12:30 pm

REFERENDUM MEASURE 52

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1268

Chapter 354, Laws of 2002

PORTIONS REFERRED ENCLOSED IN BOXES

PARTIAL VETO

57th Legislature
2002 Regular Session

EFFECTIVE DATE: July 1, 2004
With Exception

Passed by the House March 11, 2002
Yeas 56 Nays 40

Frank Chopp
Speaker of the House of Representatives

Passed by the Senate March 8, 2002
Yeas 29 Nays 19

President of the Senate

Approved April 3, 2002, with the exception of section 237, which is vetoed.

Gary F. 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 SUBSTITUTE HOUSE BILL 1268 as passed by the House of Representatives and the Senate on the dates hereon set forth.

Cynthia Zehnder
Chief Clerk

FILED

APR 3 2002
Time 12:30 pm

Secretary of State
State of Washington

GARY LOCKE
Governor

STATE OF WASHINGTON
OFFICE OF THE GOVERNOR
P.O. Box 40002 • Olympia, Washington 98504-0002 • (360) 753-6780 • www.governor.wa.gov

April 3, 2002

To the Honorable Speaker and Members,
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 237, Substitute House Bill No. 1268 entitled:

"AN ACT Relating to personnel;"

Substitute House Bill No. 1268 is an historic civil service reform act. I strongly support this act, and herald its passage into law.

Section 237 of this bill would have amended RCW 47.46.040 by changing an internal reference in subsection 1 of that statute. However, section 16 of Engrossed House Bill No. 2723, which I signed into law on March 22, 2002, repeals RCW 47.46.040(1) in its entirety. If section 237 of this bill were to become law, it would create a confusing double amendment that could not be corrected by the Code Reviser.

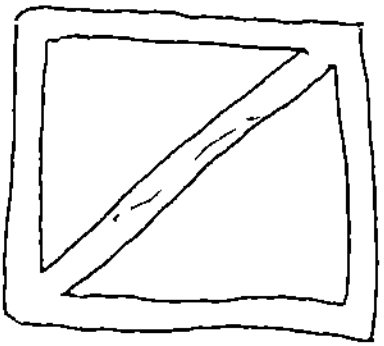
For these reasons, I have vetoed section 237 of Substitute House Bill No. 1268.

With the exception of section 237, Substitute House Bill No. 1268 is approved.

Respectfully submitted,

Gary Locke
Governor

Legend:



= Sections subject to Referendum

RECEIVED

APR 0 4 2002

Office of the Secretary of State

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1268

57th Legislature
2002 Regular Session

Passed by the House March 11, 2002
Yeas 56 Nays 40

Speaker of the House of Representatives

Passed by the Senate March 8, 2002
Yeas 29 Nays 19

President of the Senate

Approved

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 **SUBSTITUTE HOUSE BILL 1268** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

Secretary of State
State of Washington

SUBSTITUTE HOUSE BILL 1268

AS AMENDED BY THE SENATE

Passed Legislature - 2002 Regular Session

State of Washington 57th Legislature 2002 Regular Session

By House Committee on State Government (originally sponsored by Representatives Romero, Campbell, Conway, Kenney, Kessler, Hurst, Keiser, Simpson, Ogden, Lovick, McIntire, Ruderman, O'Brien, Schual-Berke, Poulsen, Kagi, Cody, Edmonds, Wood and Haigh; by request of Governor Locke)

Read first time 01/24/2002. Referred to Committee on .

1 AN ACT Relating to personnel; amending RCW 41.06.030, 41.06.150,
2 41.06.150, 41.06.022, 41.06.070, 41.06.110, 41.06.160, 41.06.167,
3 41.06.170, 41.06.186, 41.06.196, 41.06.270, 41.06.350, 41.06.400,
4 41.06.410, 41.06.450, 41.06.475, 41.06.490, 28B.12.060, 34.05.030,
5 34.12.020, 41.50.804, 43.06.425, 43.131.090, 49.46.010, 41.06.340,
6 13.40.320, 39.29.006, 41.04.385, 47.46.040, 72.09.100, 41.06.079,
7 41.06.152, 41.06.152, 41.06.500, 41.06.500, 43.23.010, 49.74.030,
8 49.74.030, 49.74.040, 49.74.040, and 41.56.201; reenacting and amending
9 RCW 41.04.340; adding new sections to chapter 41.06 RCW; adding a new
10 chapter to Title 41 RCW; creating new sections; repealing RCW
11 41.06.163, 41.06.165, 41.06.140, 41.50.804, 41.06.520, 41.06.380,
12 41.06.382, 41.56.023, 41.56.201, 28B.16.015, 41.64.010, 41.64.020,
13 41.64.030, 41.64.040, 41.64.050, 41.64.060, 41.64.070, 41.64.080,
14 41.64.090, 41.64.100, 41.64.110, 41.64.120, 41.64.130, 41.64.140, and
15 41.64.910; providing effective dates; and providing expiration dates.

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

17 **PART I**

18 **TITLE**

NEW SECTION. **Sec. 101.** SHORT TITLE. This act may be known and cited as the personnel system reform act of 2002.

PART II
CIVIL SERVICE REFORM

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

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

Sec. 202. RCW 41.06.150 and 1999 c 297 s 3 are each amended to read as follows:

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

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

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

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

(4) Appointments;

(5) Training and career development;

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

(7) Transfers;

(8) Sick leaves and vacations;

(9) Hours of work;

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

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

~~(12) Certification and decertification of exclusive bargaining representatives. PROVIDED, That~~)) Collective bargaining procedures:

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

((~~(13)~~)) (b) Agreements between agencies and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the

appointing authority of the appropriate bargaining unit of such agency may lawfully exercise discretion;

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

((~~(15)~~)) (d) A collective bargaining agreement entered into under this subsection before July 1, 2004, covering employees subject to sections 301 through 314 of this act, that expires after July 1, 2004, shall remain in full force during its duration, or until superseded by a collective bargaining agreement entered into by the parties under sections 301 through 314 of this act. However, an agreement entered into before July 1, 2004, may not be renewed or extended beyond July 1, 2005. This subsection (11) does not apply to collective bargaining negotiations or collective bargaining agreements entered into under sections 301 through 314 of this act;

(12) Adoption and revision of a comprehensive classification plan for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position.

(a) The board shall not adopt job classification revisions or class studies unless implementation of the proposed revision or study will result in net cost savings, increased efficiencies, or improved management of personnel or services, and the proposed revision or study has been approved by the director of financial management in accordance with chapter 43.88 RCW.

(b) ((~~Beginning July 1, 1995, through June 30, 1997, in addition to the requirements of (a) of this subsection:~~

~~(i) The board may approve the implementation of salary increases resulting from adjustments to the classification plan during the 1995-97 fiscal biennium only if:~~

~~(A) The implementation will not result in additional net costs and the proposed implementation has been approved by the director of financial management in accordance with chapter 43.88 RCW,~~

~~(B) The implementation will take effect on July 1, 1996, and the total net cost of all such actions approved by the board for~~

~~implementation during the 1995-97 fiscal biennium does not exceed the amounts specified by the legislature specifically for this purpose; or~~

~~(C) The implementation is a result of emergent conditions. Emergent conditions are defined as emergency situations requiring the establishment of positions necessary for the preservation of the public health, safety, or general welfare, which do not exceed $250,000 of the moneys identified in section 710(2), chapter 18, Laws of 1995 2nd sp. sess.~~

~~(ii) The board shall approve only those salary increases resulting from adjustments to the classification plan if they are due to documented recruitment and retention difficulties, salary compression or inversion, increased duties and responsibilities, or inequities. For these purposes, inequities are defined as similar work assigned to different job classes with a salary disparity greater than 7.5 percent.~~

~~(iii) Adjustments made to the higher education hospital special pay plan are exempt from (b)(i) through (ii) of this subsection.~~

~~(c)~~)) Reclassifications, class studies, and salary adjustments ((~~to be implemented during the 1997-99 and subsequent fiscal biennia~~)) are governed by (a) of this subsection and RCW 41.06.152;

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

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

((~~(18)~~)) (15) Increment increases within the series of steps for each pay grade based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service;

((~~(19)~~)) (16) Optional lump sum relocation compensation approved by the agency director, whenever it is reasonably necessary that a person make a domiciliary move in accepting a transfer or other employment with the state. An agency must provide lump sum compensation within

existing resources. If the person receiving the relocation payment terminates or causes termination with the state, for reasons other than layoff, disability separation, or other good cause as determined by an agency director, within one year of the date of the employment, the state is entitled to reimbursement of the lump sum compensation from the person;

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

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

((~~(22)~~)) (19) Assuring persons who are or have been employed in classified positions before July 1, 1993, will be eligible for employment, reemployment, transfer, and promotion in respect to classified positions covered by this chapter;

((~~(23)~~)) (20) Affirmative action in appointment, promotion, transfer, recruitment, training, and career development; development and implementation of affirmative action goals and timetables; and monitoring of progress against those goals and timetables.

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

Sec. 203. RCW 41.06.150 and 2002 c . . . s 202 (section 202 of this act) are each amended to read as follows:

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

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

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

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

((~~(4)~~)) (3) Appointments;

((~~(5) Training and career development;~~

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

~~(7) Transfers;~~

~~(8) Sick leaves and vacations;~~

~~(9) Hours of work;~~

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

~~(11) Collective bargaining procedures.~~

~~(a) After certification of an exclusive bargaining representative and upon the representative's request, the director shall hold an election among employees in a bargaining unit to determine by a majority whether to require as a condition of employment membership in the certified exclusive bargaining representative on or after the thirtieth day following the beginning of employment or the date of such election, whichever is the later, and the failure of an employee to comply with such a condition of employment constitutes cause for dismissal. PROVIDED FURTHER, That no more often than once in each twelve month period after expiration of twelve months following the date of the original election in a bargaining unit and upon petition of thirty percent of the members of a bargaining unit the director shall hold an election to determine whether a majority wish to rescind such condition of employment. PROVIDED FURTHER, That for purposes of this clause, membership in the certified exclusive bargaining representative is satisfied by the payment of monthly or other periodic dues and does not require payment of initiation, reinstatement, or any other fees or fines and includes full and complete membership rights. AND PROVIDED FURTHER, That in order to safeguard the right of nonassociation of public employees, based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member, such public employee shall pay to the union, for purposes within the program of the union as designated by such employee that would be in harmony with his or her individual conscience, an amount of money equivalent to regular union dues minus any included monthly premiums for union sponsored insurance programs, and such employee shall not be a member of the union but is entitled to all the representation rights of a union member.~~

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

~~(c) Written agreements may contain provisions for payroll deductions of employee organization dues upon authorization by the employee member and for the cancellation of such payroll deduction by the filing of a proper prior notice by the employee with the appointing authority and the employee organization. PROVIDED, That nothing~~

~~contained herein permits or grants to any employee the right to strike or refuse to perform his or her official duties.~~

~~(d) A collective bargaining agreement entered into under this subsection before July 1, 2002, covering employees subject to sections 301 through 314 of this act, that expires after July 1, 2002, shall remain in full force during its duration, or until superseded by a collective bargaining agreement entered into by the parties under sections 301 through 314 of this act. However, an agreement entered into before July 1, 2002, may not be renewed or extended beyond July 1, 2003. This subsection (11) does not apply to collective bargaining negotiations or collective bargaining agreements entered into under sections 301 through 314 of this act.~~

~~(12)~~)) (4) Adoption and revision of a comprehensive classification plan, in accordance with rules adopted by the board under section 205 of this act, for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position and allocation and reallocation of positions within the classification plan.

(a) The ((~~board~~)) director shall not adopt job classification revisions or class studies unless implementation of the proposed revision or study will result in net cost savings, increased efficiencies, or improved management of personnel or services, and the proposed revision or study has been approved by the director of financial management in accordance with chapter 43.88 RCW.

(b) Reclassifications, class studies, and salary adjustments are governed by (a) of this subsection and RCW 41.06.152;

((~~(13) Allocation and reallocation of positions within the classification plan.~~

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

~~(15) Increment increases within the series of steps for each pay grade based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service;~~

~~(16) Optional lump sum relocation compensation approved by the agency director, whenever it is reasonably necessary that a person make a domiciliary move in accepting a transfer or other employment with the state. An agency must provide lump sum compensation within existing resources. If the person receiving the relocation payment terminates or causes termination with the state, for reasons other than layoff, disability separation, or other good cause as determined by an agency director, within one year of the date of the employment, the state is entitled to reimbursement of the lump sum compensation from the person;~~

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

~~(18)~~)) (5) Permitting agency heads to delegate the authority to appoint, reduce, dismiss, suspend, or demote employees within their agencies if such agency heads do not have specific statutory authority to so delegate: PROVIDED, That the ((~~board~~)) director may not

authorize such delegation to any position lower than the head of a major subdivision of the agency;

((~~(19)~~)) (6) Assuring persons who are or have been employed in classified positions before July 1, 1993, will be eligible for employment, reemployment, transfer, and promotion in respect to classified positions covered by this chapter;

((~~(20)~~)) (7) Affirmative action in appointment, promotion, transfer, recruitment, training, and career development; development and implementation of affirmative action goals and timetables; and monitoring of progress against those goals and timetables.

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

Rules adopted under this section by the director shall provide for local administration and management by the institutions of higher education and related boards, subject to periodic audit and review by the director.

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

The director shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

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

(2) Training and career development;

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

(4) Transfers;

(5) Promotional preferences;

(6) Sick leaves and vacations;

(7) Hours of work;

(8) Layoffs when necessary and subsequent reemployment, except for the financial basis for layoffs;

(9) The number of names to be certified for vacancies;

(10) Adoption and revision of a state salary schedule to reflect the prevailing rates in Washington state private industries and other governmental units. The rates in the salary schedules or plans shall be increased if necessary to attain comparable worth under an implementation plan under RCW 41.06.155 and, for institutions of higher education and related boards, shall be competitive for positions of a similar nature in the state or the locality in which an institution of higher education or related board is located. Such adoption and revision is subject to approval by the director of financial management in accordance with chapter 43.88 RCW;

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

(12) Optional lump sum relocation compensation approved by the agency director, whenever it is reasonably necessary that a person make a domiciliary move in accepting a transfer or other employment with the state. An agency must provide lump sum compensation within existing resources. If the person receiving the relocation payment terminates or causes termination with the state, for reasons other than layoff, disability separation, or other good cause as determined by an agency director, within one year of the date of the employment, the state is entitled to reimbursement of the lump sum compensation from the person;

(13) Providing for veteran's preference as required by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their surviving spouses by giving such eligible veterans and their surviving spouses additional credit in computing their seniority by adding to their unbroken state service, as defined by the director, the veteran's service in the military not to exceed five years. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service, has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given. However, the surviving spouse

of a veteran is entitled to the benefits of this section regardless of the veteran's length of active military service. For the purposes of this section, "veteran" does not include any person who has voluntarily retired with twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month.

Rules adopted under this section by the director shall provide for local administration and management by the institutions of higher education and related boards, subject to periodic audit and review by the director.

Rules adopted by the director under this section may be superseded by the provisions of a collective bargaining agreement negotiated under sections 301 through 314 of this act. The supersession of such rules shall only affect employees in the respective collective bargaining units.

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

(1) The board shall conduct a comprehensive review of all rules in effect on the effective date of this section governing the classification, allocation, and reallocation of positions within the classified service. In conducting this review, the board shall consult with state agencies, institutions of higher education, employee organizations, and members of the general public. The department shall assist the board in the conduct of this review, which shall be completed by the board no later than July 1, 2003.

(2) By March 15, 2004, the board shall adopt new rules governing the classification, allocation, and reallocation of positions in the classified service. In adopting such rules, the board shall adhere to the following goals:

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

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

(c) To develop a classification system to permit state agencies to respond flexibly to changing technologies, economic and social conditions, and the needs of its citizens;

(d) To value workplace diversity;

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

(f) To enhance mobility and career advancement opportunities.

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

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

In accordance with rules adopted by the board under section 205 of this act, the director shall, by January 1, 2005, begin to implement a new classification system for positions in the classified service. Any employee who believes that the director has incorrectly applied the rules of the board in determining a job classification for a job held by that employee may appeal the director's decision to the board by filing a notice in writing within thirty days of the action from which the appeal is taken. Decisions of the board concerning such appeals are final and not subject to further appeal.

Sec. 207. RCW 41.06.022 and 1993 c 281 s 8 are each amended to read as follows:

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

(1) Formulates statewide policy or directs the work of an agency or agency subdivision;

(2) Is responsible to administer one or more statewide policies or programs of an agency or agency subdivision;

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

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

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

No employee who is a member of the Washington management service may be included in a collective bargaining unit established under sections 301 through 314 of this act.

NEW SECTION. **Sec. 208.** A new section is added to chapter 41.06 RCW to read as follows:

(1) Any department, agency, or institution of higher education may purchase services, including services that have been customarily and historically provided by employees in the classified service under this chapter, by contracting with individuals, nonprofit organizations, businesses, employee business units, or other entities if the following criteria are met:

(a) The invitation for bid or request for proposal contains measurable standards for the performance of the contract;

(b) Employees in the classified service whose positions or work would be displaced by the contract are provided an opportunity to offer alternatives to purchasing services by contract and, if these alternatives are not accepted, compete for the contract under competitive contracting procedures in subsection (4) of this section;

(c) The contract with an entity other than an employee business unit includes a provision requiring the entity to consider employment of state employees who may be displaced by the contract;

(d) The department, agency, or institution of higher education has established a contract monitoring process to measure contract performance, costs, service delivery quality, and other contract standards, and to cancel contracts that do not meet those standards; and

(e) The department, agency, or institution of higher education has determined that the contract results in savings or efficiency improvements. The contracting agency must consider the consequences and potential mitigation of improper or failed performance by the contractor.

(2) Any provision contrary to or in conflict with this section in any collective bargaining agreement in effect on the effective date of this section is not effective beyond the expiration date of the agreement.

(3) Contracting for services that is expressly mandated by the legislature or was authorized by law prior to the effective date of this section, including contracts and agreements between public entities, shall not be subject to the processes set forth in subsections (1) and (4) through (6) of this section.

(4) Competitive contracting shall be implemented as follows:

(a) At least ninety days prior to the date the contracting agency requests bids from private entities for a contract for services provided by classified employees, the contracting agency shall notify the classified employees whose positions or work would be displaced by the contract. The employees shall have sixty days from the date of notification to offer alternatives to purchasing services by contract, and the agency shall consider the alternatives before requesting bids.

(b) If the employees decide to compete for the contract, they shall notify the contracting agency of their decision. Employees must form one or more employee business units for the purpose of submitting a bid or bids to perform the services.

(c) The director of personnel, with the advice and assistance of the department of general administration, shall develop and make available to employee business units training in the bidding process and general bid preparation.

(d) The director of general administration, with the advice and assistance of the department of personnel, shall, by rule, establish procedures to ensure that bids are submitted and evaluated in a fair and objective manner and that there exists a competitive market for the service. Such rules shall include, but not be limited to: (i) Prohibitions against participation in the bid evaluation process by employees who prepared the business unit's bid or who perform any of the services to be contracted; (ii) provisions to ensure no bidder receives an advantage over other bidders and that bid requirements are applied equitably to all parties; and (iii) procedures that require the contracting agency to receive complaints regarding the bidding process and to consider them before awarding the contract. Appeal of an agency's actions under this subsection is an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW, the administrative procedure act, with the final decision to be rendered by an administrative law judge assigned under chapter 34.12 RCW.

(e) An employee business unit's bid must include the fully allocated costs of the service, including the cost of the employees'

salaries and benefits, space, equipment, materials, and other costs necessary to perform the function. An employee business unit's cost shall not include the state's indirect overhead costs unless those costs can be attributed directly to the function in question and would not exist if that function were not performed in state service.

(f) A department, agency, or institution of higher education may contract with the department of general administration to conduct the bidding process.

(5) As used in this section:

(a) "Employee business unit" means a group of employees who perform services to be contracted under this section and who submit a bid for the performance of those services under subsection (4) of this section.

(b) "Indirect overhead costs" means the pro rata share of existing agency administrative salaries and benefits, and rent, equipment costs, utilities, and materials associated with those administrative functions.

(c) "Competitive contracting" means the process by which classified employees of a department, agency, or institution of higher education compete with businesses, individuals, nonprofit organizations, or other entities for contracts authorized by subsection (1) of this section.

(6) The joint legislative audit and review committee shall conduct a performance audit of the implementation of this section, including the adequacy of the appeals process in subsection (4)(d) of this section, and report to the legislature by January 1, 2007, on the results of the audit.

Sec. 209. RCW 41.06.070 and 1998 c 245 s 40 are each amended to read as follows:

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

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

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

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

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

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

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

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

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

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

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

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

(j) Assistant attorneys general;

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

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

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

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

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

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

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

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

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

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

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

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

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

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

((~~(y)~~)) (x) All employees of the marine employees' commission;

((~~(z) Up to a total of five senior staff positions of the western library network under chapter 27.26 RCW responsible for formulating policy or for directing program management of a major administrative unit. This subsection (1)(z) shall expire on June 30, 1997;~~

~~(aa)~~)) (y) Staff employed by the department of community, trade, and economic development to administer energy policy functions and manage energy site evaluation council activities under RCW 43.21F.045(2)(m);

((~~(bb)~~)) (z) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

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

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

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

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

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

(3) In addition to the exemptions specifically provided by this chapter, the ((~~Washington personnel resources board~~)) director of personnel may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the ((~~Washington personnel resources board~~)) director of personnel stating the reasons for requesting such exemptions. The ((~~Washington personnel resources board~~)) director of personnel shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the ((~~board~~)) director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the ((~~Washington personnel resources board~~)) director of personnel shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through ((~~(v), (y), (z),~~)) (u) and (x) and (2) of this section, shall be determined by the ((~~Washington personnel resources board~~)) director of personnel. ((~~However, beginning with changes proposed for the 1997-99 fiscal biennium,~~)) Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in

another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

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

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

Sec. 210. RCW 41.06.110 and 1993 c 281 s 25 are each amended to read as follows:

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

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

(3) At its first meeting following the appointment of all of its members, and annually thereafter, the board shall elect a chair and vice-chair from among its members to serve one year. The presence of at least two members of the board shall constitute a quorum to transact business. A written public record shall be kept by the board of all

actions of the board. The director of personnel shall serve as secretary.

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

Sec. 211. RCW 41.06.160 and 1993 c 281 s 29 are each amended to read as follows:

In preparing classification and salary schedules as set forth in RCW 41.06.150 ((~~as now or hereafter amended~~)) the department of personnel shall give full consideration to prevailing rates in other public employment and in private employment in this state. For this purpose the department shall undertake comprehensive salary and fringe benefit surveys((~~, with such surveys to be conducted in the year prior to the convening of every other one hundred five day regular session of the state legislature. In the year prior to the convening of each one hundred five day regular session during which a comprehensive salary and fringe benefit survey is not conducted, the department shall plan and conduct a trend salary and fringe benefit survey. This survey shall measure average salary and fringe benefit movement for broad occupational groups which has occurred since the last comprehensive salary and fringe benefit survey was conducted. The results of each comprehensive and trend salary and fringe benefit survey shall be completed and forwarded by September 30 with a recommended state salary schedule to the governor and director of financial management for their use in preparing budgets to be submitted to the succeeding legislature. A copy of the data and supporting documentation shall be furnished by the department of personnel to the standing committees for appropriations of the senate and house of representatives.~~

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

~~(1) A total dollar figure which reflects the recommended increase or decrease in state salaries as a direct result of the specific salary and fringe benefit survey that has been conducted and which is categorized to indicate what portion of the increase or decrease is~~

~~represented by salary survey data and what portion is represented by fringe benefit survey data;~~

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

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

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

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

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

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

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

Sec. 212. RCW 41.06.167 and 1991 c 196 s 1 are each amended to read as follows:

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

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

~~A comprehensive compensation survey plan and the recommendations of the chief of the Washington state patrol shall be submitted jointly by the department of personnel and the Washington state patrol to the director of financial management, the legislative transportation committee, the committee on ways and means of the senate, and the committee on appropriations of the house of representatives six months before the beginning of each periodic survey.~~)) Salary and fringe benefit survey information collected from private employers which identifies a specific employer with the salary and fringe benefit rates which that employer pays to its employees shall not be subject to public disclosure under chapter 42.17 RCW.

Sec. 213. RCW 41.06.170 and 1993 c 281 s 31 are each amended to read as follows:

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

(2) Any employee who is reduced, dismissed, suspended, or demoted, after completing his or her probationary period of service as provided by the rules of the ((~~board~~)) director, or any employee who is adversely affected by a violation of the state civil service law, chapter 41.06 RCW, or rules adopted under it, shall have the right to appeal ((~~to the personnel appeals board created by RCW 41.64.010~~)), either individually or through his or her authorized representative, not later than thirty days after the effective date of such action to the personnel appeals board through June 30, 2005, and to the Washington personnel resources board after June 30, 2005. The employee shall be furnished with specified charges in writing when a reduction, dismissal, suspension, or demotion action is taken. Such appeal shall be in writing. Decisions of the Washington personnel resources board on appeals filed after June 30, 2005, shall be final and not subject to further appeal.

(3) Any employee whose position has been exempted after July 1, 1993, shall have the right to appeal ((~~to the personnel appeals board~~

~~created by RCW 41.64.010~~)), either individually or through his or her authorized representative, not later than thirty days after the effective date of such action to the personnel appeals board through June 30, 2005, and to the Washington personnel resources board after June 30, 2005.

(4) An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to the personnel appeals board ((~~created by RCW 41.64.010~~)) through December 31, 2005, and to the Washington personnel resources board after December 31, 2005. Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

(5) Subsections (1) and (2) of this section do not apply to any employee who is subject to the provisions of a collective bargaining agreement negotiated under sections 301 through 314 of this act.

NEW SECTION. **Sec. 214.** The transfer of the powers, duties, and functions of the personnel appeals board to the personnel resources board under section 233 of this act and the transfer of jurisdiction for appeals filed under section 213, chapter . . ., Laws of 2002 (section 213 of this act) after June 30, 2005, shall not affect the right of an appellant to have an appeal filed on or before June 30, 2005, resolved by the personnel appeals board in accordance with the authorities, rules, and procedures that were established under chapter 41.64 RCW as it existed before the effective date of this section.

Sec. 215. RCW 41.06.186 and 1993 c 281 s 32 are each amended to read as follows:

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

Sec. 216. RCW 41.06.196 and 1993 c 281 s 33 are each amended to read as follows:

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

Sec. 217. RCW 41.06.270 and 1979 c 151 s 61 are each amended to read as follows:

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

Sec. 218. RCW 41.06.350 and 1993 c 281 s 36 are each amended to read as follows:

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

Sec. 219. RCW 41.06.400 and 1980 c 118 s 4 are each amended to read as follows:

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

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

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

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

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

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

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

Sec. 220. RCW 41.06.410 and 1980 c 118 s 5 are each amended to read as follows:

Each agency subject to the provisions of this chapter shall:

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

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

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

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

Sec. 221. RCW 41.06.450 and 1993 c 281 s 37 are each amended to read as follows:

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

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

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

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

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

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

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

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

Sec. 222. RCW 41.06.475 and 1993 c 281 s 38 are each amended to read as follows:

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

Sec. 223. RCW 41.06.490 and 1990 c 204 s 3 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

Sec. 224. RCW 28B.12.060 and 1994 c 130 s 6 are each amended to read as follows:

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

(1) Providing work under the state work-study program that will not result in the displacement of employed workers or impair existing contracts for services;

(2) Furnishing work only to a student who:

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

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

(c) Is not pursuing a degree in theology;

(3) Placing priority on providing:

(a) Work opportunities for students who are residents of the state of Washington as defined in RCW 28B.15.012 and 28B.15.013 except resident students defined in RCW 28B.15.012(2)((~~(e)~~)) (f);

(b) Job placements in fields related to each student's academic or vocational pursuits, with an emphasis on off-campus job placements whenever appropriate; and

(c) Off-campus community service placements;

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

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

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

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

(d) That work study positions shall only be established at entry level positions of the classified service unless the overall scope and responsibilities of the position indicate a higher level; and

(5) Provisions to encourage job placements in occupations that meet Washington's economic development goals, especially those in international trade and international relations. The board shall permit appropriate job placements in other states and other countries.

Sec. 225. RCW 34.05.030 and 1994 c 39 s 1 are each amended to read as follows:

(1) This chapter shall not apply to:

(a) The state militia, or

(b) The board of clemency and pardons, or

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

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

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

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

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

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

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

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

(4) The rule-making provisions of this chapter do not apply to reimbursement unit values, fee schedules, arithmetic conversion factors, and similar arithmetic factors used to determine payment rates that apply to goods and services purchased under contract for clients eligible under chapter 74.09 RCW.

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

Sec. 226. RCW 34.12.020 and 1995 c 331 s 1 are each amended to read as follows:

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

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

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

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

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

Sec. 227. RCW 41.04.340 and 1998 c 254 s 1 and 1998 c 116 s 2 are each reenacted and amended to read as follows:

(1) An attendance incentive program is established for all eligible employees. As used in this section the term "eligible employee" means any employee of the state, other than eligible employees of the community and technical colleges and the state board for community and technical colleges identified in RCW 28B.50.553, and teaching and research faculty at the state and regional universities and The Evergreen State College, entitled to accumulate sick leave and for whom accurate sick leave records have been maintained. No employee may receive compensation under this section for any portion of sick leave accumulated at a rate in excess of one day per month. The state and regional universities and The Evergreen State College shall maintain complete and accurate sick leave records for all teaching and research faculty.

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

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

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

(5) Except as provided in subsections (7) through (9) of this section for employees not covered by chapter 41.06 RCW, this section shall be administered, and rules shall be adopted to carry out its purposes, by the ((~~Washington personnel resources board~~)) director of personnel for persons subject to chapter 41.06 RCW: PROVIDED, That determination of classes of eligible employees shall be subject to approval by the office of financial management.

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

(7) In lieu of remuneration for unused sick leave at retirement as provided in subsection (3) of this section, an agency head or designee may with equivalent funds, provide eligible employees with a benefit plan that provides for reimbursement for medical expenses. This plan shall be implemented only after consultation with affected groups of employees. For eligible employees covered by chapter 41.06 RCW, procedures for the implementation of these plans shall be adopted by the ((~~Washington personnel resources board~~)) director of personnel. For eligible employees exempt from chapter 41.06 RCW, and classified employees who have opted out of coverage of chapter 41.06 RCW as provided in RCW 41.56.201, implementation procedures shall be adopted by an agency head having jurisdiction over the employees.

(8) Implementing procedures adopted by the ((~~Washington personnel resources board~~)) director of personnel or agency heads shall require that each medical expense plan authorized by subsection (7) of this section apply to all eligible employees in any one of the following groups: (a) Employees in an agency; (b) employees in a major organizational subdivision of an agency; (c) employees at a major operating location of an agency; (d) exempt employees under the jurisdiction of an elected or appointed Washington state executive; (e) employees of the Washington state senate; (f) employees of the Washington state house of representatives; (g) classified employees in a bargaining unit established by the ((~~Washington personnel resources board~~)) director of personnel; or (h) other group of employees defined by an agency head that is not designed to provide an individual-employee choice regarding participation in a medical expense plan. However, medical expense plans for eligible employees in any of the groups under (a) through (h) of this subsection who are covered by a collective bargaining agreement shall be implemented only by written agreement with the bargaining unit's exclusive representative and a separate medical expense plan may be provided for unrepresented employees.

(9) Medical expense plans authorized by subsection (7) of this section must require as a condition of participation in the plan that employees in the group affected by the plan sign an agreement with the employer. The agreement must include a provision to hold the employer harmless should the United States government find that the employer or the employee is in debt to the United States as a result of the employee not paying income taxes due on the equivalent funds placed

into the plan, or as a result of the employer not withholding or deducting a tax, assessment, or other payment on the funds as required by federal law. The agreement must also include a provision that requires an eligible employee to forfeit remuneration under subsection (3) of this section if the employee belongs to a group that has been designated to participate in the medical expense plan permitted under this section and the employee refuses to execute the required agreement.

Sec. 228. RCW 41.50.804 and 1993 c 281 s 40 are each amended to read as follows:

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

Sec. 229. RCW 43.06.425 and 1993 c 281 s 48 are each amended to read as follows:

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

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

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

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

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

Sec. 230. RCW 43.131.090 and 2000 c 189 s 7 are each amended to read as follows:

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

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

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

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

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

(5) All contractual rights and duties of an entity shall be assigned or delegated to the entity assuming the responsibilities of the terminated entity, or if there is none to such entity as the governor shall direct.

Sec. 231. RCW 49.46.010 and 1997 c 203 s 3 are each amended to read as follows:

As used in this chapter:

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

(2) "Wage" means compensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to

such deductions, charges, or allowances as may be permitted by rules of the director;

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

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

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

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

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

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

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

(e) Any individual employed full time by any state or local governmental body or agency who provides voluntary services but only

with regard to the provision of the voluntary services. The voluntary services and any compensation therefor shall not affect or add to qualification, entitlement or benefit rights under any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(f) Any newspaper vendor or carrier;

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

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

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

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

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

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

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

(n) Any individual employed as a seaman on a vessel other than an American vessel;

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

(7) "Retail or service establishment" means an establishment seventy-five percent of whose annual dollar volume of sales of goods or services, or both, is not for resale and is recognized as retail sales or services in the particular industry.

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

(1) With respect to collective bargaining as authorized by sections 301 through 314 of this act, the public employment relations commission created by chapter 41.58 RCW shall have authority to adopt rules, on and after the effective date of this section, relating to determination of appropriate bargaining units within any agency. In making such determination the commission shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees, and the desires of the employees. The public employment relations commission created in chapter 41.58 RCW shall adopt rules and make determinations relating to the certification and decertification of exclusive bargaining representatives.

(2) Each and every provision of RCW 41.56.140 through ((~~41.56.190~~)) 41.56.160 shall be applicable to this chapter as it relates to state civil service employees ((~~and the Washington personnel resources board, or its designee, whose final decision shall be appealable to the Washington personnel resources board, which is granted all powers and authority granted to the department of labor and industries by RCW 41.56.140 through 41.56.190~~)).

(3) A collective bargaining agreement entered into under RCW 41.06.150 before July 1, 2004, covering employees subject to sections 301 through 314 of this act that expires after July 1, 2004, shall remain in full force during its duration, or until superseded by a collective bargaining agreement entered into by the parties under sections 301 through 314 of this act. However, an agreement entered into before July 1, 2004, may not be renewed or extended beyond July 1, 2005, or until superseded by a collective bargaining agreement entered into under sections 301 through 314 of this act, whichever is later.

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

(1) The personnel appeals board is hereby abolished and its powers, duties, and functions are hereby transferred to the Washington personnel resources board. All references to the executive secretary or the personnel appeals board in the Revised Code of Washington shall

be construed to mean the director of the department of personnel or the Washington personnel resources board.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the personnel appeals board shall be delivered to the custody of the department of personnel. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the personnel appeals board shall be made available to the department of personnel. All funds, credits, leases, or other assets held by the personnel appeals board shall be assigned to the department of personnel.

(b) Any appropriations made to the personnel appeals board shall, on the effective date of this section, be transferred and credited to the department of personnel.

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

(3) All employees of the personnel appeals board are transferred to the jurisdiction of the department of personnel. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of personnel to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the personnel appeals board shall be continued and acted upon by the Washington personnel resources board. All existing contracts and obligations shall remain in full force and shall be performed by the department of personnel.

(5) The transfer of the powers, duties, functions, and personnel of the personnel appeals board shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

Sec. 234. RCW 13.40.320 and 2001 c 137 s 1 are each amended to read as follows:

(1) The department of social and health services shall establish a medium security juvenile offender basic training camp program. This program for juvenile offenders serving a term of confinement under the supervision of the department is exempt from the licensing requirements of chapter 74.15 RCW.

(2) The department may contract under this chapter with private companies, the national guard, or other federal, state, or local agencies to operate the juvenile offender basic training camp((~~, notwithstanding the provisions of RCW 41.06.380~~)).

(3) The juvenile offender basic training camp shall be a structured and regimented model emphasizing the building up of an offender's self-esteem, confidence, and discipline. The juvenile offender basic training camp program shall provide participants with basic education, prevocational training, work-based learning, work experience, work ethic skills, conflict resolution counseling, substance abuse intervention, anger management counseling, and structured intensive physical training. The juvenile offender basic training camp program shall have a curriculum training and work schedule that incorporates a balanced assignment of these or other rehabilitation and training components for no less than sixteen hours per day, six days a week.

The department shall develop standards for the safe and effective operation of the juvenile offender basic training camp program, for an offender's successful program completion, and for the continued after-care supervision of offenders who have successfully completed the program.

(4) Offenders eligible for the juvenile offender basic training camp option shall be those with a disposition of not more than sixty-five weeks. Violent and sex offenders shall not be eligible for the juvenile offender basic training camp program.

(5) If the court determines that the offender is eligible for the juvenile offender basic training camp option, the court may recommend that the department place the offender in the program. The department shall evaluate the offender and may place the offender in the program. The evaluation shall include, at a minimum, a risk assessment developed by the department and designed to determine the offender's suitability for the program. No juvenile who is assessed as a high risk offender or suffers from any mental or physical problems that could endanger his

or her health or drastically affect his or her performance in the program shall be admitted to or retained in the juvenile offender basic training camp program.

(6) All juvenile offenders eligible for the juvenile offender basic training camp sentencing option shall spend one hundred twenty days of their disposition in a juvenile offender basic training camp. This period may be extended for up to forty days by the secretary if a juvenile offender requires additional time to successfully complete the basic training camp program. If the juvenile offender's activities while in the juvenile offender basic training camp are so disruptive to the juvenile offender basic training camp program, as determined by the secretary according to standards developed by the department, as to result in the removal of the juvenile offender from the juvenile offender basic training camp program, or if the offender cannot complete the juvenile offender basic training camp program due to medical problems, the secretary shall require that the offender be committed to a juvenile institution to serve the entire remainder of his or her disposition, less the amount of time already served in the juvenile offender basic training camp program.

(7) All offenders who successfully graduate from the juvenile offender basic training camp program shall spend the remainder of their disposition on parole in a juvenile rehabilitation administration intensive aftercare program in the local community. Violation of the conditions of parole is subject to sanctions specified in RCW 13.40.210(4). The program shall provide for the needs of the offender based on his or her progress in the aftercare program as indicated by ongoing assessment of those needs and progress. The intensive aftercare program shall monitor postprogram juvenile offenders and assist them to successfully reintegrate into the community. In addition, the program shall develop a process for closely monitoring and assessing public safety risks. The intensive aftercare program shall be designed and funded by the department of social and health services.

(8) The department shall also develop and maintain a data base to measure recidivism rates specific to this incarceration program. The data base shall maintain data on all juvenile offenders who complete the juvenile offender basic training camp program for a period of two years after they have completed the program. The data base shall also maintain data on the criminal activity, educational progress, and

employment activities of all juvenile offenders who participated in the program.

Sec. 235. RCW 39.29.006 and 1998 c 101 s 2 are each amended to read as follows:

As used in this chapter:

(1) "Agency" means any state office or activity of the executive and judicial branches of state government, including state agencies, departments, offices, divisions, boards, commissions, and educational, correctional, and other types of institutions.

(2) "Client services" means services provided directly to agency clients including, but not limited to, medical and dental services, employment and training programs, residential care, and subsidized housing.

(3) "Competitive solicitation" means a documented formal process providing an equal and open opportunity to qualified parties and culminating in a selection based on criteria which may include such factors as the consultant's fees or costs, ability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous performance, and compliance with statutes and rules relating to contracts or services.

(4) "Consultant" means an independent individual or firm contracting with an agency to perform a service or render an opinion or recommendation according to the consultant's methods and without being subject to the control of the agency except as to the result of the work. The agency monitors progress under the contract and authorizes payment.

(5) "Emergency" means a set of unforeseen circumstances beyond the control of the agency that either:

(a) Present a real, immediate threat to the proper performance of essential functions; or

(b) May result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

(6) "Evidence of competition" means documentation demonstrating that the agency has solicited responses from multiple firms in selecting a consultant.

(7) "Personal service" means professional or technical expertise provided by a consultant to accomplish a specific study, project, task,

or other work statement. This term does not include purchased services as defined under subsection (9) of this section. This term does include client services.

(8) "Personal service contract" means an agreement, or any amendment thereto, with a consultant for the rendering of personal services to the state which is consistent with ((~~RCW 41.06.380~~)) section 208 of this act.

(9) "Purchased services" means services provided by a vendor to accomplish routine, continuing and necessary functions. This term includes, but is not limited to, services acquired under RCW 43.19.190 or 43.105.041 for equipment maintenance and repair; operation of a physical plant; security; computer hardware and software maintenance; data entry; key punch services; and computer time-sharing, contract programming, and analysis.

(10) "Sole source" means a consultant providing professional or technical expertise of such a unique nature that the consultant is clearly and justifiably the only practicable source to provide the service. The justification shall be based on either the uniqueness of the service or sole availability at the location required.

Sec. 236. RCW 41.04.385 and 1993 c 194 s 5 are each amended to read as follows:

The legislature finds that (1) demographic, economic, and social trends underlie a critical and increasing demand for child care in the state of Washington; (2) working parents and their children benefit when the employees' child care needs have been resolved; (3) the state of Washington should serve as a model employer by creating a supportive atmosphere, to the extent feasible, in which its employees may meet their child care needs; and (4) the state of Washington should encourage the development of partnerships between state agencies, state employees, state employee labor organizations, and private employers to expand the availability of affordable quality child care. The legislature finds further that resolving employee child care concerns not only benefits the employees and their children, but may benefit the employer by reducing absenteeism, increasing employee productivity, improving morale, and enhancing the employer's position in recruiting and retaining employees. Therefore, the legislature declares that it is the policy of the state of Washington to assist state employees by creating a supportive atmosphere in which they may meet their child

care needs. Policies and procedures for state agencies to address employee child care needs will be the responsibility of the director of personnel in consultation with the child care coordinating committee, as provided in RCW 74.13.090, and state employee representatives ((~~as provided under RCW 41.06.140~~)).

Sec. 237. RCW 47.46.040 and 2001 c 64 s 14 are each amended to read as follows:

(1) All projects designed, constructed, and operated under this authority must comply with all applicable rules and statutes in existence at the time the agreement is executed, including but not limited to the following provisions: Chapter 39.12 RCW, this title, ((~~RCW 41.06.380~~)) section 208 of this act, chapter 47.64 RCW, RCW 49.60.180, and 49 C.F.R. Part 21.

(2) The secretary or a designee shall consult with legal, financial, and other experts within and outside state government in the negotiation and development of the agreements.

(3) Agreements shall provide for private ownership of the projects during the construction period. After completion and final acceptance of each project or discrete segment thereof, the agreement shall provide for state ownership of the transportation systems and facilities and lease to the private entity unless the state elects to provide for ownership of the facility by the private entity during the term of the agreement.

The state shall lease each of the demonstration projects, or applicable project segments, to the private entities for operating purposes for up to fifty years.

(4) The department may exercise any power possessed by it to facilitate the development, construction, financing operation, and maintenance of transportation projects under this chapter. Agreements for maintenance services entered into under this section shall provide for full reimbursement for services rendered by the department or other state agencies. Agreements for police services for projects, involving state highway routes, developed under agreements shall be entered into with the Washington state patrol. The agreement for police services shall provide that the state patrol will be reimbursed for costs on a comparable basis with the costs incurred for comparable service on other state highway routes. The department may provide services for which it is reimbursed, including but not limited to preliminary

planning, environmental certification, and preliminary design of the demonstration projects.

(5) The plans and specifications for each project constructed under this section shall comply with the department's standards for state projects. A facility constructed by and leased to a private entity is deemed to be a part of the state highway system for purposes of identification, maintenance, and enforcement of traffic laws and for the purposes of applicable sections of this title. Upon reversion of the facility to the state, the project must meet all applicable state standards. Agreements shall address responsibility for reconstruction or renovations that are required in order for a facility to meet all applicable state standards upon reversion of the facility to the state.

(6) For the purpose of facilitating these projects and to assist the private entity in the financing, development, construction, and operation of the transportation systems and facilities, the agreements may include provisions for the department to exercise its authority, including the lease of facilities, rights of way, and airspace, exercise of the power of eminent domain, granting of development rights and opportunities, granting of necessary easements and rights of access, issuance of permits and other authorizations, protection from competition, remedies in the event of default of either of the parties, granting of contractual and real property rights, liability during construction and the term of the lease, authority to negotiate acquisition of rights of way in excess of appraised value, and any other provision deemed necessary by the secretary.

(7) The agreements entered into under this section may include provisions authorizing the state to grant necessary easements and lease to a private entity existing rights of way or rights of way subsequently acquired with public or private financing. The agreements may also include provisions to lease to the entity airspace above or below the right of way associated or to be associated with the private entity's transportation facility. In consideration for the reversion rights in these privately constructed facilities, the department may negotiate a charge for the lease of airspace rights during the term of the agreement for a period not to exceed fifty years. If, after the expiration of this period, the department continues to lease these airspace rights to the private entity, it shall do so only at fair market value. The agreement may also provide the private entity the

right of first refusal to undertake projects utilizing airspace owned by the state in the vicinity of the public-private project.

(8) Agreements under this section may include any contractual provision that is necessary to protect the project revenues required to repay the costs incurred to study, plan, design, finance, acquire, build, install, operate, enforce laws, and maintain toll highways, bridges, and tunnels and which will not unreasonably inhibit or prohibit the development of additional public transportation systems and facilities. Agreements under this section must secure and maintain liability insurance coverage in amounts appropriate to protect the project's viability and may address state indemnification of the private entity for design and construction liability where the state has approved relevant design and construction plans.

(9) Agreements shall include a process that provides for public involvement in decision making with respect to the development of the projects.

(10)(a) In carrying out the public involvement process required in subsection (9) of this section, the private entity shall proactively seek public participation through a process appropriate to the characteristics of the project that assesses and demonstrates public support among: Users of the project, residents of communities in the vicinity of the project, and residents of communities impacted by the project.

(b) The private entity shall conduct a comprehensive public involvement process that provides, periodically throughout the development and implementation of the project, users and residents of communities in the affected project area an opportunity to comment upon key issues regarding the project including, but not limited to: (i) Alternative sizes and scopes; (ii) design; (iii) environmental assessment; (iv) right of way and access plans; (v) traffic impacts; (vi) tolling or user fee strategies and tolling or user fee ranges; (vii) project cost; (viii) construction impacts; (ix) facility operation; and (x) any other salient characteristics.

(c) If the affected project area has not been defined, the private entity shall define the affected project area by conducting, at a minimum: (i) A comparison of the estimated percentage of residents of communities in the vicinity of the project and in other communities impacted by the project who could be subject to tolls or user fees and the estimated percentage of other users and transient traffic that

could be subject to tolls or user fees; (ii) an analysis of the anticipated traffic diversion patterns; (iii) an analysis of the potential economic impact resulting from proposed toll rates or user fee rates imposed on residents, commercial traffic, and commercial entities in communities in the vicinity of and impacted by the project; (iv) an analysis of the economic impact of tolls or user fees on the price of goods and services generally; and (v) an analysis of the relationship of the project to state transportation needs and benefits.

The agreement may require an advisory vote by users of and residents in the affected project area.

(d) In seeking public participation, the private entity shall establish a local involvement committee or committees comprised of residents of the affected project area, individuals who represent cities and counties in the affected project area, organizations formed to support or oppose the project, if such organizations exist, and users of the project. The private entity shall, at a minimum, establish a committee as required under the specifications of RCW 47.46.030(6)(b) (ii) and (iii) and appointments to such committee shall be made no later than thirty days after the project area is defined.

(e) Local involvement committees shall act in an advisory capacity to the department and the private entity on all issues related to the development and implementation of the public involvement process established under this section.

(f) The department and the private entity shall provide the legislative transportation committee and local involvement committees with progress reports on the status of the public involvement process including the results of an advisory vote, if any occurs.

(11) Nothing in this chapter limits the right of the secretary and his or her agents to render such advice and to make such recommendations as they deem to be in the best interests of the state and the public.

Sec. 238. RCW 72.09.100 and 1995 1st sp.s. c 19 s 33 are each amended to read as follows:

It is the intent of the legislature to vest in the department the power to provide for a comprehensive inmate work program and to remove statutory and other restrictions which have limited work programs in the past. For purposes of establishing such a comprehensive program,

the legislature recommends that the department consider adopting any or all, or any variation of, the following classes of work programs:

(1) CLASS I: FREE VENTURE INDUSTRIES. The employer model industries in this class shall be operated and managed in total or in part by any profit or nonprofit organization pursuant to an agreement between the organization and the department. The organization shall produce goods or services for sale to both the public and private sector.

The customer model industries in this class shall be operated and managed by the department to provide Washington state manufacturers or businesses with products or services currently produced or provided by out-of-state or foreign suppliers. The correctional industries board of directors shall review these proposed industries before the department contracts to provide such products or services. The review shall include an analysis of the potential impact of the proposed products and services on the Washington state business community and labor market.

The department of corrections shall supply appropriate security and custody services without charge to the participating firms.

Inmates who work in free venture industries shall do so at their own choice. They shall be paid a wage comparable to the wage paid for work of a similar nature in the locality in which the industry is located, as determined by the director of correctional industries. If the director cannot reasonably determine the comparable wage, then the pay shall not be less than the federal minimum wage.

An inmate who is employed in the class I program of correctional industries shall not be eligible for unemployment compensation benefits pursuant to any of the provisions of Title 50 RCW until released on parole or discharged.

(2) CLASS II: TAX REDUCTION INDUSTRIES. Industries in this class shall be state-owned and operated enterprises designed to reduce the costs for goods and services for tax-supported agencies and for nonprofit organizations. The industries selected for development within this class shall, as much as possible, match the available pool of inmate work skills and aptitudes with the work opportunities in the free community. The industries shall be closely patterned after private sector industries but with the objective of reducing public support costs rather than making a profit. The products and services of this industry, including purchased products and services necessary

for a complete product line, may be sold to public agencies, to nonprofit organizations, and to private contractors when the goods purchased will be ultimately used by a public agency or a nonprofit organization. Clothing manufactured by an industry in this class may be donated to nonprofit organizations that provide clothing free of charge to low-income persons. Correctional industries products and services shall be reviewed by the correctional industries board of directors before offering such products and services for sale to private contractors. The board of directors shall conduct a yearly marketing review of the products and services offered under this subsection. Such review shall include an analysis of the potential impact of the proposed products and services on the Washington state business community. To avoid waste or spoilage and consequent loss to the state, when there is no public sector market for such goods, byproducts and surpluses of timber, agricultural, and animal husbandry enterprises may be sold to private persons, at private sale. Surplus byproducts and surpluses of timber, agricultural and animal husbandry enterprises that cannot be sold to public agencies or to private persons may be donated to nonprofit organizations. All sales of surplus products shall be carried out in accordance with rules prescribed by the secretary.

Security and custody services shall be provided without charge by the department of corrections.

Inmates working in this class of industries shall do so at their own choice and shall be paid for their work on a gratuity scale which shall not exceed the wage paid for work of a similar nature in the locality in which the industry is located and which is approved by the director of correctional industries.

Subject to approval of the correctional industries board, provisions of ((~~RCW 41.06.380 prohibiting contracting out--work performed by classified employees~~)) section 208 of this act shall not apply to contracts with Washington state businesses entered into by the department of corrections through class II industries.

(3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES. Industries in this class shall be operated by the department of corrections. They shall be designed and managed to accomplish the following objectives:

(a) Whenever possible, to provide basic work training and experience so that the inmate will be able to qualify for better work both within correctional industries and the free community. It is not

intended that an inmate's work within this class of industries should be his or her final and total work experience as an inmate.

(b) Whenever possible, to provide forty hours of work or work training per week.

(c) Whenever possible, to offset tax and other public support costs.

Supervising, management, and custody staff shall be employees of the department.

All able and eligible inmates who are assigned work and who are not working in other classes of industries shall work in this class.

Except for inmates who work in work training programs, inmates in this class shall be paid for their work in accordance with an inmate gratuity scale. The scale shall be adopted by the secretary of corrections.

(4) CLASS IV: COMMUNITY WORK INDUSTRIES. Industries in this class shall be operated by the department of corrections. They shall be designed and managed to provide services in the inmate's resident community at a reduced cost. The services shall be provided to public agencies, to persons who are poor or infirm, or to nonprofit organizations.

Inmates in this program shall reside in facilities owned by, contracted for, or licensed by the department of corrections. A unit of local government shall provide work supervision services without charge to the state and shall pay the inmate's wage.

The department of corrections shall reimburse participating units of local government for liability and workers compensation insurance costs.

Inmates who work in this class of industries shall do so at their own choice and shall receive a gratuity which shall not exceed the wage paid for work of a similar nature in the locality in which the industry is located.

(5) CLASS V: COMMUNITY SERVICE PROGRAMS. Programs in this class shall be subject to supervision by the department of corrections. The purpose of this class of industries is to enable an inmate, placed on community supervision, to work off all or part of a community service order as ordered by the sentencing court.

Employment shall be in a community service program operated by the state, local units of government, or a nonprofit agency.

To the extent that funds are specifically made available for such purposes, the department of corrections shall reimburse nonprofit agencies for workers compensation insurance costs.

Sec. 239. RCW 41.06.079 and 1993 c 281 s 23 are each amended to read as follows:

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the department of transportation to the secretary, a deputy secretary, an administrative assistant to the secretary, if any, one assistant secretary for each division designated pursuant to RCW 47.01.081, one confidential secretary for each of the above-named officers, up to six transportation district administrators and one confidential secretary for each district administrator, up to six additional new administrators or confidential secretaries designated by the secretary of the department of transportation and approved by the Washington personnel resources board pursuant to the provisions of RCW 41.06.070((~~(1) (2)~~)), the legislative liaison for the department, the state construction engineer, the state aid engineer, the personnel manager, the state project development engineer, the state maintenance and operations engineer, one confidential secretary for each of the last-named five positions, and a confidential secretary for the public affairs administrator. The individuals appointed under this section shall be exempt from the provisions of the state civil service law, and shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for individuals exempt from the operation of the state civil service law.

Sec. 240. RCW 41.06.152 and 1999 c 309 s 914 are each amended to read as follows:

(1) The board shall adopt only those job classification revisions, class studies, and salary adjustments under RCW 41.06.150((~~(15)~~)) (12) that:

(a) Are due to documented recruitment and retention difficulties, salary compression or inversion, increased duties and responsibilities, or inequities. For these purposes, inequities are defined as similar work assigned to different job classes with a salary disparity greater than 7.5 percent; and

(b) Are such that the office of financial management has reviewed the agency's fiscal impact statement and has concurred that the agency can absorb the biennialized cost of the reclassification, class study, or salary adjustment within the agency's current authorized level of funding for the current fiscal biennium and subsequent fiscal biennia.

(2) In addition to reclassifications, class studies, and salary adjustments under subsection (1)(b) of this section, the board may approve other reclassifications, class studies, and salary adjustments that meet the requirements of subsection (1)(a) of this section and have been approved under the procedures established under this subsection.

Before the department of personnel's biennial budget request is due to the office of financial management, the board shall prioritize requests for reclassifications, class studies, and salary adjustments for the next fiscal biennium. The board shall prioritize according to such criteria as are developed by the board consistent with RCW 41.06.150((~~(15)~~)) (12)(a).

The board shall submit the prioritized list to the governor's office and the fiscal committees of the house of representatives and senate at the same time the department of personnel's biennial budget request is submitted. The office of financial management shall review the biennial cost of each proposed salary adjustment on the board's prioritized list.

In the biennial appropriations acts, the legislature may establish a level of funding, from the state general fund and other accounts, to be applied by the board to the prioritized list. Upon enactment of the appropriations act, the board may approve reclassifications, class studies, and salary adjustments only to the extent that the total cost does not exceed the level of funding established in the appropriations acts and the board's actions are consistent with the priorities established in the list. The legislature may also specify or otherwise limit in the appropriations act the implementation dates for actions approved by the board under this section.

(3) When the board develops its priority list in the 1999-2001 biennium, for increases proposed for funding in the 2001-2003 biennium, the board shall give top priority to proposed increases to address documented recruitment and retention increases, and shall give lowest priority to proposed increases to recognize increased duties and responsibilities. When the board submits its prioritized list for the

2001-2003 biennium, the board shall also provide: A comparison of any differences between the salary increases recommended by the department of personnel staff and those adopted by the board; a review of any salary compression, inversion, or inequities that would result from implementing a recommended increase; and a complete description of the information relied upon by the board in adopting its proposals and priorities.

(4) This section does not apply to the higher education hospital special pay plan or to any adjustments to the classification plan under RCW 41.06.150((~~(15)~~)) (12) that are due to emergent conditions. Emergent conditions are defined as emergency conditions requiring the establishment of positions necessary for the preservation of the public health, safety, or general welfare.

Sec. 241. RCW 41.06.152 and 2002 c . . . s 240 (section 240 of this act) are each amended to read as follows:

(1) The ((~~board~~)) director shall adopt only those job classification revisions, class studies, and salary adjustments under RCW 41.06.150((~~(12)~~)) (4) that:

(a) Are due to documented recruitment and retention difficulties, salary compression or inversion, increased duties and responsibilities, or inequities. For these purposes, inequities are defined as similar work assigned to different job classes with a salary disparity greater than 7.5 percent; and

(b) Are such that the office of financial management has reviewed the agency's fiscal impact statement and has concurred that the agency can absorb the biennialized cost of the reclassification, class study, or salary adjustment within the agency's current authorized level of funding for the current fiscal biennium and subsequent fiscal biennia.

(2) In addition to reclassifications, class studies, and salary adjustments under subsection (1)(b) of this section, the board may approve other reclassifications, class studies, and salary adjustments that meet the requirements of subsection (1)(a) of this section and have been approved under the procedures established under this subsection.

Before the department of personnel's biennial budget request is due to the office of financial management, the board shall prioritize requests for reclassifications, class studies, and salary adjustments for the next fiscal biennium. The board shall prioritize according to

such criteria as are developed by the board consistent with RCW 41.06.150((~~(12)~~)) (4)(a).

The board shall submit the prioritized list to the governor's office and the fiscal committees of the house of representatives and senate at the same time the department of personnel's biennial budget request is submitted. The office of financial management shall review the biennial cost of each proposed salary adjustment on the board's prioritized list.

In the biennial appropriations acts, the legislature may establish a level of funding, from the state general fund and other accounts, to be applied by the board to the prioritized list. Upon enactment of the appropriations act, the board may approve reclassifications, class studies, and salary adjustments only to the extent that the total cost does not exceed the level of funding established in the appropriations acts and the board's actions are consistent with the priorities established in the list. The legislature may also specify or otherwise limit in the appropriations act the implementation dates for actions approved by the board under this section.

(3) When the board develops its priority list in the 1999-2001 biennium, for increases proposed for funding in the 2001-2003 biennium, the board shall give top priority to proposed increases to address documented recruitment and retention increases, and shall give lowest priority to proposed increases to recognize increased duties and responsibilities. When the board submits its prioritized list for the 2001-2003 biennium, the board shall also provide: A comparison of any differences between the salary increases recommended by the department of personnel staff and those adopted by the board; a review of any salary compression, inversion, or inequities that would result from implementing a recommended increase; and a complete description of the information relied upon by the board in adopting its proposals and priorities.

(4) This section does not apply to the higher education hospital special pay plan or to any adjustments to the classification plan under RCW 41.06.150((~~(12)~~)) (4) that are due to emergent conditions. Emergent conditions are defined as emergency conditions requiring the establishment of positions necessary for the preservation of the public health, safety, or general welfare.

Sec. 242. RCW 41.06.500 and 1996 c 319 s 4 are each amended to read as follows:

(1) Except as provided in RCW 41.06.070, notwithstanding any other provisions of this chapter, the director is authorized to adopt, after consultation with state agencies and employee organizations, rules for managers as defined in RCW 41.06.022. These rules shall not apply to managers employed by institutions of higher education or related boards or whose positions are exempt. The rules shall govern recruitment, appointment, classification and allocation of positions, examination, training and career development, hours of work, probation, certification, compensation, transfer, affirmative action, promotion, layoff, reemployment, performance appraisals, discipline, and any and all other personnel practices for managers. These rules shall be separate from rules adopted by the board for other employees, and to the extent that the rules adopted apply only to managers shall take precedence over rules adopted by the board, and are not subject to review by the board.

(2) In establishing rules for managers, the director shall adhere to the following goals:

(a) Development of a simplified classification system that facilitates movement of managers between agencies and promotes upward mobility;

(b) Creation of a compensation system consistent with the policy set forth in RCW 41.06.150((~~(17)~~)) (14). The system shall provide flexibility in setting and changing salaries, and shall require review and approval by the director in the case of any salary changes greater than five percent proposed for any group of employees;

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

(d) Strengthening management training and career development programs that build critical management knowledge, skills, and abilities; focusing on managing and valuing workplace diversity; empowering employees by enabling them to share in workplace decision making and to be innovative, willing to take risks, and able to accept and deal with change; promoting a workplace where the overall focus is on the recipient of the government services and how these services can

be improved; and enhancing mobility and career advancement opportunities;

(e) Permitting flexible recruitment and hiring procedures that enable agencies to compete effectively with other employers, both public and private, for managers with appropriate skills and training; allowing consideration of all qualified candidates for positions as managers; and achieving affirmative action goals and diversity in the workplace;

(f) Providing that managers may only be reduced, dismissed, suspended, or demoted for cause; and

(g) Facilitating decentralized and regional administration.

Sec. 243. RCW 41.06.500 and 2002 c . . . s 242 (section 242 of this act) are each amended to read as follows:

(1) Except as provided in RCW 41.06.070, notwithstanding any other provisions of this chapter, the director is authorized to adopt, after consultation with state agencies and employee organizations, rules for managers as defined in RCW 41.06.022. These rules shall not apply to managers employed by institutions of higher education or related boards or whose positions are exempt. The rules shall govern recruitment, appointment, classification and allocation of positions, examination, training and career development, hours of work, probation, certification, compensation, transfer, affirmative action, promotion, layoff, reemployment, performance appraisals, discipline, and any and all other personnel practices for managers. These rules shall be separate from rules adopted ((~~by the board~~)) for other employees, and to the extent that the rules adopted <u>under this section</u> apply only to managers shall take precedence over rules adopted ((~~by the board~~)) <u>for other employees</u>, and are not subject to review by the board.

(2) In establishing rules for managers, the director shall adhere to the following goals:

(a) Development of a simplified classification system that facilitates movement of managers between agencies and promotes upward mobility;

(b) Creation of a compensation system ((~~consistent with the policy set forth in RCW 41.06.150(14). The system shall provide~~)) <u>that provides</u> flexibility in setting and changing salaries, and shall require review and approval by the director in the case of any salary changes greater than five percent proposed for any group of employees;

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

(d) Strengthening management training and career development programs that build critical management knowledge, skills, and abilities; focusing on managing and valuing workplace diversity; empowering employees by enabling them to share in workplace decision making and to be innovative, willing to take risks, and able to accept and deal with change; promoting a workplace where the overall focus is on the recipient of the government services and how these services can be improved; and enhancing mobility and career advancement opportunities;

(e) Permitting flexible recruitment and hiring procedures that enable agencies to compete effectively with other employers, both public and private, for managers with appropriate skills and training; allowing consideration of all qualified candidates for positions as managers; and achieving affirmative action goals and diversity in the workplace;

(f) Providing that managers may only be reduced, dismissed, suspended, or demoted for cause; and

(g) Facilitating decentralized and regional administration.

Sec. 244. RCW 43.23.010 and 1990 c 37 s 1 are each amended to read as follows:

In order to obtain maximum efficiency and effectiveness within the department of agriculture, the director may create such administrative divisions within the department as he or she deems necessary. The director shall appoint a deputy director as well as such assistant directors as shall be needed to administer the several divisions within the department. The director shall appoint no more than eight assistant directors. The officers appointed under this section are exempt from the provisions of the state civil service law as provided in RCW 41.06.070((~~(7)~~)) (1)(g), and shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the operation of the state civil service law. The director shall also appoint and deputize

a state veterinarian who shall be an experienced veterinarian properly licensed to practice veterinary medicine in this state.

The director of agriculture shall have charge and general supervision of the department and may assign supervisory and administrative duties other than those specified in RCW 43.23.070 to the division which in his or her judgment can most efficiently carry on those functions.

Sec. 245. RCW 49.74.030 and 1993 c 281 s 58 are each amended to read as follows:

The commission in conjunction with the department of personnel or the state patrol, whichever is appropriate, shall attempt to resolve the noncompliance through conciliation. If an agreement is reached for the elimination of noncompliance, the agreement shall be reduced to writing and an order shall be issued by the commission setting forth the terms of the agreement. The noncomplying state agency, institution of higher education, or state patrol shall make a good faith effort to conciliate and make a full commitment to correct the noncompliance with any action that may be necessary to achieve compliance, provided such action is not inconsistent with the rules adopted under RCW 41.06.150((~~(21)~~)) (19) and 43.43.340(5), whichever is appropriate.

Sec. 246. RCW 49.74.030 and 2002 c . . . s 245 (section 245 of this act) are each amended to read as follows:

The commission in conjunction with the department of personnel or the state patrol, whichever is appropriate, shall attempt to resolve the noncompliance through conciliation. If an agreement is reached for the elimination of noncompliance, the agreement shall be reduced to writing and an order shall be issued by the commission setting forth the terms of the agreement. The noncomplying state agency, institution of higher education, or state patrol shall make a good faith effort to conciliate and make a full commitment to correct the noncompliance with any action that may be necessary to achieve compliance, provided such action is not inconsistent with the rules adopted under RCW 41.06.150((~~(19)~~)) (6) and 43.43.340(5), whichever is appropriate.

Sec. 247. RCW 49.74.040 and 1985 c 365 s 11 are each amended to read as follows:

If no agreement can be reached under RCW 49.74.030, the commission may refer the matter to the administrative law judge for hearing pursuant to RCW 49.60.250. If the administrative law judge finds that the state agency, institution of higher education, or state patrol has not made a good faith effort to correct the noncompliance, the administrative law judge shall order the state agency, institution of higher education, or state patrol to comply with this chapter. The administrative law judge may order any action that may be necessary to achieve compliance, provided such action is not inconsistent with the rules adopted under RCW ((~~28B.16.100(20),~~)) 41.06.150((~~(21),~~)) (19) and 43.43.340(5), whichever is appropriate.

An order by the administrative law judge may be appealed to superior court.

Sec. 248. RCW 49.74.040 and 2002 c . . . s 247 (section 247 of this act) are each amended to read as follows:

If no agreement can be reached under RCW 49.74.030, the commission may refer the matter to the administrative law judge for hearing pursuant to RCW 49.60.250. If the administrative law judge finds that the state agency, institution of higher education, or state patrol has not made a good faith effort to correct the noncompliance, the administrative law judge shall order the state agency, institution of higher education, or state patrol to comply with this chapter. The administrative law judge may order any action that may be necessary to achieve compliance, provided such action is not inconsistent with the rules adopted under RCW 41.06.150((~~(19)~~)) (6) and 43.43.340(5), whichever is appropriate.

An order by the administrative law judge may be appealed to superior court.

Sec. 249. RCW 41.56.201 and 2000 c 19 s 2 are each amended to read as follows:

(1) At any time after July 1, 1993, and prior to July 1, 2003, an institution of higher education and the exclusive bargaining representative of a bargaining unit of employees classified under chapter ((~~28B.16 or~~)) 41.06 RCW as appropriate may exercise their option to have their relationship and corresponding obligations governed entirely by the provisions of this chapter by complying with the following:

(a) The parties will file notice of the parties' intent to be so governed, subject to the mutual adoption of a collective bargaining agreement permitted by this section recognizing the notice of intent. The parties shall provide the notice to the Washington personnel resources board or its successor and the commission;

(b) During the negotiation of an initial contract between the parties under this chapter, the parties' scope of bargaining shall be governed by this chapter and any disputes arising out of the collective bargaining rights and obligations under this subsection shall be determined by the commission. If the commission finds that the parties are at impasse, the notice filed under (a) of this subsection shall be void and have no effect; and

(c) On the first day of the month following the month during which the institution of higher education and the exclusive bargaining representative provide notice to the Washington personnel resources board or its successor and the commission that they have executed an initial collective bargaining agreement recognizing the notice of intent filed under (a) of this subsection, chapter ((~~28B.16 or~~)) 41.06 RCW as appropriate shall cease to apply to all employees in the bargaining unit covered by the agreement.

(2) All collective bargaining rights and obligations concerning relations between an institution of higher education and the exclusive bargaining representative of its employees who have agreed to exercise the option permitted by this section shall be determined under this chapter, subject to the following:

(a) The commission shall recognize, in its current form, the bargaining unit as certified by the Washington personnel resources board or its successor. For purposes of determining bargaining unit status, positions meeting the criteria established under RCW 41.06.070 or its successor shall be excluded from coverage under this chapter. An employer may exclude such positions from a bargaining unit at any time the position meets the criteria established under RCW 41.06.070 or its successor. The limitations on collective bargaining contained in RCW 41.56.100 shall not apply to that bargaining unit.

(b) If, on the date of filing the notice under subsection (1)(a) of this section, there is a union shop authorized for the bargaining unit under rules adopted by the Washington personnel resources board or its successor, the union shop requirement shall continue in effect for the

bargaining unit and shall be deemed incorporated into the collective bargaining agreement applicable to the bargaining unit.

(c) Salary increases negotiated for the employees in the bargaining unit shall be subject to the following:

(i) Salary increases shall continue to be appropriated by the legislature. The exclusive bargaining representative shall meet before a legislative session with the governor or governor's designee and the representative of the institution of higher education concerning the total dollar amount for salary increases and health care contributions that will be contained in the appropriations proposed by the governor under RCW 43.88.060;

(ii) The collective bargaining agreements may provide for salary increases from local efficiency savings that are different from or that exceed the amount or percentage for salary increases provided by the legislature in the omnibus appropriations act for the institution of higher education or allocated to the board of trustees by the state board for community and technical colleges, but the base for salary increases provided by the legislature under (c)(i) of this subsection shall include only those amounts appropriated by the legislature, and the base shall not include any additional salary increases provided under this subsection (2)(c)(ii);

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

(3) Nothing in this section may be construed to permit an institution of higher education to bargain collectively with an exclusive bargaining representative concerning any matter covered by: (a) Chapter 41.05 RCW, except for the related cost or dollar contributions or additional or supplemental benefits as permitted by chapter 492, Laws of 1993; or (b) chapter 41.32 or 41.40 RCW.

<u>(4) Any collective bargaining agreement entered into under this section before July 1, 2004, that expires after July 1, 2004, shall, unless a superseding agreement complying with sections 301 through 314 of this act is negotiated by the parties, remain in full force and</u>

effect during its duration, but the agreement may not be renewed or extended beyond July 1, 2005, or until superseded by a collective bargaining agreement entered into under sections 301 through 314 of this act, whichever is later.

PART III
COLLECTIVE BARGAINING REFORM

NEW SECTION. **Sec. 301.** APPLICATION OF CHAPTER. Collective bargaining negotiations under this chapter shall commence no later than July 1, 2004. A collective bargaining agreement entered into under this chapter shall not be effective prior to July 1, 2005. However, any collective bargaining agreement entered into before July 1, 2004, covering employees affected by sections 301 through 314 of this act, that expires after July 1, 2004, shall, unless a superseding agreement complying with sections 301 through 314 of this act is negotiated by the parties, remain in full force during its duration, but the agreement may not be renewed or extended beyond July 1, 2005, or until superseded by a collective bargaining agreement entered into under sections 301 through 314 of this act, whichever is later. The duration of any collective bargaining agreement under this chapter shall not exceed one fiscal biennium.

NEW SECTION. **Sec. 302.** NEGOTIATION AND RATIFICATION OF COLLECTIVE BARGAINING AGREEMENTS. (1) For the purpose of negotiating collective bargaining agreements under this chapter, the employer shall be represented by the governor or governor's designee, except as provided for institutions of higher education in subsection (4) of this section.

(2)(a) If an exclusive bargaining representative represents more than one bargaining unit, the exclusive bargaining representative shall negotiate with each employer representative as designated in subsection (1) of this section one master collective bargaining agreement on behalf of all the employees in bargaining units that the exclusive bargaining representative represents. For those exclusive bargaining representatives who represent fewer than a total of five hundred employees each, negotiation shall be by a coalition of all those exclusive bargaining representatives. The coalition shall bargain for a master collective bargaining agreement covering all of the employees represented by the coalition. The governor's designee and the exclusive

bargaining representative or representatives are authorized to enter into supplemental bargaining of agency-specific issues for inclusion in or as an addendum to the master collective bargaining agreement, subject to the parties' agreement regarding the issues and procedures for supplemental bargaining. This section does not prohibit cooperation and coordination of bargaining between two or more exclusive bargaining representatives.

(b) This subsection (2) does not apply to exclusive bargaining representatives who represent employees of institutions of higher education, except when the institution of higher education has elected to exercise its option under subsection (4) of this section to have its negotiations conducted by the governor or governor's designee under the procedures provided for general government agencies in subsections (1) through (3) of this section.

(c) If five hundred or more employees of an independent state elected official listed in RCW 43.01.010 are organized in a bargaining unit or bargaining units under section 308 of this act, the official shall be consulted by the governor or the governor's designee before any agreement is reached under (a) of this subsection concerning supplemental bargaining of agency specific issues affecting the employees in such bargaining unit.

(3) The governor shall submit a request for funds necessary to implement the compensation and fringe benefit provisions in the master collective bargaining agreement or for legislation necessary to implement the agreement. Requests for funds necessary to implement the provisions of bargaining agreements shall not be submitted to the legislature by the governor unless such requests:

(a) Have been submitted to the director of the office of financial management by October 1 prior to the legislative session at which the requests are to be considered; and

(b) Have been certified by the director of the office of financial management as being feasible financially for the state.

The legislature shall approve or reject the submission of the request for funds as a whole. The legislature shall not consider a request for funds to implement a collective bargaining agreement unless the request is transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060. If the legislature rejects or fails to act on the submission, either party may reopen all or part of the agreement or the exclusive bargaining

representative may seek to implement the procedures provided for in section 310 of this act.

(4) For the purpose of negotiating agreements for institutions of higher education, the employer shall be the respective governing board of each of the universities, colleges, or community and technical colleges or a designee chosen by the board to negotiate on its behalf. A governing board may elect to have its negotiations conducted by the governor or governor's designee under the procedures provided for general government agencies in subsections (1), (2), and (3) of this section. Prior to entering into negotiations under this chapter, the institutions of higher education or their designees shall consult with the director of the office of financial management regarding financial and budgetary issues that are likely to arise in the impending negotiations. If appropriations are necessary to implement the compensation and fringe benefit provisions of the bargaining agreements reached between institutions of higher education and exclusive bargaining representatives agreed to under the provisions of this chapter, the governor shall submit a request for such funds to the legislature according to the provisions of subsection (3) of this section.

(5) There is hereby created a joint committee on employment relations, which consists of two members with leadership positions in the house of representatives, representing each of the two largest caucuses; the chair and ranking minority member of the house appropriations committee, or its successor, representing each of the two largest caucuses; two members with leadership positions in the senate, representing each of the two largest caucuses; and the chair and ranking minority member of the senate ways and means committee, or its successor, representing each of the two largest caucuses. The governor shall periodically consult with the committee regarding appropriations necessary to implement the compensation and fringe benefit provisions in the master collective bargaining agreements, and upon completion of negotiations, advise the committee on the elements of the agreements and on any legislation necessary to implement the agreements.

(6) If, after the compensation and fringe benefit provisions of an agreement are approved by the legislature, a significant revenue shortfall occurs resulting in reduced appropriations, as declared by proclamation of the governor or by resolution of the legislature, both

parties shall immediately enter into collective bargaining for a mutually agreed upon modification of the agreement.

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

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

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

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

(b) Any retirement system or retirement benefit; or

(c) Rules of the director of personnel or the Washington personnel resources board adopted under section 203, chapter . . ., Laws of 2002 (section 203 of this act).

(3) Matters subject to bargaining include the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits. However, except as provided otherwise in this subsection for institutions of higher education, negotiations regarding the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits shall be conducted between the employer and one coalition of all the exclusive bargaining representatives subject to this chapter. Any such provision agreed to by the employer and the coalition shall be included in all master collective bargaining agreements negotiated by the parties. For institutions of higher education, promotional preferences and the number of names to be certified for vacancies shall be bargained under the provisions of section 302(4) of this act.

(4) The employer and the exclusive bargaining representative shall not agree to any proposal that would prevent the implementation of approved affirmative action plans or that would be inconsistent with

1 the comparable worth agreement that provided the basis for the salary
2 changes implemented beginning with the 1983-1985 biennium to achieve
3 comparable worth.
4 (5) The employer and the exclusive bargaining representative shall
5 not bargain over matters pertaining to management rights established in
6 section 305 of this act.
7 (6) Except as otherwise provided in this chapter, if a conflict
8 exists between an executive order, administrative rule, or agency
9 policy relating to wages, hours, and terms and conditions of employment
10 and a collective bargaining agreement negotiated under this chapter,
11 the collective bargaining agreement shall prevail. A provision of a
12 collective bargaining agreement that conflicts with the terms of a
13 statute is invalid and unenforceable.
14 (7) This section does not prohibit bargaining that affects
15 contracts authorized by section 208 of this act.

16 NEW SECTION. Sec. 304. CONTENTS OF COLLECTIVE BARGAINING
17 AGREEMENTS. (1) The parties to a collective bargaining agreement shall
18 reduce the agreement to writing and both shall execute it.
19 (2) A collective bargaining agreement shall contain provisions
20 that:
21 (a) Provide for a grievance procedure that culminates with final
22 and binding arbitration of all disputes arising over the interpretation
23 or application of the collective bargaining agreement and that is valid
24 and enforceable under its terms when entered into in accordance with
25 this chapter; and
26 (b) Require processing of disciplinary actions or terminations of
27 employment of employees covered by the collective bargaining agreement
28 entirely under the procedures of the collective bargaining agreement.
29 Any employee, when fully reinstated, shall be guaranteed all employee
30 rights and benefits, including back pay, sick leave, vacation accrual,
31 and retirement and federal old age, survivors, and disability insurance
32 act credits, but without back pay for any period of suspension.
33 (3)(a) If a collective bargaining agreement between an employer
34 and an exclusive bargaining representative is concluded after the
35 termination date of the previous collective bargaining agreement
36 between the employer and an employee organization representing the same
37 bargaining units, the effective date of the collective bargaining
38 agreement may be the day after the termination of the previous

collective bargaining agreement, and all benefits included in the new collective bargaining agreement, including wage or salary increases, may accrue beginning with that effective date.

(b) If a collective bargaining agreement between an employer and an exclusive bargaining representative is concluded after the termination date of the previous collective bargaining agreement between the employer and the exclusive bargaining representative representing different bargaining units, the effective date of the collective bargaining agreement may be the day after the termination date of whichever previous collective bargaining agreement covering one or more of the units terminated first, and all benefits included in the new collective bargaining agreement, including wage or salary increases, may accrue beginning with that effective date.

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

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

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

(3) The right to direct and supervise employees;

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

(5) Retirement plans and retirement benefits.

NEW SECTION. **Sec. 306.** RIGHTS OF EMPLOYEES. Except as may be specifically limited by this chapter, employees shall have the right to self-organization, to form, join, or assist employee organizations, and to bargain collectively through representatives of their own choosing for the purpose of collective bargaining free from interference, restraint, or coercion. Employees shall also have the right to refrain from any or all such activities except to the extent that they may be required to pay a fee to an exclusive bargaining representative under a union security provision authorized by this chapter.

NEW SECTION. Sec. 307. RIGHT TO STRIKE NOT GRANTED. Nothing contained in chapter . . ., Laws of 2002 (this act) permits or grants to any employee the right to strike or refuse to perform his or her official duties.

NEW SECTION. Sec. 308. BARGAINING UNITS. (1) A bargaining unit of employees covered by this chapter existing on the effective date of this section shall be considered an appropriate unit, unless the unit does not meet the requirements of (a) and (b) of this subsection. The commission, after hearing upon reasonable notice to all interested parties, shall decide, in each application for certification as an exclusive bargaining representative, the unit appropriate for certification. In determining the new units or modifications of existing units, the commission shall consider: The duties, skills, and working conditions of the employees; the history of collective bargaining; the extent of organization among the employees; the desires of the employees; and the avoidance of excessive fragmentation. However, a unit is not appropriate if it includes:

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

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

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

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

NEW SECTION. **Sec. 309.** REPRESENTATION. (1) The commission shall determine all questions pertaining to representation and shall administer all elections and be responsible for the processing and adjudication of all disputes that arise as a consequence of elections. The commission shall adopt rules that provide for at least the following:

(a) Secret balloting;

(b) Consulting with employee organizations;

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

(d) Absentee voting;

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

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

(g) Election observers.

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

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

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

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

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

(b) A valid collective bargaining agreement exists covering the unit, except for that period of no more than one hundred twenty

1 calendar days nor less than ninety calendar days before the expiration
2 of the contract.

3 NEW SECTION. Sec. 310. IMPASSE. Should the parties fail to reach
4 agreement in negotiating a collective bargaining agreement, either
5 party may request of the commission the assistance of an impartial
6 third party to mediate the negotiations.
7 If a collective bargaining agreement previously negotiated under
8 this chapter should expire while negotiations are underway, the terms
9 and conditions specified in the collective bargaining agreement shall
10 remain in effect for a period not to exceed one year from the
11 expiration date stated in the agreement. Thereafter, the employer may
12 unilaterally implement according to law.
13 If resolution is not reached through mediation by one hundred days
14 beyond the expiration date of a contract previously negotiated under
15 this chapter, or one hundred days from the initiation of mediated
16 negotiations if no such contract exists, an independent fact-finder
17 shall be appointed by the commission.
18 The fact-finder shall meet with the parties or their
19 representatives, or both, and make inquiries and investigations, hold
20 hearings, and take such other steps as may be appropriate. If the
21 dispute is not settled, the fact-finder shall make findings of fact and
22 recommend terms of settlement within thirty days.
23 Such recommendations, together with the findings of fact, shall be
24 submitted in writing to the parties and the commission privately before
25 they are made public. The commission, the fact-finder, the employer,
26 or the exclusive bargaining representative may make such findings and
27 recommendations public if the dispute is not settled within ten working
28 days after their receipt from the fact-finder.
29 Nothing in this section shall be construed to prohibit an employer
30 and an exclusive bargaining representative from agreeing to substitute,
31 at their own expense, their own procedure for resolving impasses in
32 collective bargaining for that provided in this section or from
33 agreeing to utilize for the purposes of this section any other
34 governmental or other agency or person in lieu of the commission.
35 Costs for mediator services shall be borne by the commission, and
36 costs for fact-finding shall be borne equally by the negotiating
37 parties.

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

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

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

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

SUBJECT TO REFERENDUM

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

(a) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed by this chapter;

(b) To dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it: PROVIDED, That subject to rules adopted by the commission, an employer shall not be prohibited from permitting employees to confer with it or its representatives or agents during working hours without loss of time or pay;

(c) To encourage or discourage membership in any employee organization by discrimination in regard to hire, tenure of employment, or any term or condition of employment;

(d) To discharge or discriminate otherwise against an employee because that employee has filed charges or given testimony under this chapter;

(e) To refuse to bargain collectively with the representatives of its employees.

SUBJECT TO REFERENDUM

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

(a) To restrain or coerce an employee in the exercise of the rights guaranteed by this chapter: PROVIDED, That this subsection shall not impair the right of an employee organization to prescribe its own rules with respect to the acquisition or retention of membership in the employee organization or to an employer in the selection of its representatives for the purpose of bargaining or the adjustment of grievances;

(b) To cause or attempt to cause an employer to discriminate against an employee in violation of subsection (1)(c) of this section;

(c) To discriminate against an employee because that employee has filed charges or given testimony under this chapter;

(d) To refuse to bargain collectively with an employer.

(3) The expressing of any views, arguments, or opinion, or the dissemination thereof to the public, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an

unfair labor practice under this chapter, if such expression contains no threat of ~~reprisal or~~ force or promise of benefit.

NEW SECTION. Sec. 313. UNFAIR LABOR PRACTICE PROCEDURES. (1) The commission is empowered and directed to prevent any unfair labor practice and to issue appropriate remedial orders: PROVIDED, That a complaint shall not be processed for any unfair labor practice occurring more than six months before the filing of the complaint with the commission. This power shall not be affected or impaired by any means of adjustment, mediation, or conciliation in labor disputes that have been or may hereafter be established by law.

(2) If the commission determines that any person has engaged in or is engaging in an unfair labor practice, the commission shall issue and cause to be served upon the person an order requiring the person to cease and desist from such unfair labor practice, and to take such affirmative action as will effectuate the purposes and policy of this chapter, such as the payment of damages and the reinstatement of employees.

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

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

(2) An arbitrator may require any person to attend as a witness and to bring with him or her any book, record, document, or other evidence. The fees for such attendance shall be paid by the party requesting issuance of the subpoena and shall be the same as the fees of witnesses

in the superior court. Arbitrators may administer oaths. Subpoenas shall issue and be signed by the arbitrator and shall be served in the same manner as subpoenas to testify before a court of record in this state. If any person so summoned to testify refuses or neglects to obey such subpoena, upon petition authorized by the arbitrator, the superior court may compel the attendance of the person before the arbitrator or punish the person for contempt in the same manner provided for the attendance of witnesses or the punishment of them in the courts of this state.

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

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

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

NEW SECTION. Sec. 315. All powers, duties, and functions of the department of personnel pertaining to collective bargaining are

transferred to the public employment relations commission except mediation of grievances and contracts, arbitration of grievances and contracts, and unfair labor practices, filed under a collective bargaining agreement existing before the effective date of this section. Any mediation, arbitration, or unfair labor practice issue filed between July 1, 2004, and July 1, 2005, under a collective bargaining agreement existing before the effective date of this section, shall be resolved by the Washington personnel resources board in accordance with the authorities, rules, and procedures that were established under RCW 41.06.150(11) as it existed before the effective date of this section.

NEW SECTION. **Sec. 316.** All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of personnel pertaining to the powers, functions, and duties transferred in section 315 of this act shall be delivered to the custody of the public employment relations commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of personnel in carrying out the powers, functions, and duties transferred in section 315 of this act shall be made available to the public employment relations commission. All funds, credits, leases, and other assets held in connection with the powers, functions, and duties transferred in section 315 of this act shall be assigned to the public employment relations commission.

Any appropriations made to the department of personnel for carrying out the powers, functions, and duties transferred in section 315 of this act shall be deleted at the time that such powers, functions, and duties are transferred to the public employment relations commission. All funding required to perform these transferred powers, functions, and duties is to be provided by the public employment relations commission once the transfers occur.

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

NEW SECTION. **Sec. 317.** After the effective date of this section, the director of personnel and the executive director of the public employment relations commission shall meet and agree upon a schedule for the transfer of department of personnel labor relation employees and property to the commission. Whenever a question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

NEW SECTION. **Sec. 318.** All business pending before the department of personnel pertaining to the powers, functions, and duties transferred in section 315 of this act shall be continued and acted upon by the public employment relations commission. All existing contracts and obligations of the department of personnel, pertaining to collective bargaining, shall remain in full force and shall be performed by the public employment relations commission.

NEW SECTION. **Sec. 319.** The transfer of the powers, duties, functions, and personnel of the department of personnel shall not affect the validity of any act performed before the effective date of this section.

NEW SECTION. **Sec. 320.** If apportionments of budgeted funds are required because of the transfers directed by sections 316 through 319 of this act, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

NEW SECTION. **Sec. 321.** DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means ~~any agency~~ SUBJECT TO REFERENDUM as defined in RCW 41.06.020 and covered by chapter 41.06 RCW.

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

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

(4) "Confidential employee" means an employee who, in the regular course of his or her duties, assists in a confidential capacity persons who formulate, determine, and effectuate management policies with regard to labor relations or who, in the regular course of his or her duties, has authorized access to information relating to the effectuation or review of the employer's collective bargaining policies, or who assists or aids a manager. "Confidential employee" also includes employees who assist assistant attorneys general who advise and represent managers or confidential employees in personnel or labor relations matters, or who advise or represent the state in tort actions.

REFERENDUM

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

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

SUBJECT TO

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

(b) Confidential employees;

(c) Members of the Washington management service;

(d) Internal auditors in any agency; or

(e) Any employee of the commission, the office of financial management, or the department of personnel.

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

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

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

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

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

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

(13) "Supervisor" means an employee who has authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, or discipline employees, or to adjust employee grievances, or effectively to recommend such action, if the exercise of the authority is not of a merely routine nature but requires the consistent exercise of individual judgment. However, no employee who is a member of the Washington management service may be included in a collective bargaining unit established under this section.

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

NEW SECTION. **Sec. 322.** OFFICE OF FINANCIAL MANAGEMENT'S LABOR RELATIONS SERVICE ACCOUNT. (1) The office of financial management's labor relations service account is created in the custody of the state treasurer to be used as a revolving fund for the payment of labor relations services required for the negotiation of the collective bargaining agreements entered into under this chapter. An amount not to exceed one-tenth of one percent of the approved allotments of salaries and wages for all bargaining unit positions in the classified service in each of the agencies subject to this chapter, except the institutions of higher education, shall be charged to the operations appropriations of each agency and credited to the office of financial management's labor relations service account as the allotments are approved pursuant to chapter 43.88 RCW. Subject to the above limitations, the amount shall be charged against the allotments pro rata, at a rate to be fixed by the director of financial management

from time to time. Payment for services rendered under this chapter shall be made on a quarterly basis to the state treasurer and deposited into the office of financial management's labor relations service account.

(2) Moneys from the office of financial management's labor relations service account shall be disbursed by the state treasurer by warrants on vouchers authorized by the director of financial management or the director's designee. An appropriation is not required.

PART IV
MISCELLANEOUS

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

(1) RCW 41.06.163 (Comprehensive salary and fringe benefit survey plan required--Contents) and 1993 c 281 s 30, 1987 c 185 s 9, 1986 c 158 s 6, 1979 c 151 s 59, & 1977 ex.s. c 152 s 3; and

(2) RCW 41.06.165 (Salary surveys--Criteria) and 1977 ex.s. c 152 s 4.

NEW SECTION. **Sec. 402.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed:

(1) RCW 41.06.140 (Employee participation in policy and rule making, administration, etc.--Publication of board rules) and 1961 c 1 s 14;

(2) RCW 41.50.804 (Existing collective bargaining agreements not affected) and 2002 c . . . s 228 (section 228 of this act), 1993 c 281 s 40, & 1975-'76 2nd ex.s. c 105 s 17; and

(3) RCW 41.06.520 (Administration, management of institutions of higher education--Rules--Audit and review by board) and 1993 c 281 s 11.

NEW SECTION. **Sec. 403.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed:

(1) RCW 41.06.380 (Purchasing services by contract not prohibited--Limitations) and 1979 ex.s. c 46 s 2;

(2) RCW 41.06.382 (Purchasing services by contract not prohibited--Limitations) and 1979 ex.s. c 46 s 1;

(3) RCW 41.56.023 (Application of chapter to employees of institutions of higher education) and 1993 c 379 s 301;

(4) RCW 41.56.201 (Employees of institutions of higher education--Option to have relationship and obligations governed by chapter) and 2000 c 19 s 2 & 1993 c 379 s 304; and

(5) RCW 28B.16.015 (Option to have relationship and obligations governed by chapter 41.56 RCW) and 1993 c 379 s 310.

NEW SECTION. **Sec. 404.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed:

(1) RCW 41.64.010 (Personnel appeals board--Created--Membership--Definitions) and 1981 c 311 s 1;

(2) RCW 41.64.020 (Removal of members--Hearing) and 1981 c 311 s 3;

(3) RCW 41.64.030 (Compensation of members--Travel expenses--Disclosure of financial affairs) and 1984 c 287 s 73, 1984 c 34 s 4, & 1981 c 311 s 4;

(4) RCW 41.64.040 (Election of chairperson--Biennial meetings) and 1981 c 311 s 5;

(5) RCW 41.64.050 (Executive secretary--Appointment of assistants) and 1981 c 311 s 6;

(6) RCW 41.64.060 (Location of principal office--Hearings--Procedure) and 1981 c 311 s 7;

(7) RCW 41.64.070 (Journal of official actions) and 1981 c 311 s 8;

(8) RCW 41.64.080 (Employee appeals--Hearings examiners) and 1981 c 311 s 9;

(9) RCW 41.64.090 (Employee appeals--Jurisdiction) and 1993 c 281 s 41 & 1981 c 311 s 10;

(10) RCW 41.64.100 (Employee appeals--Hearing--Decision to be rendered within ninety days, exceptions) and 1997 c 386 s 43 & 1981 c 311 s 11;

(11) RCW 41.64.110 (Employee appeals--Hearing--Procedure--Official record) and 1985 c 461 s 7 & 1981 c 311 s 12;

(12) RCW 41.64.120 (Employee appeals--Findings of fact, conclusions of law, order--Notice to employee and employing agency) and 1981 c 311 s 13;

(13) RCW 41.64.130 (Employee appeals--Review by superior court--Grounds--Notice, service--Certified transcript) and 1981 c 311 s 14;

(14) RCW 41.64.140 (Employee appeals--Review by superior court--Procedure--Appellate review) and 1988 c 202 s 42 & 1981 c 311 s 15; and

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

NEW SECTION. **Sec. 405.** SECTION CAPTIONS. Part headings and section captions used in this act do not constitute part of the law.

NEW SECTION. **Sec. 406.** Sections 301 through 322 of this act constitute a new chapter in Title 41 RCW.

NEW SECTION. **Sec. 407.** The governor shall take such action as is necessary to ensure that sections 301 through 314 of this act are implemented on their effective dates.

NEW SECTION. **Sec. 408.** Until July 1, 2004, the public employment relations commission is authorized to contract with the department of personnel for labor relations staffing necessary to carry out its functions.

NEW SECTION. **Sec. 409.** (1) Notwithstanding the provisions of section 301 of this act, the parties to collective bargaining to be conducted under sections 301 through 314 of this act shall meet by September 1, 2003, to identify those payroll-related bargaining issues that affect the capacity of the central state payroll system, as determined by the department of personnel. The parties shall agree on which bargaining issues will be bargained in a coalition of employee representatives and will be agreed to uniformly in each collective bargaining agreement. This agreement is effective only for collective bargaining agreements entered into for implementation during the 2005-2007 biennium. The purpose of the agreement is to minimize the risk to the payroll system resulting from agreements reached in the first round of collective bargaining under this act.

(2) This section expires June 30, 2007.

NEW SECTION. **Sec. 410.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

1 NEW SECTION. **Sec. 411.** (1) Sections 203, 204, 213 through 223,
2 227, 229 through 231, 241, 243, 246, 248, 301 through 307, 309 through
3 316, 318, 319, and 402 of this act take effect July 1, 2004.
4 (2) Section 224 of this act takes effect March 15, 2005.
5 (3) Sections 208, 234 through 238 and 403 of this act take effect
6 July 1, 2005.
7 (4) Sections 225, 226, 233, and 404 of this act take effect July 1,
8 2006.

9 NEW SECTION. **Sec. 412.** Section 230 of this act expires June 30,
10 2015.

--- END ---