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HOUSE BILL 1916

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State of Washington                      60th Legislature                      2007 Regular Session

By Representatives Conway, Ericksen, Moeller, Strow, Green, Haler, Appleton, Seaquist, Chase, Priest, McDermott, Walsh, Ormsby, Hasegawa, Fromhold, Kessler, Dunshee, Dunn, Sells, Wood, P. Sullivan, Kenney and Morrell

Read first time 01/31/2007. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to interest arbitration regarding certain care  
2 providers; and amending RCW 41.56.028 and 41.56.026.

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

4            **Sec. 1.** RCW 41.56.028 and 2006 c 54 s 1 are each amended to read  
5 as follows:

6            (1) In addition to the entities listed in RCW 41.56.020, this  
7 chapter applies to the governor with respect to family child care  
8 providers. Solely for the purposes of collective bargaining and as  
9 expressly limited under subsections (2) and (3) of this section, the  
10 governor is the public employer of family child care providers who,  
11 solely for the purposes of collective bargaining, are public employees.  
12 The public employer shall be represented for bargaining purposes by the  
13 governor or the governor's designee appointed under chapter 41.80 RCW.

14            (2) This chapter governs the collective bargaining relationship  
15 between the governor and family child care providers, except as  
16 follows:

17            (a) A statewide unit of all family child care providers is the only  
18 unit appropriate for purposes of collective bargaining under RCW  
19 41.56.060.

1 (b) The exclusive bargaining representative of family child care  
2 providers in the unit specified in (a) of this subsection shall be the  
3 representative chosen in an election conducted pursuant to RCW  
4 41.56.070, except that in the initial election conducted under chapter  
5 54, Laws of 2006, if more than one labor organization is on the ballot  
6 and none of the choices receives a majority of the votes cast, a  
7 run-off election shall be held.

8 (c) Notwithstanding the definition of "collective bargaining" in  
9 RCW 41.56.030(4), the scope of collective bargaining for child care  
10 providers under this section shall be limited solely to: (i) Economic  
11 compensation, such as manner and rate of subsidy and reimbursement,  
12 including tiered reimbursements; (ii) health and welfare benefits;  
13 (iii) professional development and training; (iv) labor-management  
14 committees; (v) grievance procedures; and (vi) other economic matters.  
15 Retirement benefits shall not be subject to collective bargaining. By  
16 such obligation neither party shall be compelled to agree to a proposal  
17 or be required to make a concession unless otherwise provided in this  
18 chapter.

19 (d) The mediation and interest arbitration provisions of RCW  
20 41.56.430 through 41.56.470 and 41.56.480 apply(~~(, except that:)~~). In  
21 making a decision, the interest arbitration panel shall consider the  
22 following factors:

23 (i) A comparison of child care provider subsidy rates and  
24 reimbursement programs by public entities, including counties and  
25 municipalities, along the west coast of the United States;

26 (ii) The public's interest in reducing turnover and increasing  
27 retention of child care employees;

28 (iii) The state's interest in promoting a stable child care  
29 workforce to provide quality and reliable care throughout the state;  
30 and

31 (iv) For employees exempt from licensing under chapter 74.15 RCW,  
32 the state's fiscal interest in reducing reliance upon public benefit  
33 programs including but not limited to medical coupons, food stamps,  
34 subsidized housing, and emergency medical services.

35 (e) The mediation and interest arbitration provisions of RCW  
36 41.56.430 through 41.56.470 and 41.56.480 do not apply to the  
37 following:

1 (i) With respect to commencement of negotiations between the  
2 governor and the exclusive bargaining representative of family child  
3 care providers, negotiations shall be commenced initially upon  
4 certification of an exclusive bargaining representative under (a) of  
5 this subsection and, thereafter, by February 1st of any even-numbered  
6 year;

7 (ii) In addition to the factors to be taken into consideration by  
8 an interest arbitration panel under RCW 41.56.465, the panel shall  
9 consider the financial ability of the state to pay for the compensation  
10 and benefit provisions of a collective bargaining agreement; and

11 (iii) The decision of the arbitration panel is not binding on the  
12 legislature and, if the legislature does not approve the request for  
13 funds necessary to implement the compensation and benefit provisions of  
14 the arbitrated collective bargaining agreement, is not binding on the  
15 state.

16 ~~((e))~~ (f) Family child care providers do not have the right to  
17 strike.

18 (3) Family child care providers who are public employees solely for  
19 the purposes of collective bargaining under subsection (1) of this  
20 section are not, for that reason, employees of the state for any  
21 purpose. This section applies only to the governance of the collective  
22 bargaining relationship between the employer and family child care  
23 providers as provided in subsections (1) and (2) of this section.

24 (4) This section does not create or modify:

25 (a) The parents' or legal guardians' right to choose and terminate  
26 the services of any family child care provider that provides care for  
27 their child or children;

28 (b) The secretary of the department of social and health services'  
29 right to adopt requirements under RCW 74.15.030, except for  
30 requirements related to grievance procedures and collective  
31 negotiations on personnel matters as specified in subsection (2)(c) of  
32 this section;

33 (c) Chapter 26.44 RCW, RCW 43.43.832, 43.20A.205, and 74.15.130;  
34 and

35 (d) The legislature's right to make programmatic modifications to  
36 the delivery of state services through child care subsidy programs,  
37 including standards of eligibility of parents, legal guardians, and  
38 family child care providers participating in child care subsidy

1 programs, and the nature of services provided. The governor shall not  
2 enter into, extend, or renew any agreement under this section that does  
3 not expressly reserve the legislative rights described in this  
4 subsection (4)(d).

5 (5) Upon meeting the requirements of subsection (6) of this  
6 section, the governor must submit, as a part of the proposed biennial  
7 or supplemental operating budget submitted to the legislature under RCW  
8 43.88.030, a request for funds necessary to implement the compensation  
9 and benefit provisions of a collective bargaining agreement entered  
10 into under this section or for legislation necessary to implement such  
11 agreement.

12 (6) A request for funds necessary to implement the compensation and  
13 benefit provisions of a collective bargaining agreement entered into  
14 under this section shall not be submitted by the governor to the  
15 legislature unless such request has been:

16 (a) Submitted to the director of financial management by October  
17 1st before the legislative session at which the request is to be  
18 considered, except that, for initial negotiations under this section,  
19 the request must be submitted by November 15, 2006; and

20 (b) Certified by the director of financial management as being  
21 feasible financially for the state or reflects the binding decision of  
22 an arbitration panel reached under this section.

23 (7) The legislature must approve or reject the submission of the  
24 request for funds as a whole. If the legislature rejects or fails to  
25 act on the submission, any such agreement will be reopened solely for  
26 the purpose of renegotiating the funds necessary to implement the  
27 agreement.

28 (8) The governor shall periodically consult with the joint  
29 committee on employment relations established by RCW 41.80.010  
30 regarding appropriations necessary to implement the compensation and  
31 benefit provisions of any collective bargaining agreement and, upon  
32 completion of negotiations, advise the committee on the elements of the  
33 agreement and on any legislation necessary to implement such agreement.

34 (9) After the expiration date of any collective bargaining  
35 agreement entered into under this section, all of the terms and  
36 conditions specified in any such agreement remain in effect until the  
37 effective date of a subsequent agreement, not to exceed one year from

1 the expiration date stated in the agreement, except as provided in  
2 subsection (4)(d) of this section.

3 (10) If, after the compensation and benefit provisions of an  
4 agreement are approved by the legislature, a significant revenue  
5 shortfall occurs resulting in reduced appropriations, as declared by  
6 proclamation of the governor or by resolution of the legislature, both  
7 parties shall immediately enter into collective bargaining for a  
8 mutually agreed upon modification of the agreement.

9 (11) In enacting this section, the legislature intends to provide  
10 state action immunity under federal and state antitrust laws for the  
11 joint activities of family child care providers and their exclusive  
12 bargaining representative to the extent such activities are authorized  
13 by this chapter.

14 **Sec. 2.** RCW 41.56.026 and 2002 c 3 s 12 are each amended to read  
15 as follows:

16 (1) In addition to the entities listed in RCW 41.56.020, this  
17 chapter applies to individual providers under RCW 74.39A.270 and  
18 74.39A.300.

19 (2) The mediation and interest arbitration provisions of RCW  
20 41.56.430 through 41.56.470 and 41.56.480 apply to the entities and  
21 providers in subsection (1) of this section. In making a decision, the  
22 interest arbitration panel shall consider the following factors:

23 (a) A comparison of the wages, hours, and conditions of employment  
24 of public sector personnel and publicly reimbursed personnel, including  
25 publicly reimbursed personnel employed by homecare agencies, nursing  
26 homes, institutions for the developmentally disabled, and other  
27 publicly reimbursed providers of long-term care providing similar  
28 services to similar clients or served populations in the state;

29 (b) The public's interest in reducing turnover and increasing  
30 retention of homecare employees;

31 (c) The state's interest in promoting a stable long-term care  
32 workforce to provide quality and reliable care to vulnerable elderly  
33 and disabled recipients;

34 (d) The state's fiscal interest in reducing reliance upon public  
35 benefit programs including but not limited to medical coupons, food  
36 stamps, subsidized housing, and emergency medical services; and

1        (e) The state's interest in ensuring access to affordable, quality  
2 health care for all state citizens.

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