

CERTIFICATION OF ENROLLMENT  
**SECOND SUBSTITUTE HOUSE BILL 2403**

Chapter 356, Laws of 2002

(partial veto)

57th Legislature  
2002 Regular Session

HIGHER EDUCATION--COLLECTIVE BARGAINING

EFFECTIVE DATE: 10/1/02

Passed by the House March 13, 2002  
Yeas 52 Nays 45

FRANK CHOPP  
**Speaker of the House of Representatives**

Passed by the Senate March 7, 2002  
Yeas 27 Nays 22

BRAD OWEN  
**President of the Senate**

Approved April 4, 2002, with the  
exception of sections 2 and 5, which  
are vetoed.

GARY LOCKE  
**Governor of the State of Washington**

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the  
House of Representatives of the State  
of Washington, do hereby certify that  
the attached is **SECOND SUBSTITUTE  
HOUSE BILL 2403** as passed by the House  
of Representatives and the Senate on  
the dates hereon set forth.

CYNTHIA ZEHNDER

**Chief Clerk**

FILED

April 4, 2002 - 3:00 p.m.

**Secretary of State  
State of Washington**

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SECOND SUBSTITUTE HOUSE BILL 2403

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AS AMENDED BY THE SENATE

Passed Legislature - 2002 Regular Session

State of Washington                      57th Legislature                      2002 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Kenney, Conway, Veloria, Linville, Campbell, O'Brien, Fromhold, Lovick, Hunt, Hurst, Miloscia, Jackley, Kagi, Schual-Berke, Kessler, Gombosky, Berkey, Cody, Chase, Morris, Dickerson, Tokuda, Cooper, Darneille, Kirby, Upthegrove, Edwards, Romero, Santos, Lysen, Quall, McIntire, Wood, Haigh, McDermott, Simpson and Sullivan)

Read first time 02/09/2002. Referred to Committee on .

1            AN ACT Relating to labor relations at the public four-year  
2 institutions of higher education; adding a new chapter to Title 41 RCW;  
3 and providing an effective date.

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

5            NEW SECTION.    **Sec. 1.** LEGISLATIVE FINDINGS OF FACT AND STATEMENTS  
6 OF POLICY. The legislature finds and declares that:

7            (1) The people of the state of Washington have a fundamental  
8 interest in developing harmonious and cooperative labor relations  
9 within the public four-year institutions of higher education.

10           (2) Teachers in the public school system and instructors in the  
11 community colleges in the state have been granted the opportunity to  
12 bargain collectively. It is desirable to expand the jurisdiction of  
13 the public employment relations commission to cover faculty in the  
14 state's public four-year institutions of higher education.

15           (3) It is the purpose of this chapter to provide the means by which  
16 relations between the boards of regents and trustees of the public  
17 four-year institutions of higher education of the state of Washington  
18 and their faculty may assure that the responsibilities and authorities  
19 granted to these institutions are carried out in an atmosphere that

1 permits the fullest participation by faculty in determining the  
2 conditions of employment which affect them. It is the intent of the  
3 legislature to accomplish this purpose by providing a uniform structure  
4 for recognizing the right of faculty of the public four-year  
5 institutions of higher education to engage in collective bargaining as  
6 provided in this chapter, if they should so choose.

7 (4) It is the further purpose of this chapter to provide orderly  
8 and clearly defined procedures for collective bargaining and dispute  
9 resolution, and to define and prohibit certain practices that are  
10 contrary to the public interest.

11 **\*NEW SECTION.** **Sec. 2. EXERCISE OF FUNCTIONS OF FACULTY IN SHARED**  
12 **GOVERNANCE--GUARANTEE OF ACADEMIC FREEDOM.** (1) *The legislature*  
13 *recognizes that consultation and joint decision making between*  
14 *administration and faculty is the long-accepted manner of governing*  
15 *public four-year institutions of higher education and is essential to*  
16 *performing their educational missions. However, collective bargaining*  
17 *can fill the same role. Therefore, faculty at public four-year*  
18 *institutions must choose between collective bargaining and all other*  
19 *faculty governance systems or practices with respect to policies on*  
20 *academic and professional matters affecting the public four-year*  
21 *institutions of higher education.*

22 (2) *It is the policy of the state of Washington to encourage the*  
23 *pursuit of excellence in teaching, research, and learning through the*  
24 *free exchange of ideas among the faculty, students, and staff of its*  
25 *institutions. All parties subject to this chapter shall respect and*  
26 *endeavor to preserve academic freedom.*

27 (3) *In the absence of a valid collective bargaining agreement, and*  
28 *for matters upon which collective bargaining is prohibited under*  
29 *section 4 of this act, the rules, regulations, provisions, and*  
30 *procedures, policies, and practices manuals in public four-year*  
31 *institutions of higher education shall govern relations between faculty*  
32 *and the respective boards of regents and trustees.*

33 *\*Sec. 2 was vetoed. See message at end of chapter.*

34 **NEW SECTION.** **Sec. 3. DEFINITIONS.** The definitions in this  
35 section apply throughout this chapter unless the context clearly  
36 requires otherwise.

1 (1) "Faculty governance system" means the internal organization  
2 that serves as the faculty advisory body and is charged with the  
3 responsibility for recommending policies, regulations, and rules for  
4 the college or university.

5 (2) "Grievance arbitration" means a method to resolve disputes  
6 arising out of interpretations or application of the terms of an  
7 agreement under which the parties to a controversy must accept the  
8 decision of an impartial person or persons.

9 (3) "Collective bargaining" and "bargaining" mean the performance  
10 of the mutual obligation of the representatives of the employer and the  
11 exclusive bargaining representative to meet at reasonable times to  
12 bargain in good faith in an effort to reach agreement with respect to  
13 wages, hours, and other terms and conditions of employment. A written  
14 contract incorporating any agreements reached must be executed if  
15 requested by either party. The obligation to bargain does not compel  
16 either party to agree to a proposal or to make a concession.

17 In the event of a dispute between an employer and an exclusive  
18 bargaining representative over the matters that are terms and  
19 conditions of employment, the commission shall decide which items are  
20 mandatory subjects for bargaining, subject to section 4 of this act.

21 (4) "Commission" means the public employment relations commission  
22 established pursuant to RCW 41.58.010.

23 (5) "Faculty" means employees who, at a public four-year  
24 institution of higher education, are designated with faculty status or  
25 who perform faculty duties as defined through policies established by  
26 the faculty governance system, excluding casual or temporary employees,  
27 administrators, confidential employees, graduate student employees,  
28 postdoctoral and clinical employees, and employees subject to chapter  
29 41.06 or 41.56 RCW.

30 (6) "Employee organization" means any organization that includes as  
31 its members faculty of the employer and that has as one of its purposes  
32 representation of faculty under this chapter. A faculty governance  
33 system is not an employee organization as defined in this subsection.

34 (7) "Employer" means the board of regents or the board of trustees  
35 of a public four-year institution of higher education.

36 (8) "Exclusive bargaining representative" means any employee  
37 organization that has been determined by the commission to represent  
38 all of the faculty members of the bargaining unit as required in  
39 section 6 of this act.

1 (9) "Administrator" means deans, associate and assistant deans,  
2 vice-provosts, vice-presidents, the provost, chancellors,  
3 vice-chancellors, the president, and faculty members who exercise  
4 managerial or supervisory authority over other faculty members.

5 (10) "Confidential employee" means (a) a person who participates  
6 directly on behalf of an employer in the formulation of labor relations  
7 policy, the preparation for or conduct of collective bargaining, or the  
8 administration of a collective bargaining agreement, if the role of the  
9 person is not merely routine or clerical in nature but calls for the  
10 consistent exercise of independent judgment; and (b) a person who  
11 assists and acts in a confidential capacity to a person in (a) of this  
12 subsection.

13 (11) "Bargaining unit" includes all faculty members of all campuses  
14 of each of the colleges and universities. Only one bargaining unit is  
15 allowable for faculty of each employer, and that unit must contain all  
16 faculty members from all schools, colleges, and campuses of the  
17 employer.

18 (12) "Public four-year institutions of higher education" means the  
19 University of Washington, Washington State University, Eastern  
20 Washington University, Western Washington University, Central  
21 Washington University, and The Evergreen State College.

22 NEW SECTION. **Sec. 4.** SCOPE OF BARGAINING. (1) Prohibited  
23 subjects of bargaining include but are not limited to the following:

24 (a) Consideration of the merits, necessity, or organization of any  
25 service, activity, or program established by law or resolution of the  
26 employer, except for the terms and conditions of employment of faculty  
27 members who may be affected by such service, activity, or program.

28 (b) The amount of any fees that are not a term or condition of  
29 employment.

30 (c) Admission requirements for students, conditions for the award  
31 of certificates and degrees, and the content, methods, supervision, and  
32 evaluation of courses, curricula, and research programs.

33 (2) Permissive subjects of bargaining include, but are not limited  
34 to, criteria and standards to be used for the appointment, promotion,  
35 evaluation, and tenure of faculty.

36 (3) Nothing in this section shall be construed to limit the right  
37 of the employer to consult with any employee on any matter outside the  
38 scope of bargaining.

1        **\*NEW SECTION.**     **Sec. 5.     RIGHT TO ORGANIZE OR REFRAIN FROM**  
2 **ORGANIZING.**     *Faculty members have the right to self-organization, to*  
3 *form, join, or assist employee organizations, and to bargain*  
4 *collectively through exclusive bargaining representatives of their own*  
5 *choosing, and also have the right to refrain from any or all of these*  
6 *activities except to the extent that faculty members may be required to*  
7 *make payments to an exclusive bargaining representative or charitable*  
8 *organization under a union security provision authorized in this*  
9 *chapter.     However, faculty members may not engage in collective*  
10 *bargaining until any existing faculty senate or council and any other*  
11 *faculty governance system has been abolished.     Any shared governance*  
12 *practices may not be exercised so long as the faculty engages in*  
13 *collective bargaining.*

14     **\*Sec. 5 was vetoed.     See message at end of chapter.**

15        **NEW SECTION.**     **Sec. 6.     EXCLUSIVE BARGAINING REPRESENTATIVES--DUTY**  
16 **OF FAIR REPRESENTATION.**     The employee organization which has been  
17 determined by the commission to be the exclusive bargaining  
18 representative of a bargaining unit shall be required to represent all  
19 the faculty members within the bargaining unit without regard to  
20 membership in that employee organization:     PROVIDED, That any faculty  
21 member may at any time present his or her complaints or concerns to the  
22 employer and have such complaints or concerns adjusted without  
23 intervention of the exclusive bargaining representative, as long as the  
24 exclusive bargaining representative has been given an opportunity to be  
25 present at the adjustment and to make its views known, and as long as  
26 the adjustment is not inconsistent with the terms of a collective  
27 bargaining agreement then in effect.

28        **NEW SECTION.**     **Sec. 7.     REPRESENTATION CASE PROCEDURE.**     The  
29 commission shall certify exclusive bargaining representatives in  
30 accordance with the procedures specified in this section.

31        (1) No question concerning representation may be raised within one  
32 year following issuance of a certification under this section.

33        (2) If there is a valid collective bargaining agreement in effect,  
34 no question concerning representation may be raised except during the  
35 period not more than ninety nor less than sixty days prior to the  
36 expiration date of the agreement:     PROVIDED, That in the event a valid  
37 collective bargaining agreement, together with any renewals or

1 extensions thereof, has been or will be in existence for more than  
2 three years, then a question concerning representation may be raised  
3 not more than ninety nor less than sixty days prior to the third  
4 anniversary date or any subsequent anniversary date of the agreement;  
5 and if the exclusive bargaining representative is removed as the result  
6 of such procedure, the collective bargaining agreement shall be deemed  
7 to be terminated as of the date of the certification or the anniversary  
8 date following the filing of the petition, whichever is later.

9 (3) An employee organization seeking certification as exclusive  
10 bargaining representative of a bargaining unit, or faculty members  
11 seeking decertification of their exclusive bargaining representative,  
12 must make a confidential showing to the commission of credible evidence  
13 demonstrating that at least thirty percent of the faculty in the  
14 bargaining unit are in support of the petition. The petition must  
15 indicate the name, address, and telephone number of any employee  
16 organization known to claim an interest in the bargaining unit.

17 (4) A petition filed by an employer must be supported by credible  
18 evidence demonstrating the good faith basis on which the employer  
19 claims the existence of a question concerning the representation of its  
20 faculty.

21 (5) Any employee organization which makes a confidential showing to  
22 the commission of credible evidence demonstrating that it has the  
23 support of at least ten percent of the faculty in the bargaining unit  
24 involved is entitled to intervene in proceedings under this section and  
25 to have its name listed as a choice on the ballot in an election  
26 conducted by the commission.

27 (6) The commission shall determine any question concerning  
28 representation by conducting a secret ballot election among the faculty  
29 members in the bargaining unit, except under the following  
30 circumstances:

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

1 (b) If the commission determines that a serious unfair labor  
2 practice has been committed which interfered with the election process  
3 and precludes the holding of a fair election, the commission may  
4 determine the question concerning representation by conducting a cross-  
5 check comparing the employee organization's membership records or  
6 bargaining authorization cards against the employment records of the  
7 employer.

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

16 (8) The commission shall certify as the exclusive bargaining  
17 representative the employee organization that has been determined to  
18 represent a majority of faculty members in a bargaining unit.

19 NEW SECTION. **Sec. 8.** BARGAINING UNIT DETERMINATION. In any  
20 dispute concerning membership in the bargaining unit or the allocation  
21 of employees or positions to a bargaining unit, the commission, after  
22 a hearing or hearings, shall determine the dispute.

23 NEW SECTION. **Sec. 9.** COMMISSION--MEDIATION ACTIVITIES--OTHER  
24 DISPUTE RESOLUTION PROCEDURES AUTHORIZED. (1) The commission shall  
25 conduct mediation activities upon the request of either party as a  
26 means of assisting in the settlement of unresolved matters considered  
27 under this chapter.

28 (2) If any matter being jointly considered by the exclusive  
29 bargaining representative and the board of regents or trustees is not  
30 settled by the means provided in this chapter, either party may request  
31 the assistance and advice of the commission. Nothing in this section  
32 prohibits an employer and an employee organization from agreeing to  
33 substitute, at their own expense, some other impasse procedure or other  
34 means of resolving matters considered under this chapter.

35 NEW SECTION. **Sec. 10.** PROVISIONS RELATING TO COMPENSATION--  
36 RESTRICTIONS. (1) Except as provided in subsection (2) of this



1 section, provisions of collective bargaining agreements relating to  
2 compensation shall not exceed the amount or percentage established by  
3 the legislature in the appropriations act. If any compensation  
4 provision is affected by subsequent modification of the appropriations  
5 act by the legislature, both parties shall immediately enter into  
6 collective bargaining for the sole purpose of arriving at a mutually  
7 agreed upon replacement for the affected provision.

8 (2) An employer may provide additional compensation to faculty that  
9 exceeds that provided by the legislature.

10 NEW SECTION. **Sec. 11.** NEGOTIATED AGREEMENTS--PROCEDURES FOR  
11 GRIEVANCE ARBITRATION. A collective bargaining agreement negotiated  
12 under this chapter may include procedures for final and binding  
13 grievance arbitration of the disputes arising about the interpretation  
14 or application of the agreement.

15 (1) The parties to a collective bargaining agreement may agree on  
16 one or more permanent umpires to serve as arbitrator, or may agree on  
17 any impartial person to serve as arbitrator, or may agree to select  
18 arbitrators from any source available to them, including federal and  
19 private agencies, in addition to the staff and dispute resolution panel  
20 maintained by the commission.

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

33 (3) The arbitrator shall appoint a time and place for the hearing  
34 and notify the parties thereof, and may adjourn the hearing from time  
35 to time as may be necessary, and, on application of either party and  
36 for good cause, may postpone the hearing to a time not extending beyond  
37 a date fixed by the collective bargaining agreement for making the  
38 award. The arbitrator has the power to administer oaths. The

1 arbitration award shall be in writing and signed by the arbitrator or  
2 a majority of the members of the arbitration panel. The arbitrator  
3 shall, promptly upon its rendition, serve a true copy of the award on  
4 each of the parties or their attorneys.

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

18 (5) If a party to a collective bargaining agreement negotiated  
19 under this chapter refuses to comply with the award of an arbitrator  
20 determining a grievance arising under such collective bargaining  
21 agreement, the other party to the collective bargaining agreement, or  
22 any affected employee, may invoke the jurisdiction of the superior  
23 court for any county in which the labor dispute exists, and such court  
24 has jurisdiction to issue an order enforcing the arbitration award.  
25 The commission, on its own motion, may invoke the jurisdiction of the  
26 superior court where a strike or lockout is in existence. The court  
27 shall not substitute its judgment for that of the arbitrator and shall  
28 enforce any arbitration award which is based on the collective  
29 bargaining agreement, except that an arbitration award shall not be  
30 enforced and a new arbitration proceeding may be ordered:

31 (a) If the arbitration award was procured by corruption, fraud, or  
32 undue means;

33 (b) If there was evident partiality or corruption in the arbitrator  
34 or arbitrators;

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

1 (d) If the arbitrator or arbitrators have exceeded their powers, or  
2 so imperfectly executed them that a final and definite award on the  
3 subject matter was not made, in which event the court also has  
4 discretion to remand the matter to the arbitrator or arbitrators who  
5 issued the defective award.

6 NEW SECTION. **Sec. 12.** COLLECTIVE BARGAINING AGREEMENT--EXCLUSIVE  
7 BARGAINING REPRESENTATIVE--UNION SECURITY PROVISIONS--DUES AND FEES.

8 (1) Upon filing with the employer the voluntary written authorization  
9 of a bargaining unit faculty member under this chapter, the employee  
10 organization which is the exclusive bargaining representative of the  
11 bargaining unit shall have the right to have deducted from the salary  
12 of the bargaining unit faculty member the periodic dues and initiation  
13 fees uniformly required as a condition of acquiring or retaining  
14 membership in the exclusive bargaining representative. Such employee  
15 authorization shall not be irrevocable for a period of more than one  
16 year. Such dues and fees shall be deducted from the pay of all faculty  
17 members who have given authorization for such deduction, and shall be  
18 transmitted by the employer to the employee organization or to the  
19 depository designated by the employee organization.

20 (2) A collective bargaining agreement may include union security  
21 provisions, but not a closed shop. If an agency shop or other union  
22 security provision is agreed to, the employer shall enforce any such  
23 provision by deductions from the salary of bargaining unit faculty  
24 members affected thereby and shall transmit such funds to the employee  
25 organization or to the depository designated by the employee  
26 organization.

27 (3) A faculty member who is covered by a union security provision  
28 and who asserts a right of nonassociation based on bona fide religious  
29 tenets or teachings of a church or religious body of which such faculty  
30 member is a member shall pay to a nonreligious charity or other  
31 charitable organization an amount of money equivalent to the periodic  
32 dues and initiation fees uniformly required as a condition of acquiring  
33 or retaining membership in the exclusive bargaining representative.  
34 The charity shall be agreed upon by the faculty member and the employee  
35 organization to which such faculty member would otherwise pay the dues  
36 and fees. The faculty member shall furnish written proof that such  
37 payments have been made. If the faculty member and the employee

1 organization do not reach agreement on such matter, the dispute shall  
2 be submitted to the commission for determination.

3 NEW SECTION. **Sec. 13.** UNFAIR LABOR PRACTICES. (1) It is an  
4 unfair labor practice for an employer to:

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

7 (b) Dominate or interfere with the formation or administration of  
8 any employee organization or contribute financial or other support to  
9 it: PROVIDED, That subject to rules adopted by the commission, an  
10 employer is not prohibited from permitting faculty members to confer  
11 with it or its representatives or agents during working hours without  
12 loss of time or pay;

13 (c) Encourage or discourage membership in any employee organization  
14 by discrimination in regard to hire, tenure of employment, or any term  
15 or condition of employment;

16 (d) Discharge or discriminate otherwise against a faculty member  
17 because that faculty member has filed charges or given testimony under  
18 this chapter;

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

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

22 (a) Restrain or coerce a faculty member in the exercise of the  
23 rights guaranteed by this chapter: PROVIDED, That this subsection does  
24 not impair the rights of (i) an employee organization to prescribe its  
25 own rules with respect to the acquisition or retention of membership in  
26 the employee organization or (ii) to the rights of an employer in the  
27 selection of its representatives for the purpose of bargaining or the  
28 adjustment of grievances;

29 (b) Cause or attempt to cause an employer to discriminate against  
30 a faculty member in violation of subsection (1)(c) of this section;

31 (c) Discriminate against a faculty member because that faculty  
32 member has filed charges or given testimony under this chapter;

33 (d) Refuse to bargain collectively with an employer.

34 (3) The expressing of any view, arguments, or opinion, or the  
35 dissemination thereof to the public, whether in written, printed,  
36 graphic, or visual form, shall not constitute or be evidence of an  
37 unfair labor practice under this chapter, if such expression contains  
38 no threat of reprisal or force or promise of benefit.

1        NEW SECTION.        **Sec. 14.**        COMMISSION TO PREVENT UNFAIR LABOR  
2 PRACTICES--SCOPE.        (1) The commission is empowered to prevent any  
3 person from engaging in any unfair labor practice as defined in section  
4 13 of this act: PROVIDED, That a complaint shall not be processed for  
5 any unfair labor practice occurring more than six months before the  
6 filing of the complaint with the commission. This power shall not be  
7 affected by any other means of adjustment or prevention that has been  
8 or may be established by agreement, law, equity or otherwise.

9        (2) If the commission determines that any person has engaged in or  
10 is engaging in any such unfair labor practices as defined in section 13  
11 of this act, then the commission shall issue and cause to be served  
12 upon such person an order requiring such person to cease and desist  
13 from such unfair labor practice, and to take such affirmative action as  
14 will effectuate the purposes and policy of this chapter, such as the  
15 payment of damages and/or the reinstatement of faculty members.

16        (3) The commission may petition the superior court for the county  
17 in which the main office of the employer is located or wherein the  
18 person who has engaged or is engaging in such unfair labor practice  
19 resides or transacts business, for the enforcement of its order and for  
20 appropriate temporary relief.

21        NEW SECTION.        **Sec. 15.**        RULES ADOPTION.        The commission is  
22 authorized from time to time to make, amend, and rescind, in the manner  
23 prescribed by the administrative procedure act, chapter 34.05 RCW, such  
24 rules and regulations as may be necessary to carry out the provisions  
25 of this chapter.

26        NEW SECTION.        **Sec. 16.**        STRIKES AND LOCKOUTS PROHIBITED--  
27 VIOLATIONS--REMEDIES.        The right of faculty to engage in any strike is  
28 prohibited. The right of a board of regents or trustees to engage in  
29 any lockout is prohibited. Should either a strike or lockout occur,  
30 the representative of the faculty or board of regents or trustees may  
31 invoke the jurisdiction of the superior court in the county in which  
32 the labor dispute exists, and such court has jurisdiction to issue an  
33 appropriate order against either or both parties. In fashioning an  
34 order, the court shall take into consideration not only the elements  
35 necessary for injunctive relief but also the purpose and goals of this  
36 chapter and any mitigating factors such as the commission of an unfair  
37 labor practice by either party.

1        NEW SECTION.    **Sec. 17.**    STATE ADMINISTRATIVE PROCEDURE ACT NOT TO  
2 AFFECT.    Contracts or agreements, or any provision thereof, entered  
3 into between boards of regents or trustees and exclusive bargaining  
4 representatives pursuant to this chapter are not affected by or subject  
5 to chapter 34.05 RCW.

6        NEW SECTION.    **Sec. 18.**    SEVERABILITY.    If any provision of this act  
7 or its application to any person or circumstance is held invalid, the  
8 remainder of the act or the application of the provision to other  
9 persons or circumstances is not affected.

10       NEW SECTION.    **Sec. 19.**    RETROACTIVE ACCRUAL OF BENEFITS AND  
11 SALARIES.    Whenever a collective bargaining agreement between an  
12 employer and an exclusive bargaining representative is concluded after  
13 the termination date of the previous collective bargaining agreement  
14 between the same parties, the effective date of the collective  
15 bargaining agreement may be the day after the termination date of the  
16 previous collective bargaining agreement, and all benefits included in  
17 the new collective bargaining agreement, including wage or salary  
18 increases, may accrue beginning with the effective date as established  
19 by this section.

20       NEW SECTION.    **Sec. 20.**    Nothing in this chapter shall be construed  
21 to annul, modify, or preclude the renewal or continuation of any lawful  
22 agreement entered into before the effective date of this section  
23 between an employer and an employee organization covering wages, hours,  
24 and terms and conditions of employment.

25       NEW SECTION.    **Sec. 21.**    Except as otherwise expressly provided in  
26 this chapter, this chapter shall not be construed to deny or otherwise  
27 abridge any rights, privileges, or benefits granted by law to  
28 employees.    This chapter shall not be construed to interfere with the  
29 responsibilities and rights of the board of regents or board of  
30 trustees as specified by federal and state law.

31       NEW SECTION.    **Sec. 22.**    Section captions used in this act are not  
32 any part of the law.

33       NEW SECTION.    **Sec. 23.**    This act takes effect October 1, 2002.

1        NEW SECTION.        **Sec. 24.**        Sections 1 through 23 of this act  
2 constitute a new chapter in Title 41 RCW.

      Passed the House March 13, 2002.

      Passed the Senate March 7, 2002.

      Approved by the Governor April 4, 2002, with the exception of  
          certain items that were vetoed.

      Filed in Office of Secretary of State April 4, 2002.

1        Note: Governor's explanation of partial veto is as follows:

2        "I am returning herewith, without my approval as to sections 2 and  
3 5, Second Substitute House Bill No. 2403 entitled:

4        "AN ACT Relating to labor relations at the public four-year  
5 institutions of higher education;"

6        Second Substitute House Bill No. 2403 is an historic measure that  
7 will allow faculty at our four-year higher education institutions to  
8 collectively bargain, should they choose to do so. It establishes a  
9 process for elections, certification of bargaining units and the scope  
10 of bargaining.

11        Section 2 of the bill would have required faculty to choose between  
12 collective bargaining and shared faculty governance systems with  
13 respect to policies on academic and professional matters. Similarly,  
14 section 5, relating to the right to organize or refrain from  
15 organizing, would have provided that faculty members may not engage in  
16 collective bargaining until any existing faculty senate or council is  
17 abolished.

18        The functions of the faculty governance system and collective  
19 bargaining are separate and distinct. Faculty governance systems  
20 advise the universities on issues pertaining to curriculum development,  
21 content of courses and other issues that are prohibited subjects of  
22 collective bargaining under section 4 of this bill. Collective  
23 bargaining addresses issues such as wages and terms and conditions of  
24 employment. Neither system is equipped to fill the role of the other.

25        The right for faculty to collectively bargain is both implied and  
26 expressed in several provisions of this bill. Vetoing sections 2 and  
27 5 will have no impact on that grant of right, and little impact on the  
28 overall framework set out by the bill.

29        For these reasons, I have vetoed sections 2 and 5 of Second  
30 Substitute House Bill No. 2403.

31        With the exception of sections 2 and 5, Second Substitute House  
32 Bill No. 2403 is approved."