

NEW SECTION. Sec. 113. Sections 1 through 6, 8 through 96, and 98 through 112 of this act shall take effect July 1, 1992.

Passed the House February 6, 1990.

Passed the Senate March 2, 1990.

Approved by the Governor March 15, 1990, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State March 15, 1990.

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

"I am returning herewith, without my approval as to section 73, House Bill No. 2797 entitled:

"AN ACT Relating to elections."

Section 73 amends RCW 29.21.075. Later, in section 112(14), that statute is repealed.

The provisions of section 73, outlining election procedures for District Court judges, are repeated in sections 80, 94, and 95 of this bill and, therefore, section 73 is redundant. To correct this technical error I have vetoed section 73.

With the exception of section 73, House Bill No. 2797 is approved."

CHAPTER 60

[House Bill No. 2567]

STATE EMPLOYEES—RECRUITMENT, RETENTION, AND DEVELOPMENT

AN ACT Relating to the improvement of state employee recruitment, retention, and development; amending RCW 41.06.070, 41.06.430, and 28B.16.040; reenacting and amending RCW 41.06.150 and 28B.16.100; adding new sections to chapter 41.04 RCW; creating a new section; and decodifying RCW 41.06.300, 41.06.320, and 41.06.330.

Be it enacted by the Legislature of the State of Washington:

PART I

STATE AGENCY PERSONNEL

Sec. 101. Section 1, chapter 11, Laws of 1972 ex. sess. as last amended by section 8, chapter 96, Laws of 1989 and RCW 41.06.070 are each amended to read as follows:

The provisions of this chapter do not apply to:

(1) 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, legislative budget committee, statute law committee, and any interim committee of the legislature;

(2) 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;

(3) Officers, academic personnel, and employees of state institutions of higher education, the state board for community college education, and the higher education personnel board;

(4) The officers of the Washington state patrol;

- (5) Elective officers of the state;
- (6) The chief executive officer of each agency;
- (7) In the departments of employment security, fisheries, social and health services, the director and his confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his confidential secretary, and his statutory assistant directors;
- (8) 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:
 - (a) All members of such boards, commissions, or committees;
 - (b) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: (i) The secretary of the board, commission, or committee; (ii) the chief executive officer of the board, commission, or committee; and (iii) the confidential secretary of the chief executive officer of the board, commission, or committee;
 - (c) If the members of the board, commission, or committee serve on a full-time basis: (i) The chief executive officer or administrative officer as designated by the board, commission, or committee; and (ii) a confidential secretary to the chairman of the board, commission, or committee;
 - (d) If all members of the board, commission, or committee serve ex officio: (i) The chief executive officer; and (ii) the confidential secretary of such chief executive officer;
- (9) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;
- (10) Assistant attorneys general;
- (11) Commissioned and enlisted personnel in the military service of the state;
- (12) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the state personnel board or the board having jurisdiction;
- (13) The public printer or to any employees of or positions in the state printing plant;
- (14) Officers and employees of the Washington state fruit commission;
- (15) Officers and employees of the Washington state apple advertising commission;
- (16) Officers and employees of the Washington state dairy products commission;
- (17) Officers and employees of the Washington tree fruit research commission;
- (18) Officers and employees of the Washington state beef commission;
- (19) Officers and employees of any commission formed under the provisions of chapter 191, Laws of 1955, and chapter 15.66 RCW;

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

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

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

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

(24) 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;

(25) 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;

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

~~((26))~~ (27) 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 shall expire on June 30, 1997;

~~((27))~~ (28) In addition to the exemptions specifically provided by this chapter, the state personnel board may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the personnel board stating the reasons for requesting such exemptions. The personnel board shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the board 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 personnel board shall grant the request and such determination shall be final. The total number of additional exemptions permitted under this subsection shall not exceed one hundred eighty-seven 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 state personnel board shall report to each regular session of the legislature during an odd-numbered year all exemptions granted ~~((pursuant to the provisions of this subsection))~~ under subsections (24), (25), and (28) of this section, together with the reasons for such exemptions.

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 (10) through (22) of this section, shall be determined by the state personnel board.

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 ~~((; within four years from the date of appointment to the exempt position. However, (a) upon the prior request of the appointing authority of the exempt position, the personnel board may approve one extension of no more than four years, and (b) if an appointment was accepted prior to July 10, 1982, then the four-year period shall begin on July 10, 1982))~~.

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. 102. Section 7, chapter 118, Laws of 1980 and RCW 41.06.430 are each amended to read as follows:

(1) The board, by rule, shall develop a career executive program which recognizes the profession of management and recognizes excellence in managerial skills in order to (a) identify, attract, and retain highly qualified executive candidates, (b) provide outstanding employees a broad opportunity for career development, and (c) provide for the mobility of such employees among agencies, it being to the advantage of the state to make the most beneficial use of individual managerial skills.

(2) To accomplish the purposes of subsection (1) of this section, the board, notwithstanding any other provision of this chapter, may provide policies and standards for recruitment, appointment, examination, training, probation, employment register control, certification, classification, salary

administration, transfer, promotion, reemployment, conditions of employment, and separation separate from procedures established for other employment.

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

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

(5) The director shall monitor and review the impact of the career executive program 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 the career executive program on the fulfillment of such responsibilities.

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

Sec. 103. Section 4, chapter 53, Laws of 1982 1st ex. sess. as last amended by section 5, chapter 365, Laws of 1985 and by section 2, chapter 461, Laws of 1985 and RCW 41.06.150 are each reenacted and 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 four 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 therein, 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 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) 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) 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) 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;

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

(17) 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, such adoption and revision subject to approval by the director of financial management in accordance with the provisions of chapter 43.88 RCW;

(18) 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) 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 widows by giving such eligible veterans and their widows 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 widow 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;

(20) 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;

(21) Assuring persons who are or have been employed in classified positions under chapter 28B.16 RCW will be eligible for employment, reemployment, transfer, and promotion in respect to classified positions covered by this chapter((-));

(22) 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.

PART II HIGHER EDUCATION PERSONNEL

Sec. 201. Section 4, chapter 36, Laws of 1969 ex. sess. as last amended by section 15, chapter 53, Laws of 1982 1st ex. sess. and RCW 28B.16.040 are each amended to read as follows:

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

(1) Members of the governing board of each institution and related boards, all presidents, vice presidents and their confidential secretaries, administrative and personal assistants; deans, directors, and chairmen; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; 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.

(2) Student, part time, or temporary employees, and part time professional consultants, as defined by the higher education personnel board, employed by institutions of higher education and related boards.

(3) The director, his confidential secretary, assistant directors, and professional education employees of the state board for community college education.

(4) The personnel director of the higher education personnel board and his confidential secretary.

(5) The governing board of each institution, and related boards, may also exempt from this chapter, subject to the employees right of appeal to the higher education personnel board, classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training, and principal assistants to executive heads of major administrative or academic divisions, as determined by the higher education personnel board: **PROVIDED**, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the higher education personnel board under this provision.

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 (~~(, within four years from the date of appointment to the exempt position. However, (a) upon the prior request of the appointing authority of the exempt position, the board may approve one extension of no more than four years; and (b) if an appointment was accepted prior to July 10, 1982, then the four-year period shall begin on July 10, 1982).~~).

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. 202. Section 10, chapter 36, Laws of 1969 ex. sess. as last amended by section 1, chapter 365, Laws of 1985 and by section 9, chapter 461, Laws of 1985 and RCW 28B.16.100 are each reenacted and amended to read as follows:

The higher education personnel board 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 dismissal, suspension, or demotion of an employee, and appeals therefrom;

(2) Certification of names for vacancies, including promotions, with the number of names equal to four 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) Examination for all positions in the competitive and noncompetitive service;

(4) Appointments;

(5) Probationary periods of six to twelve months and rejections therein, depending on the job requirements of the class;

- (6) Transfers;
- (7) Sick leaves and vacations;
- (8) Hours of work;
- (9) Layoffs when necessary and subsequent reemployment, both according to seniority;
- (10) Determination of appropriate bargaining units within any institution or related boards: **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;
- (11) Certification and decertification of exclusive bargaining representatives: **PROVIDED**, That 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 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 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;
- (12) Agreements between institutions or related boards and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the institution or the related board may lawfully exercise discretion;
- (13) 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 institution and the employee organization: PROVIDED, That nothing contained herein permits or grants to any employee the right to strike or refuse to perform his official duties;

(14) Adoption and revision of comprehensive classification plans for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position;

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

(16) Adoption and revision of salary schedules and compensation plans which reflect the prevailing rates in Washington state private industries and other governmental units for positions of a similar nature but the rates in the salary schedules or plans shall be increased if necessary to attain comparable worth under an implementation plan under RCW 28B.16.116 and which shall be competitive in the state or the locality in which the institution or related boards are located, such adoption, revision, and implementation subject to approval as to availability of funds by the director of financial management in accordance with the provisions of chapter 43.88 RCW, and after consultation with the chief financial officer of each institution or related board for that institution or board, or in the case of community colleges, by the chief financial officer of the state board for community college education for the various community colleges;

(17) Training programs including in-service, promotional, and supervisory;

(18) 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) Providing for veteran's preference as provided by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their widows by giving such eligible veterans and their widows additional credit in computing their seniority by adding to their unbroken higher education service, as defined by the board, the veteran's service in the military not to exceed five years of such service. 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 widow 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;

(20) Assuring that persons who are or have been employed in classified positions under chapter 41.06 RCW will be eligible for employment, reemployment, transfer, and promotion in respect to classified positions covered by this chapter; and

(21) Assuring that any person who is or has been employed in a classified position under this chapter will be eligible for employment, reemployment, transfer, and promotion in respect to classified positions at any other institution of higher education or related board.

(22) 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 consistent with federal guidelines pertaining to affirmative action. The board shall transmit a report annually to the human rights commission which states the progress each institution of higher education has made in meeting affirmative action goals and timetables.

PART III EMPLOYEE ASSISTANCE

NEW SECTION. Sec. 301. The legislature finds that:

(1) Assisting employees in resolving personal problems that impair their performance will result in a more productive work force, better morale, reduced stress, reduced use of medical benefits, reduced absenteeism, lower turnover rates, and fewer accidents;

(2) A substantial number of employee problems can be identified and the employees referred to treatment by an employee assistance program;

(3) The state, as an employer, desires to foster a working environment that promotes safety and productivity as well as the health and well-being of its employees.

Therefore, it is the purpose of sections 302 through 304 of this act to assist state employees by establishing a state employee assistance program.

NEW SECTION. Sec. 302. The employee assistance program is hereby created to provide support and services to state employees who have personal problems that impair their performance in the work place. The goal of the program is to help promote a safe, productive, and healthy state work force by assisting state employees and their supervisors to identify and deal with such personal problems. However, nothing in this chapter relieves employees from the responsibility of performing their jobs in an acceptable manner.

NEW SECTION. Sec. 303. The director of human resources shall:

(1) Administer the state employee assistance program to assist employees who have personal problems that adversely affect their job performance or have the potential of doing so;

(2) Develop policies, procedures, and activities for the program;

(3) Encourage and promote the voluntary use of the employee assistance program by increasing employee awareness and disseminating educational materials;

(4) Provide technical assistance and training to agencies on how to use the employee assistance program;

(5) Assist and encourage supervisors to identify and refer employees with problems that impair their performance by incorporating proper use of the program in management training, management performance criteria, ongoing communication with agencies, and other appropriate means;

(6) Offer substance abuse prevention and awareness activities to be provided through the employee assistance program and the state employee wellness program;

(7) Monitor and evaluate the effectiveness of the program, including the collection, analysis, and publication of relevant statistical information; and

(8) Consult with state agencies, institutions of higher education, and employee organizations in carrying out the purposes of sections 301 through 304 of this act.

NEW SECTION. Sec. 304. Individual employees' participation in the employee assistance program and all individually identifiable information gathered in the process of conducting the program shall be held in strict confidence; except that agency management may be provided with the following information about employees referred by that agency management due to poor job performance:

(1) Whether or not the referred employee made an appointment;

(2) The date and time the employee arrived and departed;

(3) Whether the employee agreed to follow the advice of counselors; and

(4) Whether further appointments were scheduled.

Participation or nonparticipation by any employee in the employee assistance program shall not be a factor in any decision affecting an employee's job security, promotional opportunities, corrective or disciplinary action, or other employment rights.

NEW SECTION. Sec. 305. Sections 301 through 304 of this act are each added to chapter 41.04 RCW.

PART IV MISCELLANEOUS

NEW SECTION. Sec. 401. Subheadings as used in this act do not constitute any part of the law.

NEW SECTION. Sec. 402. The following are each decodified:

- (1) RCW 41.06.300;
- (2) RCW 41.06.320; and
- (3) RCW 41.06.330.

NEW SECTION. Sec. 403. 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.

Passed the House March 5, 1990.

Passed the Senate March 2, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 61

[House Bill No. 2291]

COMMERCIAL SEA CUCUMBER FISHING

AN ACT Relating to commercial sea cucumber fishing; amending RCW 75.30.050; adding a new section to chapter 75.30 RCW; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that a significant commercial sea cucumber fishery is developing within state waters. The potential for depletion of the sea cucumber stocks in these waters is increasing, particularly as the sea cucumber fishery becomes an attractive alternative to commercial fishers who face increasing restrictions on other types of commercial fishery activities.

The legislature finds that the number of commercial fishers engaged in commercially harvesting sea cucumbers has rapidly increased. This factor, combined with increases in market demand, has resulted in strong pressures on the supply of sea cucumbers.

The legislature finds that increased regulation of commercial sea cucumber fishing is necessary to preserve and efficiently manage the commercial sea cucumber fishery in the waters of the state.

The legislature finds that it is desirable in the long term to reduce the number of vessels participating in the commercial sea cucumber fishery to fifty vessels to preserve the sea cucumber resource, efficiently manage the commercial sea cucumber fishery in the waters of the state, and reduce conflict with upland owners.

The legislature finds that it is important to preserve the livelihood of those who have historically participated in the commercial sea cucumber fishery that began about 1970 and that the 1988 and 1989 seasons should be used to document historical participation.