

**SENATE BILL 6479**

**State of Washington                      53rd Legislature                      1994 Regular Session**

**By Senators Moore, Winsley, Morton, Fraser, Prentice, Roach, Pelz and McAuliffe**

Read first time 01/24/94. Referred to Committee on Labor & Commerce.

1            AN ACT Relating to civil service and collective bargaining reform  
2 for state government; amending RCW 41.06.030, 41.06.022, 41.06.110,  
3 41.06.160, 41.06.167, 41.06.170, 41.06.186, 41.06.196, 41.06.270,  
4 41.06.350, 41.06.400, 41.06.410, 41.06.450, 41.06.475, 41.06.490,  
5 41.06.520, 34.05.030, 34.12.020, 41.04.340, 41.50.804, 43.06.425,  
6 43.33A.100, 43.131.090, and 49.46.010; reenacting and amending RCW  
7 41.06.150, 41.06.070, and 28B.12.060; adding new sections to chapter  
8 41.06 RCW; adding a new chapter to Title 41 RCW; creating new sections;  
9 repealing RCW 41.06.140, 41.06.163, 41.06.165, 41.06.340, 41.06.380,  
10 41.06.382, 41.50.804, 41.64.010, 41.64.020, 41.64.030, 41.64.040,  
11 41.64.050, 41.64.060, 41.64.070, 41.64.080, 41.64.090, 41.64.100,  
12 41.64.110, 41.64.120, 41.64.130, 41.64.140, and 41.64.910; prescribing  
13 penalties; and providing effective dates.

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

**PART I**

**LEGISLATIVE INTENT**

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

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

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

19 **PART II**  
20 **CIVIL SERVICE REFORM**

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

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

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

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

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

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

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

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

7 (4) Appointments;

8 (5) Training and career development;

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

13 (7) Transfers;

14 (8) Sick leaves and vacations;

15 (9) Hours of work;

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

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

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

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

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

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

26 (15)) Adoption and revision of a comprehensive classification  
27 plan, in accordance with rules adopted by the board under section 203  
28 of this act, for all positions in the classified service((, based on  
29 investigation and analysis of the duties and responsibilities of each  
30 such position)) and allocation and reallocation of positions within the  
31 classification plan. However, beginning July 1, 1993, through June 30,  
32 1995, the ((board)) director shall not adopt job classification  
33 revisions or class studies unless implementation of the proposed  
34 revision or study will result in net cost savings, increased  
35 efficiencies, or improved management of personnel or services, and the  
36 proposed revision or study has been approved by the director of  
37 financial management in accordance with chapter 43.88 RCW;

38 ((16) Allocation and reallocation of positions within the  
39 classification plan;

1       ~~(17))~~ (12) Adoption and revision of a state salary schedule to  
2 reflect the prevailing rates in Washington state private industries and  
3 other governmental units but the rates in the salary schedules or plans  
4 shall be increased if necessary to attain comparable worth under an  
5 implementation plan under RCW 41.06.155 and that, for institutions of  
6 higher education and related boards, shall be competitive for positions  
7 of a similar nature in the state or the locality in which an  
8 institution of higher education or related board is located, such  
9 adoption and revision subject to approval by the director of financial  
10 management in accordance with the provisions of chapter 43.88 RCW;

11       ~~((18))~~ (13) Increment increases within the series of steps for  
12 each pay grade based on length of service for all employees whose  
13 standards of performance are such as to permit them to retain job  
14 status in the classified service. However, beginning July 1, 1993,  
15 through June 30, 1995, increment increases shall not be provided to any  
16 classified or exempt employees under the jurisdiction of the ~~((board))~~  
17 director whose monthly salary on or after July 1, 1993, exceeds three  
18 thousand seven hundred fifty dollars;

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

1 twenty or more years of active military service and whose military  
2 retirement pay is in excess of five hundred dollars per month;

3 ~~((20))~~ (15) Permitting agency heads to delegate the authority to  
4 appoint, reduce, dismiss, suspend, or demote employees within their  
5 agencies if such agency heads do not have specific statutory authority  
6 to so delegate: PROVIDED, That the ~~((board))~~ director may not  
7 authorize such delegation to any position lower than the head of a  
8 major subdivision of the agency;

9 ~~((21))~~ (16) Assuring persons who are or have been employed in  
10 classified positions under chapter 28B.16 RCW before July 1, 1993, will  
11 be eligible for employment, reemployment, transfer, and promotion in  
12 respect to classified positions covered by this chapter;

13 ~~((22))~~ (17) Affirmative action in appointment, promotion,  
14 transfer, recruitment, training, and career development; development  
15 and implementation of affirmative action goals and timetables; and  
16 monitoring of progress against those goals and timetables.

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

22 Rules adopted by the director pursuant to subsections (1), (2) only  
23 with respect to the number of names to be certified, (4) except for  
24 initial employment appointments and the names of appointees, (5)  
25 through (10), (12) through (14), and (16) of this section may be  
26 superseded by the effect of a collective bargaining agreement  
27 negotiated pursuant to sections 301 through 317 of this act. However,  
28 the supersession of such rules shall only affect employees in the  
29 respective collective bargaining units.

30 NEW SECTION. Sec. 203. A new section is added to chapter 41.06  
31 RCW to read as follows:

32 (1) The board shall conduct a comprehensive review of all rules in  
33 effect on the effective date of this section governing the  
34 classification, allocation, and reallocation of positions within the  
35 classified service. The review shall include analysis of the duties,  
36 responsibilities, and skills held by each job classification. In  
37 conducting this review, the board shall consult with state agencies,  
38 institutions of higher education, employee organizations, and members

1 of the general public. The department shall assist the board in the  
2 conduct of this review, which shall be completed by the board no later  
3 than July 1, 1995.

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

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

12 (b) To develop the most simplified classification system that will  
13 substantially reduce the number of job classifications in the  
14 classified service and facilitate the most effective use of the state  
15 personnel resources;

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

19 (d) To value workplace diversity;

20 (e) To facilitate the reorganization and decentralization of  
21 governmental services; and

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

23 (3) Rules adopted by the board under subsection (2) of this section  
24 shall permit an appointing authority and an employee organization  
25 representing classified employees of the appointing authority for  
26 collective bargaining purposes to make a joint request for the  
27 initiation of a classification study.

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

30 In accordance with rules adopted by the board under section 203 of  
31 this act, the director shall, by March 15, 1997, implement a new  
32 classification system for positions in the classified service. Any  
33 employee who believes that the director has incorrectly applied the  
34 rules of the board in determining a job classification for a job held  
35 by that employee may appeal the director's decision to the board by  
36 filing a notice in writing within thirty days of the action from which  
37 the appeal is taken. Decisions of the board concerning such appeals  
38 are final.

1       **Sec. 205.** RCW 41.06.022 and 1993 c 281 s 8 are each amended to  
2 read as follows:

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

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

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

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

11       (4) Has substantial responsibility in personnel administration,  
12 legislative relations, public information, or the preparation and  
13 administration of budgets; or

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

17       No employee who is a member of the Washington management service  
18 may be included in a collective bargaining unit established under  
19 sections 301 through 317 of this act.

20       NEW SECTION. **Sec. 206.** A new section is added to chapter 41.06  
21 RCW to read as follows:

22       (1) A department, agency, or institution of higher education or  
23 related board may purchase services by contract with individuals,  
24 businesses, or nonprofit entities except that no contract may cause the  
25 displacement of employees in accordance with subsection (2)(d) of this  
26 section.

27       (2) Contracts in excess of one hundred thousand dollars shall be  
28 subject to the following criteria:

29       (a) The affected department, agency, or institution of higher  
30 education or related board has conducted an analysis to determine that  
31 contracting will result in a significant cost savings or productivity  
32 increase. The analysis shall include both direct and indirect costs  
33 and shall also detail why equivalent cost savings or productivity  
34 increases cannot be achieved through alternative management practices  
35 or through the more efficient use of existing personnel.

36       (b) Departments, agencies, or institutions of higher education or  
37 related boards shall use a public competitive procurement process and  
38 shall notify in advance any exclusive bargaining representative that



1 represents any employee whose employment status will be affected by the  
2 potential contract. The exclusive bargaining representative shall have  
3 the right to offer alternatives to the proposed contract, including  
4 compensation alternatives, restructuring of work, work methods, and  
5 service delivery models, or to use state employees in submitting an  
6 alternative to contracting out through the procurement process. For  
7 any contract awarded, the bid price shall be binding for the initial  
8 contract term. Contract extensions beyond the initial contract term  
9 shall be made at the option of the procuring agency and advance  
10 notification shall be given to affected exclusive bargaining  
11 representatives. Price increases for extended contracts shall be  
12 subject to review by the office of financial management.

13 (c) Proposals to contract for services shall be eligible for  
14 approval if the contractors' wage rates correspond substantially to  
15 market wage rates and if no more than twenty percent of the expected  
16 cost savings are derived from employee wages and benefits.

17 (d) Proposals to contract for services shall not cause displacement  
18 of employees covered under this chapter. For the purposes of this  
19 subsection "displacement" includes layoff, demotion, transfer to an  
20 inappropriate classification, involuntary transfer to a new location  
21 requiring a change of residence, and time base reductions, but does not  
22 include changes in shifts or days off, or reassignment to other  
23 positions without a loss of pay and within the same general location.

24 (e) Contracts shall not adversely affect the state's affirmative  
25 action efforts and shall include provisions requiring the contractor to  
26 comply with chapter 39.19 RCW.

27 (f) The department, agency, or institution of higher education or  
28 related board may determine that the potential economic advantage of  
29 contracting for services is not outweighed by the public's interest in  
30 having a particular function performed directly by state government.

31 (3) Contracts for one hundred thousand dollars or less shall, in  
32 addition to meeting the displacement standard established in subsection  
33 (2)(d) of this section, meet one of the following conditions:

34 (a) Services procured by such contracts shall be of a highly  
35 specialized or technical nature or require special equipment, products,  
36 tools, software, physical space, or other technologies so as to make it  
37 cost-effective to contract for such services rather than to use  
38 personnel in the classified service;

1 (b) Services to be performed are in a locale that is so  
2 substantially remote from the place where services are traditionally  
3 provided as to make it more cost-effective to contract for services  
4 than to use personnel in the classified service;

5 (c) Services to be performed are of such an urgent or emergency  
6 nature that the delay incumbent in their implementation under existing  
7 personnel procedures or rules would frustrate their very purpose; or

8 (d) Services to be performed by the contract are of an  
9 intermittent, occasional, or temporary nature.

10 (4) This section does not apply to the purchase of services or to  
11 any contracting for services that was authorized by law before the  
12 effective date of this section.

13 **Sec. 207.** RCW 41.06.070 and 1993 sp.s. c 2 s 15 and 1993 c 379 s  
14 306 are each reenacted and amended to read as follows:

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

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

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

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

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

28 (e) Elective officers of the state;

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

30 (g) In the departments of employment security((7)) and social and  
31 health services, the director and the director's confidential  
32 secretary; in all other departments, the executive head of which is an  
33 individual appointed by the governor, the director, his or her  
34 confidential secretary, and his or her statutory assistant directors;

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

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

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

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

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

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

17 (j) Assistant attorneys general;

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

20 (l) Inmate, student, part-time, or temporary employees, and part-  
21 time professional consultants, as defined by the (~~Washington personnel~~  
22 ~~resources board~~) director of personnel, unless coverage of students,  
23 part-time or temporary employees, or part-time professional consultants  
24 is provided by a collective bargaining agreement negotiated under  
25 sections 301 through 317 of this act;

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

28 (n) Officers and employees of the Washington state fruit  
29 commission;

30 (o) Officers and employees of the Washington state apple  
31 advertising commission;

32 (p) Officers and employees of the Washington state dairy products  
33 commission;

34 (q) Officers and employees of the Washington tree fruit research  
35 commission;

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

37 (s) Officers and employees of any commission formed under chapter  
38 15.66 RCW;

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

3 (u) Officers and employees of agricultural commissions formed under  
4 chapter 15.65 RCW;

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

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

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

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

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

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

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

35 (a) Members of the governing board of each institution of higher  
36 education and related boards, all presidents, vice-presidents and their  
37 confidential secretaries, administrative and personal assistants;  
38 deans, directors, and chairs; academic personnel; and executive heads  
39 of major administrative or academic divisions employed by institutions

1 of higher education; principal assistants to executive heads of major  
2 administrative or academic divisions; other managerial or professional  
3 employees in an institution or related board having substantial  
4 responsibility for directing or controlling program operations and  
5 accountable for allocation of resources and program results, or for the  
6 formulation of institutional policy, or for carrying out personnel  
7 administration or labor relations functions, legislative relations,  
8 public information, development, senior computer systems and network  
9 programming, or internal audits and investigations; and any employee of  
10 a community college district whose place of work is one which is  
11 physically located outside the state of Washington and who is employed  
12 pursuant to RCW 28B.50.092 and assigned to an educational program  
13 operating outside of the state of Washington;

14 ~~(b) ((Student, part-time, or temporary employees, and part-time  
15 professional consultants, as defined by the Washington personnel  
16 resources board, employed by institutions of higher education and  
17 related boards;~~

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

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

28 (3) In addition to the exemptions specifically provided by this  
29 chapter, the ~~((Washington personnel resources board))~~ director of  
30 personnel may provide for further exemptions pursuant to the following  
31 procedures. The governor or other appropriate elected official may  
32 submit requests for exemption to the ~~((Washington personnel resources~~  
33 ~~board))~~ director of personnel stating the reasons for requesting such  
34 exemptions. The ~~((Washington personnel resources board))~~ director of  
35 personnel shall hold a public hearing, after proper notice, on requests  
36 submitted pursuant to this subsection. If the ~~((board))~~ director of  
37 personnel determines that the position for which exemption is requested  
38 is one involving substantial responsibility for the formulation of  
39 basic agency or executive policy or one involving directing and

1 controlling program operations of an agency or a major administrative  
2 division thereof, the (~~Washington personnel resources board~~) director  
3 of personnel shall grant the request and such determination shall be  
4 final as to any decision made before July 1, 1993. The total number of  
5 additional exemptions permitted under this subsection shall not exceed  
6 one percent of the number of employees in the classified service not  
7 including employees of institutions of higher education and related  
8 boards for those agencies not directly under the authority of any  
9 elected public official other than the governor, and shall not exceed  
10 a total of twenty-five for all agencies under the authority of elected  
11 public officials other than the governor. The (~~Washington personnel~~  
12 ~~resources board~~) director of personnel shall report to each regular  
13 session of the legislature during an odd-numbered year all exemptions  
14 granted under subsections (1) (x) and (y) and (2) of this section,  
15 together with the reasons for such exemptions.

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

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

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

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

37 **Sec. 208.** RCW 41.06.110 and 1993 c 281 s 25 are each amended to  
38 read as follows:

1 (1) There is hereby created a Washington personnel resources board  
2 composed of three members appointed by the governor, subject to  
3 confirmation by the senate. The members of the personnel board serving  
4 June 30, 1993, shall be the members of the Washington personnel  
5 resources board, and they shall complete their terms as under the  
6 personnel board. Each odd-numbered year thereafter the governor shall  
7 appoint a member for a six-year term. Each member shall continue to  
8 hold office after the expiration of the member's term until a successor  
9 has been appointed. Persons so appointed shall have clearly  
10 demonstrated an interest and belief in the merit principle, shall not  
11 hold any other employment with the state, shall not have been an  
12 officer of a political party for a period of one year immediately prior  
13 to such appointment, and shall not be or become a candidate for  
14 partisan elective public office during the term to which they are  
15 appointed;

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

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

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

34 **Sec. 209.** RCW 41.06.160 and 1993 c 281 s 29 are each amended to  
35 read as follows:

36 In preparing classification and salary schedules as set forth in  
37 RCW 41.06.150 (~~((as now or hereafter amended))~~) the department of  
38 personnel shall give full consideration to prevailing rates in other

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

19 In the case of comprehensive salary and fringe benefit surveys, the  
20 department shall furnish the following supplementary data in support of  
21 its recommended salary schedule:

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

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

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



1       ~~(4) A supplemental salary schedule which indicates the additional~~  
2 ~~salary to be paid state employees for hazardous duties or other~~  
3 ~~considerations requiring extra compensation under specific~~  
4 ~~circumstances. Additional compensation for these circumstances shall~~  
5 ~~not be included in the basic salary schedule but shall be maintained as~~  
6 ~~a separate pay schedule for purposes of full disclosure and visibility;~~  
7 ~~and~~

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

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

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

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

32       **Sec. 210.** ~~RCW 41.06.167 and 1991 c 196 s 1 are each amended to~~  
33 ~~read as follows:~~

34       ~~The department of personnel shall undertake comprehensive~~  
35 ~~compensation surveys for officers and entry-level officer candidates of~~  
36 ~~the Washington state patrol, with such surveys to be conducted in the~~  
37 ~~year prior to the convening of every other one hundred five day regular~~  
38 ~~session of the state legislature. ((In the year prior to the convening~~

1 of each one hundred five day regular session during which a  
2 comprehensive compensation survey is not conducted, the department  
3 shall conduct a trend compensation survey. This survey shall measure  
4 average compensation movement which has occurred since the last  
5 comprehensive compensation survey was conducted. The results of each  
6 comprehensive and trend survey shall be completed and forwarded by  
7 September 30th, after review and preparation of recommendations by the  
8 chief of the Washington state patrol, to the governor and director of  
9 financial management for their use in preparing budgets to be submitted  
10 to the succeeding legislature. A copy of the data and supporting  
11 documentation shall be furnished by the department of personnel to the  
12 legislative transportation committee and the standing committees for  
13 appropriations of the senate and house of representatives. The office  
14 of financial management shall analyze the survey results and conduct  
15 investigations which may be necessary to arbitrate differences between  
16 interested parties regarding the accuracy of collected survey data and  
17 the use of such data for salary adjustment.

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

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

32 **Sec. 211.** RCW 41.06.170 and 1993 c 281 s 31 are each amended to  
33 read as follows:

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

1 require that the appointing authority give written notice to the  
2 employee not later than one day after the suspension takes effect,  
3 stating the reasons for and the duration thereof.

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

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

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

25 (5) Subsections (1) and (2) of this section do not apply to any  
26 employee who is subject to the provisions of a collective bargaining  
27 agreement negotiated under sections 301 through 317 of this act.

28 **Sec. 212.** RCW 41.06.186 and 1993 c 281 s 32 are each amended to  
29 read as follows:

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

33 **Sec. 213.** RCW 41.06.196 and 1993 c 281 s 33 are each amended to  
34 read as follows:

35 The (~~Washington personnel resources board~~) director shall adopt  
36 rules designed to remove from supervisory positions those supervisors  
37 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. 214.** 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. 215.** 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. 216.** 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. 217.** 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. 218.** 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. 219.** 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. 220.** 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. 221.** RCW 41.06.520 and 1993 c 281 s 11 are each amended to  
13 read as follows:

14 (1) Rules adopted by the (~~board~~) director shall provide for local  
15 administration and management by the institutions of higher education  
16 and related boards, subject to periodic audit and review by the  
17 (~~board~~) director, of the following:

18 (~~(1)~~) (a) Appointment, promotion, and transfer of employees;

19 (~~(2)~~) (b) Dismissal, suspension, or demotion of an employee;

20 (~~(3)~~) (c) Examinations for all positions in the competitive and  
21 noncompetitive service;

22 (~~(4)~~) (d) Probationary periods of six to twelve months and  
23 rejection of probationary employees;

24 (~~(5)~~) (e) Sick leaves and vacations;

25 (~~(6)~~) (f) Hours of work;

26 (~~(7)~~) (g) Layoffs when necessary and subsequent reemployment;

27 (~~(8)~~) (h) Allocation and reallocation of positions within the  
28 classification plans;

29 (~~(9)~~) (i) Training programs; and

30 (~~(10)~~) (j) Maintenance of personnel records.

31 (2) A collective bargaining agreement negotiated under sections 301  
32 through 317 of this act may supersede rules adopted with respect to  
33 subsections (1)(a) except for initial employment appointments and the  
34 names of appointees, (1)(b), (d) through (g), and (i) of this section.  
35 However, the supersession of such rules shall only effect employees in  
36 the respective collective bargaining units.

1       **Sec. 222.** RCW 28B.12.060 and 1993 sp.s. c 18 s 3 and 1993 c 281 s  
2 14 are each reenacted and amended to read as follows:

3       The higher education coordinating board shall adopt rules as may be  
4 necessary or appropriate for effecting the provisions of this chapter,  
5 and not in conflict with this chapter, in accordance with the  
6 provisions of chapter 34.05 RCW, the state higher education  
7 administrative procedure act. Such rules shall include provisions  
8 designed to make employment under such work-study program reasonably  
9 available, to the extent of available funds, to all eligible students  
10 in eligible post-secondary institutions in need thereof. Such rules  
11 shall include:

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

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

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

19       (b) Has been accepted for enrollment as at least a half-time  
20 student at the eligible institution or, in the case of a student  
21 already enrolled in and attending the eligible institution, is in good  
22 standing and in at least half-time attendance there either as an  
23 undergraduate, graduate or professional student; and

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

25       (3) Placing priority on the securing of work opportunities for  
26 students who are residents of the state of Washington as defined in RCW  
27 28B.15.012 and 28B.15.013 except resident students defined in RCW  
28 28B.15.012(2)(e).

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

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

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

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



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

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

5 (1) This chapter shall not apply to:

6 (a) The state militia, or

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

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

11 (2) The provisions of RCW 34.05.410 through 34.05.598 shall not  
12 apply:

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

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

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

22 (d) To actions of the Washington personnel resources board(~~(7)~~) or  
23 the director of personnel(~~(7, or the personnel appeals board)~~); or

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

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

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

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

34 Unless the context clearly requires otherwise, the definitions in  
35 this section apply throughout this chapter.

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

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

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

7 (4) "State agency" means any state board, commission, department,  
8 or officer authorized by law to make rules or to conduct adjudicative  
9 proceedings, except those in the legislative or judicial branches, the  
10 pollution control hearings board, the shorelines hearings board, the  
11 forest practices appeals board, the environmental hearings office, the  
12 board of industrial insurance appeals, the Washington personnel  
13 resources board, the public employment relations commission, (~~the~~  
14 ~~personnel appeals board,~~) and the board of tax appeals.

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

17 (1) An attendance incentive program is established for all eligible  
18 employees. As used in this section the term "eligible employee" means  
19 any employee of the state, other than teaching and research faculty at  
20 the state and regional universities and The Evergreen State College,  
21 entitled to accumulate sick leave and for whom accurate sick leave  
22 records have been maintained. No employee may receive compensation  
23 under this section for any portion of sick leave accumulated at a rate  
24 in excess of one day per month. The state and regional universities  
25 and The Evergreen State College shall maintain complete and accurate  
26 sick leave records for all teaching and research faculty.

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

35 (3) At the time of separation from state service due to retirement  
36 or death, an eligible employee or the employee's estate may elect to  
37 receive remuneration at a rate equal to one day's current monetary

1 compensation of the employee for each four full days of accrued sick  
2 leave.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 As of July 1, 1981, all employees classified under chapter 41.06  
35 RCW and engaged in duties assumed by the state investment board on July  
36 1, 1981, are assigned to the state investment board. The transfer  
37 shall not diminish any rights granted these employees under chapter

1 41.06 RCW nor exempt the employees from any action which may occur  
2 thereafter in accordance with chapter 41.06 RCW.

3 All existing contracts and obligations pertaining to the functions  
4 transferred to the state investment board in this 1980 act shall remain  
5 in full force and effect, and shall be performed by the board. None of  
6 the transfers directed by this 1980 act shall affect the validity of  
7 any act performed by a state entity or by any official or employee  
8 thereof prior to July 1, 1981.

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

11 Unless the legislature specifies a shorter period of time, a  
12 terminated state agency shall continue in existence until June 30th of  
13 the next succeeding year for the purpose of concluding its affairs:  
14 PROVIDED, That the powers and authority of the state agency shall not  
15 be reduced or otherwise limited during this period. Unless otherwise  
16 provided:

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

22 (2) All documents and papers, equipment, or other tangible property  
23 in the possession of the terminated state agency shall be delivered to  
24 the custody of the agency assuming the responsibilities of the  
25 terminated agency or if such responsibilities have been eliminated,  
26 documents and papers shall be delivered to the state archivist and  
27 equipment or other tangible property to the department of general  
28 administration;

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

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

37 (5) All contractual rights and duties of a state agency shall be  
38 assigned or delegated to the agency assuming the responsibilities of

1 the terminated state agency, or if there is none to such agency as the  
2 governor shall direct.

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

5 As used in this chapter:

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

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

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

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

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

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

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

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

36 (d) Any individual engaged in the activities of an educational,  
37 charitable, religious, state or local governmental body or agency, or  
38 nonprofit organization where the employer-employee relationship does

1 not in fact exist or where the services are rendered to such  
2 organizations gratuitously. If the individual receives reimbursement  
3 in lieu of compensation for normally incurred out-of-pocket expenses or  
4 receives a nominal amount of compensation per unit of voluntary service  
5 rendered, an employer-employee relationship is deemed not to exist for  
6 the purpose of this section or for purposes of membership or  
7 qualification in any state, local government or publicly supported  
8 retirement system other than that provided under chapter 41.24 RCW;

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

16 (f) Any newspaper vendor or carrier;

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

19 (h) Any individual engaged in forest protection and fire prevention  
20 activities;

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

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

30 (k) Any resident, inmate, or patient of a state, county, or  
31 municipal correctional, detention, treatment or rehabilitative  
32 institution;

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

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

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

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

6 NEW SECTION. **Sec. 231.** A new section is added to chapter 41.06  
7 RCW to read as follows:

8 The personnel appeals board is hereby abolished and its powers,  
9 duties, and functions are hereby transferred to the Washington  
10 personnel resources board. All references to the director or personnel  
11 appeals board in the Revised Code of Washington shall be construed to  
12 mean the director or Washington personnel resources board.

13 NEW SECTION. **Sec. 232.** All reports, documents, surveys, books,  
14 records, files, papers, or written material in the possession of the  
15 personnel appeals board shall be delivered to the custody of the  
16 Washington personnel resources board. All cabinets, furniture, office  
17 equipment, motor vehicles, and other tangible property employed by the  
18 personnel appeals board shall be made available to the Washington  
19 personnel resources board. All funds, credits, or other assets held by  
20 the personnel appeals board shall be assigned to the Washington  
21 personnel resources board.

22 Any appropriations made to the personnel appeals board shall, on  
23 the effective date of this section, be transferred and credited to the  
24 Washington personnel resources board.

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

31 NEW SECTION. **Sec. 233.** All employees of the personnel appeals  
32 board are transferred to the jurisdiction of the Washington personnel  
33 resources board. All employees classified under chapter 41.06 RCW, the  
34 state civil service law, are assigned to the Washington personnel  
35 resources board to perform their usual duties upon the same terms as  
36 formerly, without any loss of rights, subject to any action that may be



1 appropriate thereafter in accordance with the laws and rules governing  
2 state civil service.

3 NEW SECTION. **Sec. 234.** All rules and all pending business before  
4 the personnel appeals board shall be continued and acted upon by the  
5 Washington personnel resources board. All existing contracts and  
6 obligations shall remain in full force and shall be performed by the  
7 Washington personnel resources board.

8 NEW SECTION. **Sec. 235.** The transfer of the powers, duties,  
9 functions, and personnel of the personnel appeals board shall not  
10 affect the validity of any act performed prior to the effective date of  
11 this section.

12 NEW SECTION. **Sec. 236.** If apportionments of budgeted funds are  
13 required because of the transfers directed by sections 232 through 235  
14 of this act, the director of financial management shall certify the  
15 apportionments to the agencies affected, the state auditor, and the  
16 state treasurer. Each of these shall make the appropriate transfer and  
17 adjustments in funds and appropriation accounts and equipment records  
18 in accordance with the certification.

19 **PART III**

20 **COLLECTIVE BARGAINING REFORM**

21 NEW SECTION. **Sec. 301.** NEGOTIATION AND RATIFICATION OF COLLECTIVE  
22 BARGAINING AGREEMENTS. (1) For the purpose of negotiating collective  
23 bargaining agreements under this chapter, the employer shall be  
24 represented by the governor or governor's designee. For institutions  
25 of higher education, the governing body of the institution of higher  
26 education shall select management representatives who shall participate  
27 in the negotiations.

28 (2)(a) If an exclusive bargaining representative represents more  
29 than one bargaining unit, the exclusive bargaining representative shall  
30 negotiate one master collective bargaining agreement on behalf of all  
31 the employees in bargaining units that the exclusive bargaining  
32 representative represents. For those exclusive bargaining  
33 representatives who represent fewer than a total of five hundred  
34 employees each, negotiation shall be by a coalition of exclusive

1 bargaining representatives that collectively represents at least five  
2 hundred employees and that includes one or more exclusive bargaining  
3 representatives that independently represent fewer than five hundred  
4 employees. The coalition shall bargain for a master collective  
5 bargaining agreement covering all of the employees represented by the  
6 coalition. Supplemental bargaining of agency-specific issues for  
7 inclusion in or as an addendum to the master collective bargaining  
8 agreement by the governor's designee and the exclusive bargaining  
9 representative is authorized, subject to the parties' agreement  
10 regarding the issues and procedures for supplemental bargaining. This  
11 section does not prohibit cooperation and coordination of bargaining  
12 between two or more exclusive bargaining representatives.

13 (b) This subsection (2) does not apply to exclusive bargaining  
14 representatives who represent employees of institutions of higher  
15 education.

16 (3) Collective bargaining negotiations under this chapter shall  
17 commence no later than October 1, 1994, for collective bargaining  
18 agreements that are to become effective no earlier than July 1, 1995.  
19 For subsequent agreements, negotiations shall commence and contracts  
20 become effective as the parties agree.

21 (4) The governor shall submit a request for funds necessary to  
22 implement the compensation and fringe benefit provisions in the master  
23 collective bargaining agreement or for legislation necessary to  
24 implement the agreement within ten days of the date on which the  
25 exclusive bargaining representative ratifies the agreement or, if the  
26 legislature is not in session, within ten days after the legislature  
27 next convenes. The legislature shall approve or reject the submission  
28 of the request for funds or legislation, or both, as a whole. If the  
29 legislature rejects or fails to act on the submission, either party may  
30 reopen all or part of the agreement or the exclusive bargaining  
31 representative may exercise its rights as provided in section 306 of  
32 this act.

33 (5) After the expiration date of a collective bargaining agreement  
34 negotiated under this chapter, all of the terms and conditions  
35 specified in the collective bargaining agreement remain in effect until  
36 the effective date of a subsequently negotiated agreement, not to  
37 exceed one year from the expiration date stated in the agreement.  
38 Thereafter, the employer may unilaterally implement according to law.

1        NEW SECTION.    **Sec. 302.**    SCOPE OF BARGAINING.    (1) Except as

2 otherwise provided in this chapter, the matters subject to bargaining  
3 include wages, hours, and other terms and conditions of employment, and  
4 the negotiation of any question arising under a collective bargaining  
5 agreement.

6        (2) The employer is not required to bargain over matters pertaining  
7 to:

8        (a) Inherent managerial policy such as the functions and programs  
9 of the employer, the employer's budget, the use of technology, and the  
10 organizational structure of the employer;

11        (b) Any retirement system or retirement benefit;

12        (c) Health care benefits or other employee insurance benefits,  
13 except as required in subsection (3) of this section; or

14        (d) Rules of the director of personnel or the Washington personnel  
15 resources board adopted under RCW 41.06.150 (2), (3), (4) only with  
16 respect to initial employment appointments, and the names of  
17 appointees, (11), (15), or (17) except as required in subsection (3) of  
18 this section.

19        (3) Matters subject to bargaining shall include the number of names  
20 to be certified for vacancies, promotional preferences, and the dollar  
21 amount expended on behalf of each employee for health care benefits.  
22 However, negotiations regarding promotional preferences shall be  
23 conducted between the employer and one coalition of all the exclusive  
24 bargaining representatives subject to this chapter and any provision  
25 agreed to by the employer and the coalition shall be included in all  
26 master collective bargaining agreements negotiated by the parties.

27        (4) The employer and the exclusive bargaining representative shall  
28 not agree to any proposal that would prevent the implementation of  
29 approved affirmative action plans or that would be inconsistent with  
30 the comparable worth agreement that provided the basis for the salary  
31 changes implemented beginning with the 1983-1985 biennium to achieve  
32 comparable worth.

33        (5) Except as otherwise provided in this chapter, if a conflict  
34 exists between an executive order, administrative rule, or agency  
35 policy relating to wages, hours, and terms and conditions of employment  
36 and a collective bargaining agreement negotiated under this chapter,  
37 the collective bargaining agreement shall prevail. A provision of a  
38 collective bargaining agreement that conflicts with the terms of a  
39 statute is invalid and unenforceable.

1        NEW SECTION.        **Sec. 303.**        CONTENTS OF COLLECTIVE BARGAINING  
2 AGREEMENTS.        (1) The employer and the exclusive bargaining  
3 representative who are the parties to a collective bargaining agreement  
4 shall reduce the agreement to writing and both shall execute it.

5        (2) A collective bargaining agreement shall contain provisions  
6 that:

7        (a) Provide for a grievance procedure that culminates with final  
8 and binding arbitration of all disputes arising over the interpretation  
9 or application of the collective bargaining agreement and that is valid  
10 and enforceable under its terms when entered into in accordance with  
11 this chapter; and

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

19        (3) If a collective bargaining agreement between an employer and an  
20 exclusive bargaining representative is concluded after the termination  
21 date of the previous collective bargaining agreement between the  
22 employer and an employee organization representing the same or  
23 substantially the same employees, the effective date of the collective  
24 bargaining agreement may be the day after the termination of the  
25 previous collective bargaining agreement, and all benefits included in  
26 the new collective bargaining agreement, including wage or salary  
27 increases, may accrue beginning with that effective date.

28        NEW SECTION.        **Sec. 304.**        RIGHTS OF EMPLOYEES. Employees shall have  
29 the right to self-organization, to form, join, or assist employee  
30 organizations, to bargain collectively through representatives of their  
31 own choosing, and, except as may be limited by this chapter, to engage  
32 in other lawful concerted activities for the purpose of collective  
33 bargaining or other mutual aid or protection free from interference,  
34 restraint, or coercion, and shall also have the right to refrain from  
35 any or all such activities except to the extent that employees may be  
36 required to pay a fee to an exclusive bargaining representative under  
37 a union security provision authorized by this chapter.

1        NEW SECTION.    **Sec. 305.**    BARGAINING UNITS.    (1) A bargaining unit  
2 of employees covered by this chapter existing on the effective date of  
3 this section shall be considered an appropriate unit, unless the unit  
4 does not meet the requirements of (a) and (b) of this subsection. The  
5 commission, after hearing upon reasonable notice to all interested  
6 parties, shall decide in each application for certification as an  
7 exclusive bargaining representative, the unit appropriate for  
8 certification. In determining the new units or modifications of  
9 existing units, the commission shall consider: The duties, skills, and  
10 working conditions of the employees; the history of collective  
11 bargaining; the extent of organization among the employees; the desires  
12 of the employees; and the avoidance of excessive fragmentation.  
13 However, a unit is not appropriate if it includes:

14        (a) Both supervisors and nonsupervisory employees. A unit that  
15 includes only supervisors may be considered appropriate if a majority  
16 of the supervisory employees indicates by vote that they desire to be  
17 included in such a unit; or

18        (b) More than one institution of higher education. For the  
19 purposes of this section, any branch or regional campus of an  
20 institution of higher education is part of that institution of higher  
21 education.

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

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

33        NEW SECTION.    **Sec. 306.**    REPRESENTATION.    (1) The commission shall  
34 determine all questions pertaining to representation and shall  
35 administer all elections and be responsible for the processing and  
36 adjudication of all disputes that arise as a consequence of elections.  
37 The commission shall adopt rules that provide for at least the  
38 following:

- 1 (a) Secret balloting;
- 2 (b) Consulting with employee organizations;
- 3 (c) Access to lists of employees, job classification, work
- 4 locations, and home mailing addresses;
- 5 (d) Absentee voting;
- 6 (e) Procedures for the greatest possible participation in voting;
- 7 (f) Campaigning on the employer's property during working hours;
- 8 and
- 9 (g) Election observers.

10 (2)(a) If an employee organization has been certified as the  
11 exclusive bargaining representative of the employees of a bargaining  
12 unit, the employee organization may act for and negotiate master  
13 collective bargaining agreements that will include within the coverage  
14 of the agreement all employees in the bargaining unit as provided in  
15 section 301(2) of this act. However, if a master collective bargaining  
16 agreement is in effect for the exclusive bargaining representative, it  
17 shall apply to the bargaining unit for which the certification has been  
18 issued. Nothing in this section requires the parties to engage in new  
19 negotiations during the term of that agreement.

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

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

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

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

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

35 NEW SECTION. **Sec. 307.** RIGHT TO STRIKE. (1) Employees covered by  
36 this chapter who are eligible for collective bargaining may strike only  
37 as provided in this section, subject to the employer's right to seek an  
38 injunction under subsection (3) of this section. The right to strike

1 must be exercised by an exclusive bargaining representative as a whole,  
2 as evidenced by an affirmative vote authorizing a strike, and may not  
3 be exercised by the membership of a single bargaining unit, unless the  
4 exclusive bargaining representative represents only a single bargaining  
5 unit. The right to strike may be exercised under the conditions of  
6 either (a) or (b) of this subsection as follows:

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

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

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

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

19 (ii) The legislature rejects or fails to act on the submission of  
20 a request for funding a collective bargaining agreement as provided in  
21 section 301(4) of this act.

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

26 (3) If it can be shown that a strike has begun to or will likely  
27 threaten the health, safety, or welfare of the public, the employer may  
28 apply to the superior court in Thurston county for an order enjoining  
29 some or all of the employees from striking. If some or all employees  
30 are enjoined from striking under this subsection, the impasse or  
31 dispute shall be submitted for final and binding arbitration as  
32 provided in section 308 of this act.

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

34 NEW SECTION. **Sec. 308.** INTEREST ARBITRATION. (1) If a strike is  
35 enjoined under section 307(3) of this act, final and binding  
36 arbitration of the dispute as provided in this section shall be  
37 substituted for the right to strike.

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

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

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

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

36 (6) The arbitrator shall, within twenty days following the  
37 conclusion of the hearing, make written findings of fact and a written  
38 determination of the issues in dispute, based on the evidence  
39 presented. The parties shall submit a final offer on each separate



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

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

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

14 (b) Stipulations of the parties;

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

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

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

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

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

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

36 (10) Except as ordered through proceedings before an interest  
37 arbitrator, existing wages, hours, and other terms and conditions of  
38 employment shall not be changed by action of either party without the

1 consent of the other, but a party may so consent without prejudice to  
2 its rights or position under this section.

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

10 NEW SECTION. **Sec. 309.** UNION SECURITY. (1) A collective  
11 bargaining agreement may contain a union security provision requiring  
12 as a condition of employment the payment, no later than the thirtieth  
13 day following the beginning of employment or the effective date of this  
14 section, whichever is later, of an agency shop fee to the employee  
15 organization that is the exclusive bargaining representative for the  
16 bargaining unit in which the employee is employed. The amount of the  
17 fee shall be equal to the amount required to become a member in good  
18 standing of the employee organization. Each employee organization  
19 shall establish a procedure by which any employee so requesting may pay  
20 a representation fee no greater than the part of the membership fee  
21 that represents a pro rata share of expenditures for purposes germane  
22 to the collective bargaining process, to contract administration, or to  
23 pursuing matters affecting wages, hours, and other conditions of  
24 employment.

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

1 (3) Upon filing with the employer the written authorization of a  
2 bargaining unit employee under this chapter, the employee organization  
3 that is the exclusive bargaining representative of the bargaining unit  
4 shall have the exclusive right to have deducted from the salary of the  
5 employee an amount equal to the fees and dues uniformly required as a  
6 condition of acquiring or retaining membership in the employee  
7 organization. The fees and dues shall be deducted each pay period from  
8 the pay of all employees who have given authorization for the deduction  
9 and shall be transmitted by the employer as provided for by agreement  
10 between the employer and the employee organization.

11 (4) Employee organizations that before the effective date of this  
12 section were entitled to the benefits of this section shall continue to  
13 be entitled to these rights.

14 NEW SECTION. **Sec. 310.** UNFAIR LABOR PRACTICES ENUMERATED. (1) It  
15 is an unfair labor practice for an employer to:

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

18 (b) Control, dominate, or interfere with an exclusive bargaining  
19 representative;

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

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

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

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

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

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

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

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

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

36 NEW SECTION. **Sec. 311.** UNFAIR LABOR PRACTICE PROCEDURES. (1) The  
37 commission shall prevent any unfair labor practice and issue

1 appropriate remedial orders. A complaint shall not be processed for  
2 any unfair labor practice occurring more than six months before the  
3 filing of the complaint with the commission. The commission's  
4 authority shall not be affected or impaired by any means of adjustment,  
5 mediation, or conciliation in labor disputes that have been or may  
6 hereafter be established by law.

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

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

32 (4) The commission, or any party to the commission proceedings,  
33 thirty days after the commission has entered its findings of fact, may  
34 petition the superior court of Thurston county or the superior court  
35 within the county where the unfair labor practice in question occurred  
36 or where any person charged with the unfair labor practice resides or  
37 transacts business, or if such court be on vacation or in recess, then  
38 to the superior court of any county adjoining the county where the  
39 unfair labor practice in question occurred or where any person charged

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

14 NEW SECTION. **Sec. 312.** ENFORCEMENT OF COLLECTIVE BARGAINING  
15 AGREEMENTS. (1) For the purposes of implementing arbitration under  
16 grievance procedures required by section 303 of this act, the parties  
17 to a collective bargaining agreement may agree on one or more permanent  
18 umpires to serve as arbitrator, or may agree on any impartial person to  
19 serve as arbitrator, or may agree to select arbitrators from any source  
20 available to them, including federal and private agencies, in addition  
21 to the staff and list of arbitrators maintained by the commission. If  
22 the parties cannot agree to the selection of an arbitrator, the  
23 commission shall supply a list of names in accordance with the  
24 procedures established by the commission.

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

1 (3) The arbitrator shall appoint a time and place for the hearing  
2 and notify the parties thereof, and may adjourn the hearing from time  
3 to time as may be necessary, and, on application of either party and  
4 for good cause, may postpone the hearing to a time not extending beyond  
5 the date fixed by the collective bargaining agreement for making the  
6 award. The arbitration award shall be in writing and signed by the  
7 arbitrator. The arbitrator shall, promptly upon its rendition, serve  
8 a true copy of the award on each of the parties or their attorneys.

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

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

27 NEW SECTION. **Sec. 313.** STATE EMPLOYMENT RELATIONS COMMISSION.

28 (1) There is created the state employment relations commission to  
29 administer this chapter. The commission shall consist of three members  
30 who shall be appointed by the governor, subject to confirmation by the  
31 senate. One of the initial members shall be appointed for a term of  
32 two years, one for a term of three years, and one for a term of four  
33 years. Their successors shall be appointed for terms of four years  
34 each, except that any person chosen to fill a vacancy shall be  
35 appointed only for the unexpired term of the member whom he or she  
36 succeeds. Commission members shall be eligible for reappointment. The  
37 governor shall designate one member to serve as chair of the  
38 commission. Persons so appointed shall not hold any other employment

1 with the state, shall not have been an officer of a political party for  
2 a period of one year immediately before the appointment, and shall not  
3 be or become a candidate for partisan elective public office during the  
4 term to which they are appointed. Any member of the commission may be  
5 removed by the governor, upon notice and hearing, for neglect of duty  
6 or malfeasance in office, but for no other cause. Commission members  
7 shall not be eligible for state retirement under chapter 41.40 RCW by  
8 virtue of their service on the commission.

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

15 (3) A vacancy in the commission does not impair the right of the  
16 remaining members to exercise all of the powers of the commission, and  
17 two members of the commission shall, at all times, constitute a quorum  
18 of the commission.

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

25 NEW SECTION. **Sec. 314.** COMMISSION COMPENSATION. Each member of  
26 the commission shall be compensated in accordance with RCW 43.03.250.  
27 Members of the commission shall also be reimbursed for travel expenses  
28 incurred in the discharge of their official duties on the same basis as  
29 is provided in RCW 43.03.050 and 43.03.060. The payment of all of the  
30 expenses of the commission, including travel expenses incurred by the  
31 members or employees of the commission under its orders, is subject to  
32 the provisions of RCW 43.03.050 and 43.03.060.

33 NEW SECTION. **Sec. 315.** COMMISSION DUTIES. (1) The commission  
34 shall, in order to prevent or minimize interruptions growing out of  
35 labor disputes, assist employers and employees to settle such disputes  
36 through mediation.

1 (2) The commission shall appoint a director whose annual salary  
2 shall be determined under the provisions of RCW 43.03.028. The  
3 director shall perform such duties and have such powers as the  
4 commission prescribes in order to implement and enforce this chapter.  
5 In addition to the performance of administrative duties, the commission  
6 may delegate to the director authority with respect to, but not limited  
7 to, representation proceedings, unfair labor practice proceedings,  
8 mediation of labor disputes, arbitration of disputes concerning the  
9 interpretation or application of a collective bargaining agreement, and  
10 arbitration of disputes concerning the terms of a collective bargaining  
11 agreement. Such delegation shall not eliminate a party's right of  
12 appeal to the commission. The director, with such assistance as may be  
13 provided by the attorney general and such additional legal assistance  
14 consistent with chapter 43.10 RCW, may on behalf of the commission, if  
15 necessary to carry out or enforce any action or decision of the  
16 commission, petition any court of competent jurisdiction for an order  
17 requiring compliance with the action or decision.

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

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

24 NEW SECTION. **Sec. 316.** COMMISSION AUTHORITY. The commission may  
25 adopt rules as necessary to carry out the provisions of this chapter,  
26 consistent with the best standards of labor management relations.

27 NEW SECTION. **Sec. 317.** DEFINITIONS. Unless the context clearly  
28 requires otherwise, the definitions in this section apply throughout  
29 this chapter.

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

32 (2) "Arbitration" means the procedure whereby parties involved in  
33 an impasse submit their differences to a third party for a final and  
34 binding determination.

35 (3) "Collective bargaining" means the performance of the mutual  
36 obligation of the representatives of the employer and the exclusive  
37 bargaining representative to meet at reasonable times and to bargain in



1 good faith in an effort to reach agreement with respect to the subjects  
2 of bargaining specified under section 302 of this act. The obligation  
3 to bargain does not compel either party to agree to a proposal or to  
4 make a concession, except as otherwise provided in this chapter.

5 (4) "Commission" means the state employment relations commission.

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

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

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

18 (a) Employees covered for collective bargaining by chapter 41.56  
19 RCW;

20 (b) Confidential employees;

21 (c) Members of the Washington management service;

22 (d) Internal auditors in any agency; or

23 (e) Any employee of the commission, the office of financial  
24 management, the department of personnel, or the attorney general's  
25 office.

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

29 (9) "Employer" means the state of Washington.

30 (10) "Exclusive bargaining representative" means any employee  
31 organization that has been certified under this chapter as the  
32 representative of the employees in an appropriate bargaining unit.

33 (11) "Institutions of higher education" means the University of  
34 Washington, Washington State University, Central Washington University,  
35 Eastern Washington University, Western Washington University, The  
36 Evergreen State College, and the various state community colleges.

37 (12) "Labor dispute" means any controversy concerning terms,  
38 tenure, or conditions of employment, or concerning the association or  
39 representation of persons in negotiating, fixing, maintaining,

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

5 (13) "Manager" means "manager" as defined in RCW 41.06.022.

6 (14) "Strike" means any action by employees or employee  
7 organizations, acting in concert, wherein any or all of the employees  
8 withhold or otherwise fail or refuse to perform fully their normal  
9 duties or services as employees.

10 (15) "Supervisor" means any employee whose principal work is  
11 substantially different from that of his or her subordinates and who  
12 has authority, in the interest of the employer, to hire, transfer,  
13 suspend, lay off, recall, promote, discharge, direct, reward, or  
14 discipline employees, or to adjust employee grievances, or effectively  
15 to recommend such action, if the exercise of the authority is not  
16 merely routine or clerical in nature but requires the consistent  
17 exercise of independent judgment.

18 (16) "Unfair labor practice" means any unfair labor practice listed  
19 in section 310 of this act.

20 NEW SECTION. **Sec. 318.** All powers, duties, and functions of the  
21 department of personnel pertaining to collective bargaining are  
22 transferred to the state employment relations commission except that  
23 arbitration of grievances filed under a collective bargaining agreement  
24 existing before the effective date of this section and not yet finally  
25 determined by the effective date of this section, shall be transferred  
26 to the Washington personnel resources board.

27 NEW SECTION. **Sec. 319.** All reports, documents, surveys, books,  
28 records, files, papers, or written material in the possession of the  
29 department of personnel pertaining to the powers, functions, and duties  
30 transferred in section 318 of this act shall be delivered to the  
31 custody of the state employment relations commission. All cabinets,  
32 furniture, office equipment, motor vehicles, and other tangible  
33 property employed by the department of personnel in carrying out the  
34 powers, functions, and duties transferred in section 318 of this act  
35 shall be made available to the state employment relations commission.  
36 All funds, credits, or other assets held in connection with the powers,

1 functions, and duties transferred in section 318 of this act shall be  
2 assigned to the state employment relations commission.

3 Any appropriations made to the department of personnel for carrying  
4 out the powers, functions, and duties transferred in section 318 of  
5 this act shall, on the effective date of this section, be transferred  
6 and credited to the state employment relations commission.

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

13 NEW SECTION. **Sec. 320.** All employees of the department of  
14 personnel engaged in performing the powers, functions, and duties  
15 transferred in section 318 of this act are transferred to the  
16 jurisdiction of the state employment relations commission. All  
17 employees classified under chapter 41.06 RCW, the state civil service  
18 law, are assigned to the state employment relations commission without  
19 any loss of rights, subject to any action that may be appropriate  
20 thereafter in accordance with the laws and rules governing state civil  
21 service.

22 NEW SECTION. **Sec. 321.** All business pending before the department  
23 of personnel pertaining to the powers, functions, and duties  
24 transferred in section 318 of this act shall be continued and acted  
25 upon by the state employment relations commission. All existing  
26 contracts and obligations of the department of personnel shall remain  
27 in full force and shall be performed by the state employment relations  
28 commission.

29 NEW SECTION. **Sec. 322.** The transfer of the powers, duties,  
30 functions, and personnel of the department of personnel shall not  
31 affect the validity of any act performed before the effective date of  
32 this section.

33 NEW SECTION. **Sec. 323.** If apportionments of budgeted funds are  
34 required because of the transfers directed by sections 318 through 322  
35 of this act, the director of financial management shall certify the

1 apportionments to the agencies affected, the state auditor, and the  
2 state treasurer. Each of these shall make the appropriate transfer and  
3 adjustments in funds and appropriation accounts and equipment records  
4 in accordance with the certification.

5 **PART IV**  
6 **MISCELLANEOUS**

7 NEW SECTION. **Sec. 401.** The following acts or parts of acts are  
8 each repealed:

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

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

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

13 (4) RCW 41.06.340 and 1993 c 281 s 35 & 1969 ex.s. c 215 s 13;

14 (5) RCW 41.06.380 and 1979 ex.s. c 46 s 2;

15 (6) RCW 41.06.382 and 1979 ex.s. c 46 s 1;

16 (7) RCW 41.50.804 and 1993 c 281 s 40 & 1975-'76 2nd ex.s. c 105 s  
17 17;

18 (8) RCW 41.64.010 and 1981 c 311 s 1;

19 (9) RCW 41.64.020 and 1981 c 311 s 3;

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

22 (11) RCW 41.64.040 and 1981 c 311 s 5;

23 (12) RCW 41.64.050 and 1981 c 311 s 6;

24 (13) RCW 41.64.060 and 1981 c 311 s 7;

25 (14) RCW 41.64.070 and 1981 c 311 s 8;

26 (15) RCW 41.64.080 and 1981 c 311 s 9;

27 (16) RCW 41.64.090 and 1993 c 281 s 41 & 1981 c 311 s 10;

28 (17) RCW 41.64.100 and 1981 c 311 s 11;

29 (18) RCW 41.64.110 and 1985 c 461 s 7 & 1981 c 311 s 12;

30 (19) RCW 41.64.120 and 1981 c 311 s 13;

31 (20) RCW 41.64.130 and 1981 c 311 s 14;

32 (21) RCW 41.64.140 and 1988 c 202 s 42 & 1981 c 311 s 15; and

33 (22) RCW 41.64.910 and 1981 c 311 s 24.

34 NEW SECTION. **Sec. 402.** SECTION CAPTIONS. Part and section  
35 captions used in this act constitute no part of the law.

1        NEW SECTION.    **Sec. 403.**    Sections 301 through 317 and 406 of this  
2 act shall constitute a new chapter in Title 41 RCW.

3        NEW SECTION.    **Sec. 404.**    The governor shall take such action as is  
4 necessary, including appointment of the members of the state employment  
5 relations commission, to ensure that sections 301 through 317 of this  
6 act are implemented on their effective date.

7        NEW SECTION.    **Sec. 405.**    Until July 1, 1995, the state employment  
8 relations commission shall contract with the department of personnel  
9 for labor relations staffing necessary to carry out its functions.

10       NEW SECTION.    **Sec. 406.**    Any collective bargaining agreement  
11 entered into before the effective date of sections 301 through 317 of  
12 this act covering employees affected by sections 301 through 317 of  
13 this act that expires after the effective date of sections 301 through  
14 317 of this act shall, unless a superseding agreement complying with  
15 this chapter is negotiated by the parties, remain in full force during  
16 its duration, but shall not be renewed or extended.

17       NEW SECTION.    **Sec. 407.**    If any provision of this act or its  
18 application to any person or circumstance is held invalid, the  
19 remainder of the act or the application of the provision to other  
20 persons or circumstances is not affected.

21       NEW SECTION.    **Sec. 408.**    Sections 101, 102, 201 through 236, 301  
22 through 317 and 401 through 407 of this act shall take effect July 1,  
23 1994.

24       NEW SECTION.    **Sec. 409.**    Sections 318 through 323 of this act shall  
25 take effect July 1, 1995.

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