the securing of work opportunities for  
37 students who are residents of the state of Washington as defined in RCW

1 28B.15.012 and 28B.15.013 except resident students defined in RCW  
2 28B.15.012(2)(e).

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

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

7 (b) That all positions established which are comparable shall be  
8 identified to a job classification under the (~~Washington personnel~~  
9 ~~resources board's~~) director of personnel's classification plan and  
10 shall receive equal compensation;

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

13 (d) That work study positions shall only be established at entry  
14 level positions of the classified service.

15 **Sec. 223.** RCW 34.05.030 and 1993 c 281 s 15 are each amended to  
16 read as follows:

17 (1) This chapter shall not apply to:

18 (a) The state militia, or

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

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

23 (2) The provisions of RCW 34.05.410 through 34.05.598 shall not  
24 apply:

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

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

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

34 (d) To actions of the Washington personnel resources board(~~(τ)~~) or  
35 the director of personnel(~~(τ or the personnel appeals board)~~); or

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

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

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

7 **Sec. 224.** RCW 34.12.020 and 1993 c 281 s 16 are each amended to  
8 read as follows:

9 Unless the context clearly requires otherwise, the definitions in  
10 this section apply throughout this chapter.

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

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

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

18 (4) "State agency" means any state board, commission, department,  
19 or officer authorized by law to make rules or to conduct adjudicative  
20 proceedings, except those in the legislative or judicial branches, the  
21 pollution control hearings board, the shorelines hearings board, the  
22 forest practices appeals board, the environmental hearings office, the  
23 board of industrial insurance appeals, the Washington personnel  
24 resources board, the public employment relations commission, (~~the~~  
25 ~~personnel appeals board,~~) and the board of tax appeals.

26 **Sec. 225.** RCW 41.04.340 and 1993 c 281 s 17 are each amended to  
27 read as follows:

28 (1) An attendance incentive program is established for all eligible  
29 employees. As used in this section the term "eligible employee" means  
30 any employee of the state, other than teaching and research faculty at  
31 the state and regional universities and The Evergreen State College,  
32 entitled to accumulate sick leave and for whom accurate sick leave  
33 records have been maintained. No employee may receive compensation  
34 under this section for any portion of sick leave accumulated at a rate  
35 in excess of one day per month. The state and regional universities  
36 and The Evergreen State College shall maintain complete and accurate  
37 sick leave records for all teaching and research faculty.

1 (2) In January of the year following any year in which a minimum of  
2 sixty days of sick leave is accrued, and each January thereafter, any  
3 eligible employee may receive remuneration for unused sick leave  
4 accumulated in the previous year at a rate equal to one day's monetary  
5 compensation of the employee for each four full days of accrued sick  
6 leave in excess of sixty days. Sick leave for which compensation has  
7 been received shall be deducted from accrued sick leave at the rate of  
8 four days for every one day's monetary compensation.

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

14 (4) Pursuant to this subsection, in lieu of cash remuneration the  
15 state may, with equivalent funds, provide eligible employees with a  
16 benefit plan providing for reimbursement of medical expenses. The  
17 committee for deferred compensation shall develop any benefit plan  
18 established under this subsection, but may offer and administer the  
19 plan only if (a) each eligible employee has the option of whether to  
20 receive cash remuneration or to have his or her employer transfer  
21 equivalent funds to the plan; and (b) the committee has received an  
22 opinion from the United States internal revenue service stating that  
23 participating employees, prior to the time of receiving reimbursement  
24 for expenses, will incur no United States income tax liability on the  
25 amount of the equivalent funds transferred to the plan.

26 (5) Remuneration or benefits received under this section shall not  
27 be included for the purpose of computing a retirement allowance under  
28 any public retirement system in this state.

29 (6) With the exception of subsection (4) of this section, this  
30 section shall be administered, and rules shall be adopted to carry out  
31 its purposes, by the (~~Washington personnel resources board~~) director  
32 of personnel for persons subject to chapter 41.06 RCW: PROVIDED, That  
33 determination of classes of eligible employees shall be subject to  
34 approval by the office of financial management.

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

1       **Sec. 226.** RCW 41.50.804 and 1993 c 281 s 40 are each amended to  
2 read as follows:

3       Nothing contained in this chapter shall be construed to alter any  
4 existing collective bargaining agreement until any such agreement has  
5 expired or until any such bargaining unit has been modified by action  
6 of the (~~Washington personnel resources board~~) state employment  
7 relations commission as provided by law.

8       **Sec. 227.** RCW 43.06.425 and 1993 c 281 s 48 are each amended to  
9 read as follows:

10       The (~~Washington personnel resources board~~) director of personnel  
11 shall adopt rules to provide that:

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

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

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

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

28       **Sec. 228.** RCW 43.33A.100 and 1993 c 281 s 50 are each amended to  
29 read as follows:

30       The state investment board shall maintain appropriate offices and  
31 employ such personnel as may be necessary to perform its duties.  
32 Employment by the investment board shall include but not be limited to  
33 an executive director, investment officers, and a confidential  
34 secretary, which positions are exempt from classified service under  
35 chapter 41.06 RCW. Employment of the executive director by the board  
36 shall be for a term of three years, and such employment shall be  
37 subject to confirmation of the state finance committee: PROVIDED, That

1 nothing shall prevent the board from dismissing the director for cause  
2 before the expiration of the term nor shall anything prohibit the  
3 board, with the confirmation of the state finance committee, from  
4 employing the same individual as director in succeeding terms.  
5 Compensation levels for the investment officers employed by the  
6 investment board shall be established by the (~~Washington personnel~~  
7 ~~resources board~~) director of personnel.

8 As of July 1, 1981, all employees classified under chapter 41.06  
9 RCW and engaged in duties assumed by the state investment board on July  
10 1, 1981, are assigned to the state investment board. The transfer  
11 shall not diminish any rights granted these employees under chapter  
12 41.06 RCW nor exempt the employees from any action which may occur  
13 thereafter in accordance with chapter 41.06 RCW.

14 All existing contracts and obligations pertaining to the functions  
15 transferred to the state investment board in this 1980 act shall remain  
16 in full force and effect, and shall be performed by the board. None of  
17 the transfers directed by this 1980 act shall affect the validity of  
18 any act performed by a state entity or by any official or employee  
19 thereof prior to July 1, 1981.

20 **Sec. 229.** RCW 43.131.090 and 1993 c 281 s 54 are each amended to  
21 read as follows:

22 Unless the legislature specifies a shorter period of time, a  
23 terminated state agency shall continue in existence until June 30th of  
24 the next succeeding year for the purpose of concluding its affairs:  
25 PROVIDED, That the powers and authority of the state agency shall not  
26 be reduced or otherwise limited during this period. Unless otherwise  
27 provided:

28 (1) All employees of terminated state agencies classified under  
29 chapter 41.06 RCW, the state civil service law, shall be transferred as  
30 appropriate or as otherwise provided in the procedures adopted by the  
31 (~~Washington personnel resources board~~) director of personnel pursuant  
32 to RCW 41.06.150;

33 (2) All documents and papers, equipment, or other tangible property  
34 in the possession of the terminated state agency shall be delivered to  
35 the custody of the agency assuming the responsibilities of the  
36 terminated agency or if such responsibilities have been eliminated,  
37 documents and papers shall be delivered to the state archivist and



1 equipment or other tangible property to the department of general  
2 administration;

3 (3) All funds held by, or other moneys due to, the terminated state  
4 agency shall revert to the fund from which they were appropriated, or  
5 if that fund is abolished to the general fund;

6 (4) Notwithstanding the provisions of RCW 34.05.020, all rules made  
7 by a terminated state agency shall be repealed, without further action  
8 by the state agency, at the end of the period provided in this section,  
9 unless assumed and reaffirmed by the agency assuming the related legal  
10 responsibilities of the terminated state agency;

11 (5) All contractual rights and duties of a state agency shall be  
12 assigned or delegated to the agency assuming the responsibilities of  
13 the terminated state agency, or if there is none to such agency as the  
14 governor shall direct.

15 **Sec. 230.** RCW 49.46.010 and 1993 c 281 s 56 are each amended to  
16 read as follows:

17 As used in this chapter:

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

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

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

25 (4) "Employer" includes any individual, partnership, association,  
26 corporation, business trust, or any person or group of persons acting  
27 directly or indirectly in the interest of an employer in relation to an  
28 employee;

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

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

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

4 (c) Any individual employed in a bona fide executive,  
5 administrative, or professional capacity or in the capacity of outside  
6 salesman as those terms are defined and delimited by rules of the  
7 director. However, those terms shall be defined and delimited by the  
8 (~~Washington personnel resources board~~) director of personnel pursuant  
9 to chapter 41.06 RCW for employees employed under the director of  
10 personnel's jurisdiction;

11 (d) Any individual engaged in the activities of an educational,  
12 charitable, religious, state or local governmental body or agency, or  
13 nonprofit organization where the employer-employee relationship does  
14 not in fact exist or where the services are rendered to such  
15 organizations gratuitously. If the individual receives reimbursement  
16 in lieu of compensation for normally incurred out-of-pocket expenses or  
17 receives a nominal amount of compensation per unit of voluntary service  
18 rendered, an employer-employee relationship is deemed not to exist for  
19 the purpose of this section or for purposes of membership or  
20 qualification in any state, local government or publicly supported  
21 retirement system other than that provided under chapter 41.24 RCW;

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

29 (f) Any newspaper vendor or carrier;

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

32 (h) Any individual engaged in forest protection and fire prevention  
33 activities;

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

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

5 (k) Any resident, inmate, or patient of a state, county, or  
6 municipal correctional, detention, treatment or rehabilitative  
7 institution;

8 (l) Any individual who holds a public elective or appointive office  
9 of the state, any county, city, town, municipal corporation or quasi  
10 municipal corporation, political subdivision, or any instrumentality  
11 thereof, or any employee of the state legislature;

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

14 (n) Any individual employed as a seaman on a vessel other than an  
15 American vessel.

16 (6) "Occupation" means any occupation, service, trade, business,  
17 industry, or branch or group of industries or employment or class of  
18 employment in which employees are gainfully employed.

19 **Sec. 231.** RCW 28B.16.015 and 1993 c 379 s 310 are each amended to  
20 read as follows:

21 At any time after July 1, 1993, an institution of higher education  
22 and the exclusive bargaining representative of a bargaining unit of  
23 employees classified under this chapter (~~or chapter 41.06 RCW~~) as  
24 appropriate may exercise their option to have their relationship and  
25 corresponding obligations governed entirely by the provisions of  
26 chapter 41.56 RCW, by filing notice of the parties' intent to be so  
27 governed, subject to the mutual adoption of a collective bargaining  
28 agreement recognizing the notice of intent. The parties shall provide  
29 the notice to the Washington personnel resources board (~~or its~~  
30 ~~successor~~), the state employment relations commission, and the public  
31 employment relations commission. On the first day of the month  
32 following the month during which the institution of higher education  
33 and the exclusive bargaining representative provide notice to the board  
34 (~~or its successor~~), the state employment relations commission, and  
35 the public employment relations commission that they have executed an  
36 initial collective bargaining agreement recognizing the notice of  
37 intent, this chapter shall cease to apply to all employees in the  
38 bargaining unit covered by the agreement, and all labor relations

1 functions of the board (~~or its successor~~) with respect to these  
2 employees shall be transferred to the public employment relations  
3 commission.

4 **Sec. 232.** RCW 41.06.340 and 1993 c 281 s 35 are each amended to  
5 read as follows:

6 With respect to collective bargaining as authorized by RCW  
7 41.06.150(11), each and every provision of RCW 41.56.140 through  
8 41.56.190 shall be applicable to this chapter as it relates to state  
9 civil service employees and the Washington personnel resources board,  
10 or its designee, whose final decision shall be appealable to the  
11 Washington personnel resources board, which is granted all powers and  
12 authority granted to the department of labor and industries by RCW  
13 41.56.140 through 41.56.190.

14 NEW SECTION. **Sec. 233.** A new section is added to chapter 41.06  
15 RCW to read as follows:

16 The personnel appeals board is hereby abolished and its powers,  
17 duties, and functions are hereby transferred to the Washington  
18 personnel resources board. All references to the director or personnel  
19 appeals board in the Revised Code of Washington shall be construed to  
20 mean the director or Washington personnel resources board.

21 NEW SECTION. **Sec. 234.** All reports, documents, surveys, books,  
22 records, files, papers, or written material in the possession of the  
23 personnel appeals board shall be delivered to the custody of the  
24 Washington personnel resources board. All cabinets, furniture, office  
25 equipment, motor vehicles, and other tangible property employed by the  
26 personnel appeals board shall be made available to the Washington  
27 personnel resources board. All funds, credits, or other assets held by  
28 the personnel appeals board shall be assigned to the Washington  
29 personnel resources board.

30 Any appropriations made to the personnel appeals board shall, on  
31 the effective date of this section, be transferred and credited to the  
32 Washington personnel resources board.

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

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

3 NEW SECTION. **Sec. 235.** All employees of the personnel appeals  
4 board are transferred to the jurisdiction of the Washington personnel  
5 resources board. All employees classified under chapter 41.06 RCW, the  
6 state civil service law, are assigned to the Washington personnel  
7 resources board to perform their usual duties upon the same terms as  
8 formerly, without any loss of rights, subject to any action that may be  
9 appropriate thereafter in accordance with the laws and rules governing  
10 state civil service.

11 NEW SECTION. **Sec. 236.** All rules and all pending business before  
12 the personnel appeals board shall be continued and acted upon by the  
13 Washington personnel resources board. All existing contracts and  
14 obligations shall remain in full force and shall be performed by the  
15 Washington personnel resources board.

16 NEW SECTION. **Sec. 237.** The transfer of the powers, duties,  
17 functions, and personnel of the personnel appeals board shall not  
18 affect the validity of any act performed prior to the effective date of  
19 this section.

20 NEW SECTION. **Sec. 238.** If apportionments of budgeted funds are  
21 required because of the transfers directed by sections 234 through 237  
22 of this act, the director of financial management shall certify the  
23 apportionments to the agencies affected, the state auditor, and the  
24 state treasurer. Each of these shall make the appropriate transfer and  
25 adjustments in funds and appropriation accounts and equipment records  
26 in accordance with the certification.

27 **PART III**

28 **COLLECTIVE BARGAINING REFORM**

29 NEW SECTION. **Sec. 301.** APPLICATION OF CHAPTER. (1) Collective  
30 bargaining negotiations under this chapter shall commence no later than  
31 October 1, 1996, for collective bargaining agreements that are to  
32 become effective no earlier than July 1, 1997. For subsequent

1 agreements, negotiations may commence and contracts become effective as  
2 the parties agree.

3 (2) Any collective bargaining agreement entered into before July 1,  
4 1995, covering employees affected by this chapter that expires after  
5 July 1, 1995, shall, unless a superseding agreement complying with this  
6 chapter is negotiated by the parties, remain in full force during its  
7 duration, but the agreement may not be renewed or extended beyond July  
8 1, 1997, or until superseded by a collective bargaining agreement  
9 entered into under sections 301 through 319 of this act, whichever is  
10 later.

11 NEW SECTION. **Sec. 302.** NEGOTIATION AND RATIFICATION OF COLLECTIVE  
12 BARGAINING AGREEMENTS. (1) For the purpose of negotiating collective  
13 bargaining agreements under this chapter, the employer shall be  
14 represented by the governor or governor's designee. For agencies  
15 headed by separately elected officials, the elected official shall  
16 select management representatives who shall participate in the  
17 negotiations.

18 (2) If an exclusive bargaining representative represents more than  
19 one bargaining unit, the exclusive bargaining representative shall  
20 negotiate one master collective bargaining agreement on behalf of all  
21 the employees in bargaining units that the exclusive bargaining  
22 representative represents. For those exclusive bargaining  
23 representatives who represent fewer than a total of five hundred  
24 employees each, negotiation shall be by a coalition of exclusive  
25 bargaining representatives that collectively represents at least five  
26 hundred employees and that includes one or more exclusive bargaining  
27 representatives that independently represent fewer than five hundred  
28 employees. The coalition shall bargain for a master collective  
29 bargaining agreement covering all of the employees represented by the  
30 coalition. Supplemental bargaining of agency-specific issues for  
31 inclusion in or as an addendum to the master collective bargaining  
32 agreement by the governor's designee and the exclusive bargaining  
33 representative is authorized, subject to the parties' agreement  
34 regarding the issues and procedures for supplemental bargaining. This  
35 section does not prohibit cooperation and coordination of bargaining  
36 between two or more exclusive bargaining representatives.

37 (3) The governor shall submit a request for funds necessary to  
38 implement the compensation and fringe benefit provisions in the master

1 collective bargaining agreement or for legislation necessary to  
2 implement the agreement within ten days of the date on which the  
3 exclusive bargaining representative ratifies the agreement or, if the  
4 legislature is not in session, within ten days after the legislature  
5 next convenes. The legislature shall approve or reject the submission  
6 of the request for funds or legislation, or both, as a whole. If the  
7 legislature rejects or fails to act on the submission, either party may  
8 reopen all or part of the agreement or the exclusive bargaining  
9 representative may exercise its rights as provided in section 309 of  
10 this act.

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

18 (5) After the expiration date of a collective bargaining agreement  
19 negotiated under this chapter, all of the terms and conditions  
20 specified in the collective bargaining agreement remain in effect until  
21 the effective date of a subsequently negotiated agreement, not to  
22 exceed one year from the expiration date stated in the agreement.  
23 Thereafter, the employer may unilaterally implement according to law.

24 NEW SECTION. **Sec. 303.** SCOPE OF BARGAINING. (1) Except as  
25 otherwise provided in this chapter, the matters subject to bargaining  
26 include wages, hours, and other terms and conditions of employment, and  
27 the negotiation of any question arising under a collective bargaining  
28 agreement.

29 (2) The employer shall be prohibited from bargaining over any  
30 retirement system or retirement benefit.

31 (3) The employer is not required to bargain over matters pertaining  
32 to:

33 (a) Inherent managerial policy as established in section 305 of  
34 this act;

35 (b) Any retirement system or retirement benefit;

36 (c) Health care benefits or other employee insurance benefits,  
37 except as required in subsection (4) of this section; or

1 (d) Rules of the director of personnel or the Washington personnel  
2 resources board adopted under RCW 41.06.150 (2), (3), (4) only with  
3 respect to initial employment appointments, and the names of  
4 appointees, (10) only with respect to the financial basis for layoffs,  
5 (11), (16), or (18) except as required in subsection (4) of this  
6 section.

7 (4) Matters subject to bargaining shall include the number of names  
8 to be certified for vacancies, promotional preferences, and the dollar  
9 amount expended on behalf of each employee for health care benefits.  
10 However, negotiations regarding the number of names to be certified for  
11 vacancies, promotional preferences, and the dollar amount expended on  
12 behalf of each employee for health care benefits shall be conducted  
13 between the employer and one coalition of all the exclusive bargaining  
14 representatives subject to this chapter and any provision agreed to by  
15 the employer and the coalition shall be included in all master  
16 collective bargaining agreements negotiated by the parties.

17 (5) The employer and the exclusive bargaining representative shall  
18 not agree to any proposal that would prevent the implementation of  
19 approved affirmative action plans or that would be inconsistent with  
20 the comparable worth agreement that provided the basis for the salary  
21 changes implemented beginning with the 1983-1985 biennium to achieve  
22 comparable worth.

23 (6) Except as otherwise provided in this chapter, if a conflict  
24 exists between an executive order, administrative rule, or agency  
25 policy relating to wages, hours, and terms and conditions of employment  
26 and a collective bargaining agreement negotiated under this chapter,  
27 the collective bargaining agreement shall prevail. A provision of a  
28 collective bargaining agreement that conflicts with the terms of a  
29 statute is invalid and unenforceable.

30 NEW SECTION. **Sec. 304.** CONTENTS OF COLLECTIVE BARGAINING  
31 AGREEMENTS. (1) The employer and the exclusive bargaining  
32 representative who are the parties to a collective bargaining agreement  
33 shall reduce the agreement to writing and both shall execute it.

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

36 (a) Provide for a grievance procedure that culminates with final  
37 and binding arbitration of all disputes arising over the interpretation  
38 or application of the collective bargaining agreement and that is valid



1 and enforceable under its terms when entered into in accordance with  
2 this chapter; and

3 (b) Require processing of disciplinary actions or terminations of  
4 employment of employees covered by the collective bargaining agreement  
5 entirely under the procedures of the collective bargaining agreement.  
6 Any employee, when fully reinstated, shall be guaranteed all employee  
7 rights and benefits, including back pay, sick leave, vacation accrual,  
8 retirement and federal old age, survivors, and disability insurance act  
9 credits, but without back pay for any period of suspension.

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

19 NEW SECTION. **Sec. 305.** MANAGEMENT RIGHTS. The employer shall not  
20 be required to bargain over rights of management which, in addition to  
21 all powers, duties, and rights established by constitutional provision  
22 or statute, shall include but not be limited to the following:

23 (1) The functions and programs of the employer, the use of  
24 technology, and the structure of the organization;

25 (2) The employer's budget, and the size of the agency work force,  
26 including determining the financial basis for layoffs;

27 (3) The right to direct and supervise employees; and

28 (4) The right to take whatever actions are deemed necessary to  
29 carry out the mission of the state and its agencies during emergencies.

30 NEW SECTION. **Sec. 306.** RIGHTS OF EMPLOYEES. Employees shall have  
31 the right to self-organization, to form, join, or assist employee  
32 organizations, to bargain collectively through representatives of their  
33 own choosing, and, except as may be limited by this chapter, to engage  
34 in other lawful concerted activities for the purpose of collective  
35 bargaining or other mutual aid or protection free from interference,  
36 restraint, or coercion, and shall also have the right to refrain from  
37 any or all such activities except to the extent that employees may be

1 required to pay a fee to an exclusive bargaining representative under  
2 a union security provision authorized by this chapter.

3 NEW SECTION. **Sec. 307.** BARGAINING UNITS. (1) A bargaining unit  
4 of employees covered by this chapter existing on the effective date of  
5 this section shall be considered an appropriate unit, unless the unit  
6 does not meet the requirements of this section. The commission, after  
7 hearing upon reasonable notice to all interested parties, shall decide  
8 in each application for certification as an exclusive bargaining  
9 representative, the unit appropriate for certification. In determining  
10 the new units or modifications of existing units, the commission shall  
11 consider: The duties, skills, and working conditions of the employees;  
12 the history of collective bargaining; the extent of organization among  
13 the employees; the desires of the employees; and the avoidance of  
14 excessive fragmentation. However, a unit is not appropriate if it  
15 includes both supervisors and nonsupervisory employees. A unit that  
16 includes only supervisors may be considered appropriate if a majority  
17 of the supervisory employees indicates by vote that they desire to be  
18 included in such a unit.

19 (2) The exclusive bargaining representatives certified to represent  
20 the bargaining units existing on the effective date of this section  
21 shall continue as the exclusive bargaining representative without the  
22 necessity of an election.

23 (3) If a single employee organization is the exclusive bargaining  
24 representative for two or more units, upon petition by the employee  
25 organization, the units may be consolidated into a single larger unit  
26 if the commission considers the larger unit to be appropriate. If  
27 consolidation is appropriate, the commission shall certify the employee  
28 organization as the exclusive bargaining representative of the new  
29 unit.

30 NEW SECTION. **Sec. 308.** REPRESENTATION. (1) The commission shall  
31 determine all questions pertaining to representation and shall  
32 administer all elections and be responsible for the processing and  
33 adjudication of all disputes that arise as a consequence of elections.  
34 The commission shall adopt rules that provide for at least the  
35 following:

- 36 (a) Secret balloting;  
37 (b) Consulting with employee organizations;

1 (c) Access to lists of employees, job classification, work  
2 locations, and home mailing addresses;

3 (d) Absentee voting;

4 (e) Procedures for the greatest possible participation in voting;

5 (f) Campaigning on the employer's property during working hours;  
6 and

7 (g) Election observers.

8 (2)(a) If an employee organization has been certified as the  
9 exclusive bargaining representative of the employees of a bargaining  
10 unit, the employee organization may act for and negotiate master  
11 collective bargaining agreements that will include within the coverage  
12 of the agreement all employees in the bargaining unit as provided in  
13 section 302(2) of this act. However, if a master collective bargaining  
14 agreement is in effect for the exclusive bargaining representative, it  
15 shall apply to the bargaining unit for which the certification has been  
16 issued. Nothing in this section requires the parties to engage in new  
17 negotiations during the term of that agreement.

18 (b) This subsection (2) does not apply to exclusive bargaining  
19 representatives who represent employees of institutions of higher  
20 education.

21 (3) The certified exclusive bargaining representative shall be  
22 responsible for representing the interests of all the employees in the  
23 bargaining unit. This section shall not be construed to limit an  
24 exclusive representative's right to exercise its discretion to refuse  
25 to process grievances of employees that are unmeritorious.

26 (4) No question concerning representation may be raised if:

27 (a) Fewer than twelve months have elapsed since the last  
28 certification or election; or

29 (b) A valid collective bargaining agreement exists covering the  
30 unit, except for that period of no more than one hundred twenty  
31 calendar days nor less than ninety calendar days before the expiration  
32 of the contract.

33 NEW SECTION. **Sec. 309.** RIGHT TO STRIKE. (1) Employees covered by  
34 this chapter who are eligible for collective bargaining may strike only  
35 as provided in this section, subject to the employer's right to seek an  
36 injunction under subsection (3) of this section. The right to strike  
37 must be exercised by an exclusive bargaining representative as a whole,  
38 as evidenced by an affirmative vote authorizing a strike, and may not

1 be exercised by the membership of a single bargaining unit, unless the  
2 exclusive bargaining representative represents only a single bargaining  
3 unit. The right to strike may be exercised under the conditions of  
4 either (a) or (b) of this subsection as follows:

5 (a)(i) The collective bargaining agreement between their exclusive  
6 bargaining representative and the employer has expired, or, if there is  
7 no agreement between their exclusive bargaining representative and the  
8 employer, an impasse has occurred;

9 (ii) At least a majority of the members of the exclusive bargaining  
10 representative votes by secret ballot affirmatively to authorize a  
11 strike; and

12 (iii) The exclusive bargaining representative and the employer have  
13 participated, in good faith, in mediation for a reasonable time; or

14 (b)(i) At least a majority of the members of the exclusive  
15 bargaining representative votes by secret ballot affirmatively to  
16 authorize a strike; and

17 (ii) The legislature rejects or fails to act on the submission of  
18 a request for funding a collective bargaining agreement as provided in  
19 section 302(3) of this act.

20 (2) In addition to the other requirements of subsection (1) of this  
21 section, the exclusive bargaining representative shall give ten days'  
22 written notice of its intent to strike to the commission and the  
23 employer.

24 (3) If it can be shown that a strike has begun to or will likely  
25 threaten the health, safety, or welfare of the public, the employer may  
26 apply to the superior court in Thurston county or of any county in  
27 which the labor dispute exists for an order enjoining some or all of  
28 the employees from striking. If some or all employees are enjoined  
29 from striking under this subsection, the impasse or dispute shall be  
30 submitted for final and binding arbitration as provided in section 310  
31 of this act.

32 (4) Nothing in this section precludes enjoining an unlawful strike.

33 NEW SECTION. **Sec. 310.** INTEREST ARBITRATION. (1) If a strike is  
34 enjoined under section 309(3) of this act, final and binding  
35 arbitration of the dispute as provided in this section shall be  
36 substituted for the right to strike.

37 (2) The issues for determination by the interest arbitrator shall  
38 be limited to the issues at impasse in the mediation proceedings.

1 (3) The parties may voluntarily agree to select an arbitrator, or  
2 if agreement is not reached within seven days of the date the strike  
3 was enjoined, the commission shall submit seven arbitrators' names to  
4 the parties. Each party shall alternately strike three names from the  
5 list, the order of striking to be determined by lot. The remaining  
6 arbitrator shall be appointed as the arbitrator. Each party shall  
7 share equally in paying the fees and expenses of the arbitrator.

8 (4) Within seven days following the designation of the arbitrator,  
9 each party shall file with the arbitrator and the commission and serve  
10 on the opposite party, the complete written proposals it intends to  
11 submit to interest arbitration.

12 (5) The arbitrator, in consultation with the parties, shall  
13 promptly establish a date, time, and place for hearing and shall  
14 provide reasonable notice thereof to the parties to the dispute. A  
15 hearing, which shall be informal, shall be held, and each party shall  
16 have the opportunity to present evidence and make argument. Any oral  
17 testimony or documentary evidence or other data deemed relevant by the  
18 arbitrator may be received in evidence. The arbitrator may administer  
19 oaths, require the attendance of witnesses, and require the production  
20 of books, papers, contracts, agreements, and documents deemed to be  
21 material to a just determination of the issues in dispute. If any  
22 person refuses to obey a subpoena issued by the arbitrator or refuses  
23 to be sworn or to make an affirmation to testify, or any witness,  
24 party, or attorney for a party is guilty of any contempt while in  
25 attendance at any hearing held under this section, the arbitrator or  
26 any party may invoke the jurisdiction of the superior court of Thurston  
27 county, or of any county in which the labor dispute exists, and the  
28 court shall have jurisdiction to issue an appropriate order. Any  
29 failure to obey such an order may be punished by the court as a  
30 contempt. The hearing conducted by the arbitrator shall be concluded  
31 within twenty-five days following the designation of the arbitrator  
32 unless the parties agree to a longer period. Negotiations may continue  
33 throughout the impasse procedures.

34 (6) The arbitrator shall, within twenty days following the  
35 conclusion of the hearing, make written findings of fact and a written  
36 determination of the issues in dispute, based on the evidence  
37 presented. The parties shall submit a final offer on each separate  
38 issue remaining at impasse to the arbitrator and the other party. On  
39 each separate issue, the arbitrator shall determine that either the

1 final offer of the employer or the final offer of the employee  
2 representative shall be incorporated into the final collective  
3 bargaining agreement. The arbitrator shall not amend the offer of  
4 either party on any issue. A copy of the interest arbitration award  
5 shall be served on the commission and on each of the parties to the  
6 dispute. Except as otherwise provided in subsection (8) of this  
7 section, the determination shall be final and binding upon both  
8 parties.

9 (7) In making the determination, the arbitrator shall take into  
10 consideration the following factors:

11 (a) The constitutional and statutory authority of the employer;

12 (b) Stipulations of the parties;

13 (c) A comparison of the wages, hours, and conditions of employment  
14 of the employees involved in the proceedings with the wages, hours, and  
15 conditions of employment of other employees performing similar services  
16 and with other employees generally;

17 (d) The average consumer prices for goods and services, commonly  
18 known as the cost of living;

19 (e) Changes in any of the circumstances in this subsection (7)  
20 during the pendency of such proceedings; and

21 (f) Such other factors, not confined to (a) through (e) of this  
22 subsection, that are normally or traditionally taken into consideration  
23 in the determination of wages, hours, and conditions of employment.

24 (8) Those portions of an arbitrator's award made under subsection  
25 (6) of this section that require appropriation of funds or legislative  
26 action shall be submitted to the legislature for approval or rejection.  
27 The legislature shall approve or reject the submission as a whole. If  
28 the legislature rejects or fails to act on the submission, the dispute  
29 shall be resubmitted for arbitration as provided in this section.

30 (9) In the performance of his or her duties under this chapter, the  
31 arbitrator exercises a state function and is, for the purposes of this  
32 chapter, a state agency. Chapter 34.05 RCW does not apply to  
33 proceedings before an interest arbitrator.

34 (10) Except as ordered through proceedings before an interest  
35 arbitrator, existing wages, hours, and other terms and conditions of  
36 employment shall not be changed by action of either party without the  
37 consent of the other, but a party may so consent without prejudice to  
38 its rights or position under this section.

1 (11) If a party to negotiations subject to this chapter refuses to  
2 submit to the procedures set forth in this section, the other party or  
3 the commission, on its own motion, may invoke the jurisdiction of the  
4 superior court of Thurston county, or of any county in which the labor  
5 dispute exists, and the court shall have jurisdiction to issue an  
6 appropriate order. A failure to obey such order may be punished by the  
7 court as a contempt thereof.

8 NEW SECTION. **Sec. 311.** UNION SECURITY. (1) A collective  
9 bargaining agreement may contain a union security provision requiring  
10 as a condition of employment the payment, no later than the thirtieth  
11 day following the beginning of employment or the effective date of this  
12 section, whichever is later, of an agency shop fee to the employee  
13 organization that is the exclusive bargaining representative for the  
14 bargaining unit in which the employee is employed. The amount of the  
15 fee shall be equal to the amount required to become a member in good  
16 standing of the employee organization. Each employee organization  
17 shall establish a procedure by which any employee so requesting may pay  
18 a representation fee no greater than the part of the membership fee  
19 that represents a pro rata share of expenditures for purposes germane  
20 to the collective bargaining process, to contract administration, or to  
21 pursuing matters affecting wages, hours, and other conditions of  
22 employment.

23 (2) An employee who is covered by a union security provision and  
24 who asserts a right of nonassociation based on bona fide religious  
25 tenets or teachings of a church or religious body of which the employee  
26 is a member, shall, as a condition of employment, make payments to the  
27 employee organization, for purposes within the program of the employee  
28 organization as designated by the employee that would be in harmony  
29 with his or her individual conscience. The amount of the payments  
30 shall be equal to the periodic dues and fees uniformly required as a  
31 condition of acquiring or retaining membership in the employee  
32 organization minus any included monthly premiums for insurance programs  
33 sponsored by the employee organization. The employee shall not be a  
34 member of the employee organization but is entitled to all the  
35 representation rights of a member of the employee organization.

36 (3) Upon filing with the employer the written authorization of a  
37 bargaining unit employee under this chapter, the employee organization  
38 that is the exclusive bargaining representative of the bargaining unit

1 shall have the exclusive right to have deducted from the salary of the  
2 employee an amount equal to the fees and dues uniformly required as a  
3 condition of acquiring or retaining membership in the employee  
4 organization. The fees and dues shall be deducted each pay period from  
5 the pay of all employees who have given authorization for the deduction  
6 and shall be transmitted by the employer as provided for by agreement  
7 between the employer and the employee organization.

8 (4) Employee organizations that before the effective date of this  
9 section were entitled to the benefits of this section shall continue to  
10 be entitled to these rights.

11 NEW SECTION. Sec. 312. UNFAIR LABOR PRACTICES ENUMERATED. (1) It  
12 is an unfair labor practice for an employer to:

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

15 (b) Control, dominate, or interfere with an exclusive bargaining  
16 representative;

17 (c) Discriminate against an employee who has filed an unfair labor  
18 practice charge; or

19 (d) Refuse to engage in good faith collective bargaining.

20 (2) It is an unfair labor practice for an employee organization to:

21 (a) Interfere with, restrain, or coerce:

22 (i) Employees in the exercise of the rights guaranteed in this  
23 chapter. However, this subsection (2)(a)(i) shall not impair the right  
24 of an employee organization to prescribe its own rules with respect to  
25 the acquisition or retention of membership in the employee  
26 organization; or

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

29 (b) Induce the employer to commit an unfair labor practice;

30 (c) Discriminate against an employee who has filed an unfair labor  
31 practice charge; or

32 (d) Refuse to engage in good faith collective bargaining.

33 NEW SECTION. Sec. 313. UNFAIR LABOR PRACTICE PROCEDURES. (1) The  
34 commission shall prevent any unfair labor practice and issue  
35 appropriate remedial orders. A complaint shall not be processed for  
36 any unfair labor practice occurring more than six months before the  
37 filing of the complaint with the commission. The commission's



1 authority shall not be affected or impaired by any means of adjustment,  
2 mediation, or conciliation in labor disputes that have been or may  
3 hereafter be established by law.

4 (2) If a complaint is filed concerning any unfair labor practice,  
5 the commission may issue and cause to be served a notice of hearing  
6 before the commission at a place fixed in the complaint, to be held not  
7 less than seven days after the serving of the complaint. Any such  
8 complaint may be amended by the commission any time before the issuance  
9 of an order based on the complaint. The person so complained of may  
10 file an answer to the original or amended complaint and to appear in  
11 person or otherwise to give testimony at the place and time set in the  
12 complaint. In the discretion of the commission, any other person may  
13 be allowed to intervene in the proceedings and to present testimony.  
14 In any such proceeding the commission shall not be bound by technical  
15 rules of evidence prevailing in the courts of law or equity.

16 (3) For the purpose of all hearings and investigations, that, in  
17 the opinion of the commission, are necessary and proper for the  
18 exercise of the powers vested in it by this section, the commission  
19 shall at all reasonable times have access to, for the purposes of  
20 examination, and the right to examine, copy, or photograph any  
21 evidence, including payrolls or lists of employees, of any person being  
22 investigated or proceeded against that relates to any matter under  
23 investigation or in question. The commission may issue subpoenas  
24 requiring the attendance and testimony of witnesses and the production  
25 of any evidence that relates to any matter under investigation or in  
26 question before the commission. The commission, or any agent or agency  
27 designated by the commission for such purposes, may administer oaths  
28 and affirmations, examine witnesses, and receive evidence.

29 (4) The commission, or any party to the commission proceedings,  
30 thirty days after the commission has entered its findings of fact, may  
31 petition the superior court of Thurston county or the superior court  
32 within the county where the unfair labor practice in question occurred  
33 or where any person charged with the unfair labor practice resides or  
34 transacts business, or if such court be on vacation or in recess, then  
35 to the superior court of any county adjoining the county where the  
36 unfair labor practice in question occurred or where any person charged  
37 with the unfair labor practice resides or transacts business, for the  
38 enforcement of the order and for appropriate temporary relief or  
39 restraining order, and shall certify and file in the court a transcript

1 of the entire record in the proceeding, including the pleadings and  
2 testimony upon which the order was made and the findings and order of  
3 the commission. Upon filing the record, the court shall cause notice  
4 of the record to be served upon such person, and thereupon shall have  
5 jurisdiction of the proceeding and of the question determined in the  
6 record, and may grant such temporary relief or restraining order as it  
7 deems just and proper, and make and enter upon the pleadings,  
8 testimony, and proceedings set forth in the transcript a decree  
9 enforcing, modifying, and enforcing as so modified, or setting aside in  
10 whole or in part the order of the commission.

11 NEW SECTION. **Sec. 314.** ENFORCEMENT OF COLLECTIVE BARGAINING  
12 AGREEMENTS. (1) For the purposes of implementing arbitration under  
13 grievance procedures required by section 304 of this act, the parties  
14 to a collective bargaining agreement may agree on one or more permanent  
15 umpires to serve as arbitrator, or may agree on any impartial person to  
16 serve as arbitrator, or may agree to select arbitrators from any source  
17 available to them, including federal and private agencies, in addition  
18 to the staff and list of arbitrators maintained by the commission. If  
19 the parties cannot agree to the selection of an arbitrator, the  
20 commission shall supply a list of names in accordance with the  
21 procedures established by the commission.

22 (2) An arbitrator may require any person to attend as a witness and  
23 to bring with him or her any book, record, document, or other evidence.  
24 The fees for such attendance shall be paid by the party requesting  
25 issuance of the subpoena and shall be the same as the fees of witnesses  
26 in the superior court. Arbitrators may administer oaths. Subpoenas  
27 shall issue and be signed by the arbitrator or the director and shall  
28 be served in the same manner as subpoenas to testify before a court of  
29 record in this state. If any person so summoned to testify refuses or  
30 neglects to obey such subpoena, upon petition authorized by the  
31 arbitrator or director, the superior court may compel the attendance of  
32 the person before the arbitrator or punish the person for contempt in  
33 the same manner provided for the attendance of witnesses or the  
34 punishment of them in the courts of this state.

35 (3) The arbitrator shall appoint a time and place for the hearing  
36 and notify the parties thereof, and may adjourn the hearing from time  
37 to time as may be necessary, and, on application of either party and  
38 for good cause, may postpone the hearing to a time not extending beyond

1 the date fixed by the collective bargaining agreement for making the  
2 award. The arbitration award shall be in writing and signed by the  
3 arbitrator. The arbitrator shall, promptly upon its rendition, serve  
4 a true copy of the award on each of the parties or their attorneys.

5 (4) If a party to a collective bargaining agreement negotiated  
6 under this chapter refuses to submit a grievance for arbitration, the  
7 other party to the collective bargaining agreement may invoke the  
8 jurisdiction of the superior court of Thurston county or of any county  
9 in which the labor dispute exists and such court shall have  
10 jurisdiction to issue an order compelling arbitration. Disputes  
11 concerning compliance with grievance procedures shall be reserved for  
12 determination by the arbitrator. Arbitration shall be ordered if the  
13 grievance states a claim that on its face is covered by the collective  
14 bargaining agreement. Doubts as to the coverage of the arbitration  
15 clause shall be resolved in favor of arbitration.

16 (5) If a party to a collective bargaining agreement negotiated  
17 under this chapter refuses to comply with the award of an arbitrator  
18 determining a grievance arising under the collective bargaining  
19 agreement, the other party to the collective bargaining agreement may  
20 invoke the jurisdiction of the superior court of Thurston county or of  
21 any county in which the labor dispute exists and such court shall have  
22 jurisdiction to issue an order enforcing the arbitration award.

23 NEW SECTION. **Sec. 315.** STATE EMPLOYMENT RELATIONS COMMISSION.

24 (1) There is created the state employment relations commission to  
25 administer this chapter. The commission shall consist of three members  
26 who shall be appointed by the governor, subject to confirmation by the  
27 senate. One of the initial members shall be appointed for a term of  
28 two years, one for a term of three years, and one for a term of four  
29 years. Their successors shall be appointed for terms of four years  
30 each, except that any person chosen to fill a vacancy shall be  
31 appointed only for the unexpired term of the member whom he or she  
32 succeeds. Commission members shall be eligible for reappointment. The  
33 governor shall designate one member to serve as chair of the  
34 commission. Persons so appointed shall not hold any other employment  
35 with the state, shall not have been an officer of a political party for  
36 a period of one year immediately before the appointment, and shall not  
37 be or become a candidate for partisan elective public office during the  
38 term to which they are appointed. Any member of the commission may be

1 removed by the governor, upon notice and hearing, for neglect of duty  
2 or malfeasance in office, but for no other cause. Commission members  
3 shall not be eligible for state retirement under chapter 41.40 RCW by  
4 virtue of their service on the commission.

5 (2) In making member appointments initially, and subsequently  
6 thereafter, the governor shall appoint persons knowledgeable in the  
7 area of labor and employment relations. One member shall have a  
8 background of expertise from a management perspective, one member shall  
9 have a background of expertise from a labor perspective, and one member  
10 shall be a neutral public member.

11 (3) A vacancy in the commission does not impair the right of the  
12 remaining members to exercise all of the powers of the commission, and  
13 two members of the commission shall, at all times, constitute a quorum  
14 of the commission.

15 (4) At the close of each fiscal year, the commission shall make a  
16 written report to the legislature and to the governor stating the cases  
17 it has heard, the decisions it has rendered, the names, salaries, and  
18 duties of all employees and officers in the employ or under the  
19 supervision of the commission, and an account of all moneys it has  
20 disbursed.

21 NEW SECTION. **Sec. 316.** COMMISSION COMPENSATION. Each member of  
22 the commission shall be compensated in accordance with RCW 43.03.250.  
23 Members of the commission shall also be reimbursed for travel expenses  
24 incurred in the discharge of their official duties on the same basis as  
25 is provided in RCW 43.03.050 and 43.03.060. The payment of all of the  
26 expenses of the commission, including travel expenses incurred by the  
27 members or employees of the commission under its orders, is subject to  
28 the provisions of RCW 43.03.050 and 43.03.060.

29 NEW SECTION. **Sec. 317.** COMMISSION DUTIES. (1) The commission  
30 shall, in order to prevent or minimize interruptions growing out of  
31 labor disputes, assist employers and employees to settle such disputes  
32 through mediation.

33 (2) The commission shall appoint a director whose annual salary  
34 shall be determined under the provisions of RCW 43.03.028. The  
35 director shall perform such duties and have such powers as the  
36 commission prescribes in order to implement and enforce this chapter.  
37 In addition to the performance of administrative duties, the commission

1 may delegate to the director authority with respect to, but not limited  
2 to, representation proceedings, unfair labor practice proceedings,  
3 mediation of labor disputes, arbitration of disputes concerning the  
4 interpretation or application of a collective bargaining agreement, and  
5 arbitration of disputes concerning the terms of a collective bargaining  
6 agreement. Such delegation shall not eliminate a party's right of  
7 appeal to the commission. The director, with such assistance as may be  
8 provided by the attorney general and such additional legal assistance  
9 consistent with chapter 43.10 RCW, may on behalf of the commission, if  
10 necessary to carry out or enforce any action or decision of the  
11 commission, petition any court of competent jurisdiction for an order  
12 requiring compliance with the action or decision.

13 (3) The commission shall employ such employees as it may from time  
14 to time find necessary for the proper performance of its duties,  
15 consistent with this chapter.

16 (4) The commission, through the director, may provide its services  
17 in any state employee labor dispute upon the request of one or more of  
18 the parties to the dispute.

19 NEW SECTION. **Sec. 318.** COMMISSION AUTHORITY. The commission may  
20 adopt rules as necessary to carry out the provisions of this chapter,  
21 consistent with the best standards of labor management relations.

22 NEW SECTION. **Sec. 319.** DEFINITIONS. Unless the context clearly  
23 requires otherwise, the definitions in this section apply throughout  
24 this chapter.

25 (1) "Agency" means any agency as defined in RCW 41.06.020 and  
26 covered by chapter 41.06 RCW, except institutions of higher education.

27 (2) "Collective bargaining" means the performance of the mutual  
28 obligation of the representatives of the employer and the exclusive  
29 bargaining representative to meet at reasonable times and to bargain in  
30 good faith in an effort to reach agreement with respect to the subjects  
31 of bargaining specified under section 303 of this act. The obligation  
32 to bargain does not compel either party to agree to a proposal or to  
33 make a concession, except as otherwise provided in this chapter.

34 (3) "Commission" means the state employment relations commission.

35 (4) "Confidential employee" means an employee who, in the regular  
36 course of his or her duties, assists in a confidential capacity persons  
37 who formulate, determine, and effectuate management policies with

1 regard to labor relations or who, in the regular course of his or her  
2 duties, has authorized access to information relating to the  
3 effectuation or review of the employer's collective bargaining  
4 policies, or who assists or aids a manager.

5 (5) "Director" means the director of the state employment relations  
6 commission.

7 (6) "Employee" means any employee, including employees whose work  
8 has ceased in connection with the pursuit of lawful activities  
9 protected by this chapter, covered by chapter 41.06 RCW, except:

10 (a) Employees covered for collective bargaining by chapter 41.56  
11 RCW;

12 (b) Employees of institutions of higher education;

13 (c) Confidential employees;

14 (d) Members of the Washington management service;

15 (e) Internal auditors in any agency; or

16 (f) Any employee of the commission, the office of financial  
17 management, the department of personnel, or the attorney general's  
18 office.

19 (7) "Employee organization" means any organization, union, or  
20 association in which employees participate and that exists for the  
21 purpose, in whole or in part, of collective bargaining with employers.

22 (8) "Employer" means the state of Washington.

23 (9) "Exclusive bargaining representative" means any employee  
24 organization that has been certified under this chapter as the  
25 representative of the employees in an appropriate bargaining unit.

26 (10) "Institutions of higher education" means the University of  
27 Washington, Washington State University, Central Washington University,  
28 Eastern Washington University, Western Washington University, The  
29 Evergreen State College, and the various state community colleges.

30 (11) "Labor dispute" means any controversy concerning terms,  
31 tenure, or conditions of employment, or concerning the association or  
32 representation of persons in negotiating, fixing, maintaining,  
33 changing, or seeking to arrange terms or conditions of employment with  
34 respect to the subjects of bargaining provided in this chapter,  
35 regardless of whether the disputants stand in the proximate relation of  
36 employer and employee.

37 (12) "Manager" means "manager" as defined in RCW 41.06.022.

38 (13) "Strike" means any action by employees or employee  
39 organizations, acting in concert, wherein any or all of the employees

1 withhold or otherwise fail or refuse to perform fully their normal  
2 duties or services as employees.

3 (14) "Supervisor" means an employee who has authority, in the  
4 interest of the employer, to hire, transfer, suspend, lay off, recall,  
5 promote, discharge, direct, reward, or discipline employees, or to  
6 adjust employee grievances, or effectively to recommend such action, if  
7 the exercise of the authority is not of a merely routine nature but  
8 requires the consistent exercise of individual judgment. However, no  
9 employee who is a member of the Washington management service as  
10 defined by the effect of section 206 of this act may be included in a  
11 collective bargaining unit established under this section.

12 (15) "Unfair labor practice" means any unfair labor practice listed  
13 in section 312 of this act.

14 NEW SECTION. **Sec. 320.** All powers, duties, and functions of the  
15 department of personnel pertaining to collective bargaining are  
16 transferred to the state employment relations commission except that  
17 arbitration of grievances filed under a collective bargaining agreement  
18 existing before the effective date of this section and not yet finally  
19 determined by the effective date of this section, shall be transferred  
20 to the Washington personnel resources board.

21 NEW SECTION. **Sec. 321.** All reports, documents, surveys, books,  
22 records, files, papers, or written material in the possession of the  
23 department of personnel pertaining to the powers, functions, and duties  
24 transferred in section 320 of this act shall be delivered to the  
25 custody of the state employment relations commission. All cabinets,  
26 furniture, office equipment, motor vehicles, and other tangible  
27 property employed by the department of personnel in carrying out the  
28 powers, functions, and duties transferred in section 320 of this act  
29 shall be made available to the state employment relations commission.  
30 All funds, credits, or other assets held in connection with the powers,  
31 functions, and duties transferred in section 320 of this act shall be  
32 assigned to the state employment relations commission.

33 Any appropriations made to the department of personnel for carrying  
34 out the powers, functions, and duties transferred in section 320 of  
35 this act shall, on the effective date of this section, be transferred  
36 and credited to the state employment relations commission.

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

7 NEW SECTION. **Sec. 322.** All employees of the department of  
8 personnel engaged in performing the powers, functions, and duties  
9 transferred in section 320 of this act are transferred to the  
10 jurisdiction of the state employment relations commission. All  
11 employees classified under chapter 41.06 RCW, the state civil service  
12 law, are assigned to the state employment relations commission without  
13 any loss of rights, subject to any action that may be appropriate  
14 thereafter in accordance with the laws and rules governing state civil  
15 service.

16 NEW SECTION. **Sec. 323.** All business pending before the department  
17 of personnel pertaining to the powers, functions, and duties  
18 transferred in section 320 of this act shall be continued and acted  
19 upon by the state employment relations commission. All existing  
20 contracts and obligations of the department of personnel shall remain  
21 in full force and shall be performed by the state employment relations  
22 commission.

23 NEW SECTION. **Sec. 324.** The transfer of the powers, duties,  
24 functions, and personnel of the department of personnel shall not  
25 affect the validity of any act performed before the effective date of  
26 this section.

27 NEW SECTION. **Sec. 325.** If apportionments of budgeted funds are  
28 required because of the transfers directed by sections 320 through 324  
29 of this act, the director of financial management shall certify the  
30 apportionments to the agencies affected, the state auditor, and the  
31 state treasurer. Each of these shall make the appropriate transfer and  
32 adjustments in funds and appropriation accounts and equipment records  
33 in accordance with the certification.



**PART IV**  
**MISCELLANEOUS**

1  
2  
3     NEW SECTION.   **Sec. 401.**   The following acts or parts of acts are  
4 each repealed:

5         (1) RCW 41.06.140 and 1961 c 1 s 14;

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

8         (3) RCW 41.06.165 and 1977 ex.s. c 152 s 4; and

9         (4) RCW 41.50.804 and 1993 c 281 s 40 & 1975-'76 2nd ex.s. c 105 s  
10 17.

11     NEW SECTION.   **Sec. 402.**   The following acts or parts of acts are  
12 each repealed:

13         (1) RCW 41.06.380 and 1979 ex.s. c 46 s 2; and

14         (2) RCW 41.06.382 and 1979 ex.s. c 46 s 1.

15     NEW SECTION.   **Sec. 403.**   The following acts or parts of acts are  
16 each repealed:

17         (1) RCW 41.64.010 and 1981 c 311 s 1;

18         (2) RCW 41.64.020 and 1981 c 311 s 3;

19         (3) RCW 41.64.030 and 1984 c 287 c 73, 1984 c 34 s 4, & 1981 c 311  
20 s 4;

21         (4) RCW 41.64.040 and 1981 c 311 s 5;

22         (5) RCW 41.64.050 and 1981 c 311 s 6;

23         (6) RCW 41.64.060 and 1981 c 311 s 7;

24         (7) RCW 41.64.070 and 1981 c 311 s 8;

25         (8) RCW 41.64.080 and 1981 c 311 s 9;

26         (9) RCW 41.64.090 and 1993 c 281 s 41 & 1981 c 311 s 10;

27         (10) RCW 41.64.100 and 1981 c 311 s 11;

28         (11) RCW 41.64.110 and 1985 c 461 s 7 & 1981 c 311 s 12;

29         (12) RCW 41.64.120 and 1981 c 311 s 13;

30         (13) RCW 41.64.130 and 1981 c 311 s 14;

31         (14) RCW 41.64.140 and 1988 c 202 s 42 & 1981 c 311 s 15; and

32         (15) RCW 41.64.910 and 1981 c 311 s 24.

33     NEW SECTION.   **Sec. 404.**   RCW 28B.16.015 as amended by this act is  
34 recodified as a section in chapter 41.06 RCW.

1        NEW SECTION.    **Sec. 405.**    SECTION CAPTIONS.    Part and section  
2 captions used in this act constitute no part of the law.

3        NEW SECTION.    **Sec. 406.**    Sections 301 through 319 of this act shall  
4 constitute a new chapter in Title 41 RCW.

5        NEW SECTION.    **Sec. 407.**    The governor shall take such action as is  
6 necessary, including appointment of the members of the state employment  
7 relations commission, to ensure that sections 301 through 319 of this  
8 act are implemented on their effective date.

9        NEW SECTION.    **Sec. 408.**    Until July 1, 1997, the state employment  
10 relations commission is authorized to contract with the department of  
11 personnel for labor relations staffing necessary to carry out its  
12 functions.

13        NEW SECTION.    **Sec. 409.**    If any provision of this act or its  
14 application to any person or circumstance is held invalid, the  
15 remainder of the act or the application of the provision to other  
16 persons or circumstances is not affected.

17        NEW SECTION.    **Sec. 410.**    (1) Sections 101, 102, 204 through 207,  
18 and 402 of this act shall take effect July 1, 1994.

19        (2) Sections 202, 231, 301 through 319, and 404 through 408 of this  
20 act shall take effect July 1, 1995.

21        (3) Sections 201, 203, 208 through 230, 232, and 401 of this act  
22 shall take effect July 1, 1996.

23        (4) Sections 233 through 238, 320 through 325, and 403 of this act  
24 shall take effect July 1, 1997.

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