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**SENATE BILL 5572**

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**State of Washington**

**61st Legislature**

**2009 Regular Session**

**By** Senators Marr, Kohl-Welles, Zarelli, Roach, Jarrett, Swecker, Kilmer, Kline, Franklin, Rockefeller, Keiser, Benton, McAuliffe, Carrell, Pridemore, Haugen, Kauffman, Fairley, and Eide

Read first time 01/27/09. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to improving quality, access, and stability of  
2 child care through providing collective bargaining for child care  
3 center directors and workers; amending RCW 41.56.028, 41.56.030,  
4 41.56.113, 41.56.465, 41.04.810, 43.01.047, 43.215.350, and 74.15.020;  
5 reenacting and amending RCW 43.215.010; adding a new section to chapter  
6 43.215 RCW; adding a new section to chapter 74.08A RCW; adding a new  
7 section to chapter 74.12 RCW; and creating new sections.

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

9 NEW SECTION. **Sec. 1.** The legislature finds that, as of 2009, the  
10 challenges posed by low wages and lack of training that the legislature  
11 identified in enacting the child care career and wage ladder persist,  
12 and the availability of quality child care in the state continues to  
13 suffer. The legislature intends to address these problems by creating  
14 the possibility for a new relationship between child care center  
15 directors and workers and the state. Child care center directors and  
16 workers are to be given the opportunity to work collectively to improve  
17 standards in their profession and to expand opportunities for  
18 educational advancement to ensure continuous quality improvement in the  
19 delivery of early learning services. Family child care providers in

1 the state have recently been given a similar opportunity, and the  
2 results of their efforts have improved standards and quality for that  
3 segment of the child care industry.

4 The legislature intends to create a new type of collective  
5 bargaining for these directors and workers whereby they can come  
6 together and bargain with the state over matters within the state's  
7 purview to improve the quality of child care for the state's families.  
8 Unlike traditional collective bargaining, this new approach will afford  
9 these directors and workers the opportunity to bargain with the state  
10 only over the state's support for child care centers, a matter of  
11 common concern to both directors and workers. Specific terms and  
12 conditions of employment at individual centers, which are the subjects  
13 of traditional collective bargaining between employers and their  
14 employees, fall outside the limited scope of bargaining defined by this  
15 act. Accordingly, traditional policy concerns over supervisors and  
16 employees being organized into a common bargaining unit are  
17 inapplicable. Sharing a community of interest in the subjects of  
18 bargaining enables directors and workers to work side by side in the  
19 same bargaining unit for common goals.

20 All child care center directors and workers will equally be able to  
21 maintain full membership in the organization that represents them in  
22 their efforts to improve the quality of child care they provide to the  
23 state's children. This new bargaining relationship does not intrude in  
24 any manner upon those relationships governed by the national labor  
25 relations act (29 U.S.C. Sec. 151 et seq). Child care center directors  
26 and workers do not forfeit their rights under the national labor  
27 relations act by becoming members of an organization that represents  
28 them in their dealings with the state. Under the national labor  
29 relations act, an organization that represents child care center  
30 directors and workers in bargaining with the state under this act is  
31 precluded from representing workers seeking to engage in traditional  
32 collective bargaining with their employer over specific terms and  
33 conditions of employment at individual child care centers.

34 Nothing in this act is intended to create any unfunded mandates or  
35 financial obligations on child care centers covered by this act.

36 **Sec. 2.** RCW 41.56.028 and 2007 c 278 s 2 are each amended to read  
37 as follows:

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

11 (2) This chapter governs the collective bargaining relationship  
12 between the governor and family child care providers and between the  
13 governor and child care center directors and workers, except as  
14 follows:

15 (a) (~~A statewide unit of all family child care providers is~~) The  
16 only units appropriate for purposes of collective bargaining under RCW  
17 41.56.060 are:

18 (i) A statewide unit for family child care providers; and

19 (ii) The units for child care center directors and workers  
20 determined by the commission which shall conform to the unit requested  
21 in the application for certification as the bargaining representative  
22 if consistent with the terms of this act. In determining the units,  
23 the commission shall include in the same unit all child care center  
24 directors and workers employed at child care centers located in  
25 department of social and health services regions existing on the  
26 effective date of this section, and may group together regions to  
27 minimize the number of units.

28 (b) The exclusive bargaining representative of family child care  
29 providers or of child care center directors and workers in the units  
30 specified in (a) of this subsection shall be the representative chosen  
31 in an election conducted pursuant to RCW 41.56.070, except that:

32 (i) In the initial election conducted under chapter 54, Laws of  
33 2006, or this act, if more than one labor organization is on the ballot  
34 and none of the choices receives a majority of the votes cast, a  
35 run-off election shall be held; and

36 (ii) To show at least thirty percent representation within a unit  
37 to accompany a request for an initial election under this act, the

1 written proof of representation is valid only if collected not more  
2 than two years prior to the date the request is filed with the  
3 commission.

4 (c) For the exclusive bargaining representatives certified by the  
5 commission to represent units of child care center directors and  
6 workers, negotiations of a collective bargaining agreement shall be  
7 conducted jointly by all certified representatives. The  
8 representatives shall bargain for one collective bargaining agreement  
9 covering all of the represented child care center directors and  
10 workers.

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

23 ((+d)) (ii) Notwithstanding the definition of "collective  
24 bargaining" in RCW 41.56.030(4), the matters subject to bargaining  
25 under this section shall be within the purview of the state and within  
26 the community of interest of child care center directors and workers.  
27 The public employer is: (A) Required to bargain over the manner and  
28 rate of subsidy and reimbursement, including quality incentives; (B)  
29 permitted, but not required, to bargain over: (I) Funding for  
30 professional development and training; (II) mechanisms and funding to  
31 improve the access of child care centers to health care insurance and  
32 other benefit programs; (III) other economic support for child care  
33 centers; and (IV) grievance procedures to resolve disputes arising out  
34 of the interpretation or application of the collective bargaining  
35 agreement; and (C) prohibited from bargaining over retirement benefits.  
36 By such obligation neither party shall be compelled to agree to a  
37 proposal or be required to make a concession unless otherwise provided  
38 in this chapter.

1       (e) The mediation and interest arbitration provisions of RCW  
2 41.56.430 through 41.56.470 and 41.56.480 apply, except that:

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

10       (ii) The decision of the arbitration panel is not binding on the  
11 legislature and, if the legislature does not approve the request for  
12 funds necessary to implement the compensation and benefit provisions of  
13 ~~((the))~~ an arbitrated collective bargaining agreement for family child  
14 care providers or an arbitrated collective bargaining agreement for  
15 child care center directors and workers, is not binding on the state.

16       ~~((e))~~ (f) Nothing in chapter 54, Laws of 2006, or this act grants  
17 family child care providers ~~((do not have))~~ and child care center  
18 directors and workers the right to strike.

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

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

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

31       (b) The child care centers' right to choose, direct, and terminate  
32 the services of any child care worker who provides care in the center,  
33 and unless otherwise provided in this chapter, to manage and operate  
34 facilities and programs, including rights to plan, direct, and control  
35 the use of resources;

36       (c) The rights of employers and employees under the national labor  
37 relations act, 29 U.S.C. Sec. 151 et seq.;

1        (d) The secretary of the department of social and health services'  
2 right to adopt requirements under RCW 74.15.030, except for  
3 requirements related to grievance procedures and collective  
4 negotiations on personnel matters as specified in subsection (2)~~((e))~~  
5 (d) of this section;

6        ~~((e))~~ (e) Chapter 26.44 RCW, RCW 43.43.832, 43.20A.205, and  
7 74.15.130; and

8        ~~((d))~~ (f) The legislature's right to make programmatic  
9 modifications to the delivery of state services through child care  
10 subsidy programs, including standards of eligibility of parents, legal  
11 guardians, ~~((and))~~ family child care providers and child care centers  
12 participating in child care subsidy programs, ((and)) the nature of  
13 services provided, and the right to determine standards for  
14 professional development and training, quality criteria, or ratings  
15 through programs such as a quality rating system. The governor shall  
16 not enter into, extend, or renew any agreement under this section that  
17 does not expressly reserve the legislative rights described in this  
18 subsection (4)~~((d))~~ (f).

19        (5) Upon meeting the requirements of subsection (6) of this  
20 section, the governor must submit, as a part of the proposed biennial  
21 or supplemental operating budget submitted to the legislature under RCW  
22 43.88.030, ~~((a))~~ requests for funds necessary to implement the  
23 compensation and benefit provisions of a collective bargaining  
24 agreement for family child care providers and a collective bargaining  
25 agreement for child care center directors and workers entered into  
26 under this section or for legislation necessary to implement such  
27 agreements.

28        (6) ~~((A))~~ Requests for funds necessary to implement the  
29 compensation and benefit provisions of a collective bargaining  
30 agreement for family child care providers and a collective bargaining  
31 agreement for child care center directors and workers entered into  
32 under this section shall not be submitted by the governor to the  
33 legislature unless such ~~((request has))~~ requests have been:

34        (a) Submitted to the director of financial management by October  
35 1st before the legislative session at which the request is to be  
36 considered, except that, for initial negotiations under this section  
37 for family child care providers, the request must be submitted by

1 November 15, 2006, and for child care center directors and workers, the  
2 request may not be submitted before July 1, 2010; and

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

6 (7) The legislature must approve or reject the submission of the  
7 requests for funds as a whole. If the legislature rejects or fails to  
8 act on the submissions, any such agreements will be reopened solely for  
9 the purpose of renegotiating the funds necessary to implement the  
10 agreements.

11 (8) The governor shall periodically consult with the joint  
12 committee on employment relations established by RCW 41.80.010  
13 regarding appropriations necessary to implement the compensation and  
14 benefit provisions of ~~((any))~~ a collective bargaining agreement for  
15 family child care providers and a collective bargaining agreement for  
16 child care center directors and workers and, upon completion of  
17 negotiations, advise the committee on the elements of the agreements  
18 and on any legislation necessary to implement such agreements.

19 (9) After the expiration date of any collective bargaining  
20 agreement entered into under this section, all of the terms and  
21 conditions specified in any such agreement remain in effect until the  
22 effective date of a subsequent agreement, not to exceed one year from  
23 the expiration date stated in the agreement, except as provided in  
24 subsection (4)~~((d))~~ (f) of this section.

25 (10) If, after the compensation and benefit provisions of ~~((an))~~ a  
26 collective bargaining agreement for family child care providers or for  
27 a collective bargaining agreement for child care center directors and  
28 workers are approved by the legislature, a significant revenue  
29 shortfall occurs resulting in reduced appropriations, as declared by  
30 proclamation of the governor or by resolution of the legislature, both  
31 parties shall immediately enter into collective bargaining for a  
32 mutually agreed upon modification of the agreement.

33 (11) In enacting this section, the legislature intends to provide  
34 state action immunity under federal and state antitrust laws for the  
35 joint activities of family child care providers and their exclusive  
36 bargaining representative and of child care center directors and  
37 workers and their exclusive bargaining representatives to the extent  
38 such activities are authorized by this chapter.

1       **Sec. 3.** RCW 41.56.030 and 2007 c 184 s 2 are each amended to read  
2 as follows:

3       As used in this chapter:

4       (1) "Public employer" means any officer, board, commission,  
5 council, or other person or body acting on behalf of any public body  
6 governed by this chapter, or any subdivision of such public body. For  
7 the purposes of this section, the public employer of district court or  
8 superior court employees for wage-related matters is the respective  
9 county legislative authority, or person or body acting on behalf of the  
10 legislative authority, and the public employer for nonwage-related  
11 matters is the judge or judge's designee of the respective district  
12 court or superior court.

13       (2) "Public employee" means any employee of a public employer  
14 except any person (a) elected by popular vote, or (b) appointed to  
15 office pursuant to statute, ordinance or resolution for a specified  
16 term of office as a member of a multimember board, commission, or  
17 committee, whether appointed by the executive head or body of the  
18 public employer, or (c) whose duties as deputy, administrative  
19 assistant or secretary necessarily imply a confidential relationship to  
20 (i) the executive head or body of the applicable bargaining unit, or  
21 (ii) any person elected by popular vote, or (iii) any person appointed  
22 to office pursuant to statute, ordinance or resolution for a specified  
23 term of office as a member of a multimember board, commission, or  
24 committee, whether appointed by the executive head or body of the  
25 public employer, or (d) who is a court commissioner or a court  
26 magistrate of superior court, district court, or a department of a  
27 district court organized under chapter 3.46 RCW, or (e) who is a  
28 personal assistant to a district court judge, superior court judge, or  
29 court commissioner. For the purpose of (e) of this subsection, no more  
30 than one assistant for each judge or commissioner may be excluded from  
31 a bargaining unit.

32       (3) "Bargaining representative" means any lawful organization which  
33 has as one of its primary purposes the representation of employees in  
34 their employment relations with employers.

35       (4) "Collective bargaining" means the performance of the mutual  
36 obligations of the public employer and the exclusive bargaining  
37 representative to meet at reasonable times, to confer and negotiate in  
38 good faith, and to execute a written agreement with respect to



1 grievance procedures and collective negotiations on personnel matters,  
2 including wages, hours and working conditions, which may be peculiar to  
3 an appropriate bargaining unit of such public employer, except that by  
4 such obligation neither party shall be compelled to agree to a proposal  
5 or be required to make a concession unless otherwise provided in this  
6 chapter.

7 (5) "Commission" means the public employment relations commission.

8 (6) "Executive director" means the executive director of the  
9 commission.

10 (7) "Uniformed personnel" means: (a) Law enforcement officers as  
11 defined in RCW 41.26.030 employed by the governing body of any city or  
12 town with a population of two thousand five hundred or more and law  
13 enforcement officers employed by the governing body of any county with  
14 a population of ten thousand or more; (b) correctional employees who  
15 are uniformed and nonuniformed, commissioned and noncommissioned  
16 security personnel employed in a jail as defined in RCW 70.48.020(5),  
17 by a county with a population of seventy thousand or more, and who are  
18 trained for and charged with the responsibility of controlling and  
19 maintaining custody of inmates in the jail and safeguarding inmates  
20 from other inmates; (c) general authority Washington peace officers as  
21 defined in RCW 10.93.020 employed by a port district in a county with  
22 a population of one million or more; (d) security forces established  
23 under RCW 43.52.520; (e) firefighters as that term is defined in RCW  
24 41.26.030; (f) employees of a port district in a county with a  
25 population of one million or more whose duties include crash fire  
26 rescue or other fire fighting duties; (g) employees of fire departments  
27 of public employers who dispatch exclusively either fire or emergency  
28 medical services, or both; or (h) employees in the several classes of  
29 advanced life support technicians, as defined in RCW 18.71.200, who are  
30 employed by a public employer.

31 (8) "Institution of higher education" means the University of  
32 Washington, Washington State University, Central Washington University,  
33 Eastern Washington University, Western Washington University, The  
34 Evergreen State College, and the various state community colleges.

35 (9) "Home care quality authority" means the authority under chapter  
36 74.39A RCW.

37 (10) "Individual provider" means an individual provider as defined

1 in RCW 74.39A.240(4) who, solely for the purposes of collective  
2 bargaining, is a public employee as provided in RCW 74.39A.270.

3 (11) "Child care subsidy" means a payment from the state through a  
4 child care subsidy program established pursuant to RCW 74.12.340 or  
5 74.08A.340, 45 C.F.R. Sec. 98.1 through 98.17, or any successor  
6 program.

7 (12) "Family child care provider" means a person who: (a) Provides  
8 regularly scheduled care for a child or children in the home of the  
9 provider or in the home of the child or children for periods of less  
10 than twenty-four hours or, if necessary due to the nature of the  
11 parent's work, for periods equal to or greater than twenty-four hours;  
12 (b) receives child care subsidies; and (c) is either licensed by the  
13 state under RCW 74.15.030 or is exempt from licensing under chapter  
14 74.15 RCW.

15 (13) "Adult family home provider" means a provider as defined in  
16 RCW 70.128.010 who receives payments from the medicaid and state-funded  
17 long-term care programs.

18 (14) "Child care center directors and workers" includes all  
19 employees of child care centers who work on-site at the centers.  
20 "Child care center directors and workers" also includes owners of child  
21 care centers who work on-site at the centers.

22 (15)(a) "Child care center" means a child care center licensed by  
23 the state under RCW 74.15.030 that has at least four children for whom  
24 it receives a child care subsidy.

25 (b) "Child care center" does not include a child care center:

26 (i) Operated directly by another unit of government or a tribe;

27 (ii) Operated by an individual, partnership, profit or nonprofit  
28 corporation, or other entity that operates ten or more child care  
29 centers statewide; or

30 (iii) Operated by a local nonprofit organization whose primary  
31 mission is to provide social services, including serving children and  
32 families, and that pays membership dues or assessments to either: (A)  
33 A national organization, exempt from income tax under section 501(c)(3)  
34 of the internal revenue code, with more than three million dollars in  
35 membership dues and assessments annually, as reported to the internal  
36 revenue service; or (B) a regional council that is affiliated with a  
37 national organization, exempt from income tax under section 501(c)(3)  
38 of the internal revenue code, with more than two hundred affiliates.

1       **Sec. 4.** RCW 41.56.113 and 2007 c 184 s 3 are each amended to read  
2 as follows:

3       (1) Upon the written authorization of an individual provider, a  
4 family child care provider, or an adult family home provider within the  
5 bargaining unit and after the certification or recognition of the  
6 bargaining unit's exclusive bargaining representative, the state as  
7 payor, but not as the employer, shall, subject to subsection (~~((3))~~)  
8 (4) of this section, deduct from the payments to an individual  
9 provider, a family child care provider, or an adult family home  
10 provider the monthly amount of dues as certified by the secretary of  
11 the exclusive bargaining representative and shall transmit the same to  
12 the treasurer of the exclusive bargaining representative.

13       (2) If the governor and the exclusive bargaining representative of  
14 a bargaining unit of individual providers, family child care providers,  
15 or adult family home providers enter into a collective bargaining  
16 agreement that:

17       (a) Includes a union security provision authorized in RCW  
18 41.56.122, the state as payor, but not as the employer, shall, subject  
19 to subsection (~~((3))~~) (4) of this section, enforce the agreement by  
20 deducting from the payments to bargaining unit members the dues  
21 required for membership in the exclusive bargaining representative, or,  
22 for nonmembers thereof, a fee equivalent to the dues; or

23       (b) Includes requirements for deductions of payments other than the  
24 deduction under (a) of this subsection, the state, as payor, but not as  
25 the employer, shall, subject to subsection (~~((3))~~) (4) of this section,  
26 make such deductions upon written authorization of the individual  
27 provider, family child care provider, or adult family home provider.

28       (3) In lieu of the deductions authorized under subsections (1) and  
29 (2) of this section, and the union security provisions authorized under  
30 RCW 41.56.122, the governor and the exclusive representative of a  
31 bargaining unit of child care center directors and workers shall agree  
32 to a representation fee to be paid to the exclusive representative for  
33 the costs of representation of child care center directors and workers  
34 as provided in this chapter. The state shall deduct the representation  
35 fee from the monthly amount of the child care subsidy due to a child  
36 care center and transmit the representation fee to the secretary of the  
37 exclusive bargaining representative. However:

1       (a) Any agreement to pay a representation fee must safeguard the  
2 child care center owner's and operator's rights of nonassociation based  
3 on bona fide religious tenets or teachings of a church or other  
4 religious body of which the owner or operator is a member. The child  
5 care center owner or operator shall pay an amount equivalent to the  
6 representation fee to a nonreligious charity or to another charitable  
7 organization;

8       (b) The child care center shall furnish written proof that such  
9 payment has been made.

10       (4)(a) The initial additional costs to the state in making  
11 deductions (~~((from the payments to individual providers, family child~~  
12 ~~care providers, and adult family home providers))~~) under this section  
13 shall be negotiated, agreed upon in advance, and reimbursed to the  
14 state by the exclusive bargaining representative.

15       (b) The allocation of ongoing additional costs to the state in  
16 making deductions (~~((from the payments to individual providers, family~~  
17 ~~child care providers, or adult family home providers))~~) under this  
18 section shall be an appropriate subject of collective bargaining  
19 between the exclusive bargaining representative and the governor unless  
20 prohibited by another statute. If no collective bargaining agreement  
21 containing a provision allocating the ongoing additional cost is  
22 entered into between the exclusive bargaining representative and the  
23 governor, or if the legislature does not approve funding for the  
24 collective bargaining agreement as provided in RCW 74.39A.300,  
25 41.56.028, or 41.56.029, as applicable, the ongoing additional costs to  
26 the state in making deductions (~~((from the payments to individual~~  
27 ~~providers, family child care providers, or adult family home~~  
28 ~~providers))~~) under this section shall be negotiated, agreed upon in  
29 advance, and reimbursed to the state by the exclusive bargaining  
30 representative.

31       ~~((+4))~~ (5) The governor and the exclusive bargaining  
32 representative of a bargaining unit of family child care providers may  
33 not enter into a collective bargaining agreement that contains a union  
34 security provision unless the agreement contains a process, to be  
35 administered by the exclusive bargaining representative of a bargaining  
36 unit of family child care providers, for hardship dispensation for  
37 license- exempt family child care providers who are also temporary  
38 assistance for needy families recipients or WorkFirst participants.

1       **Sec. 5.** RCW 41.56.465 and 2007 c 278 s 1 are each amended to read  
2 as follows:

3       (1) In making its determination, the panel shall be mindful of the  
4 legislative purpose enumerated in RCW 41.56.430 and, as additional  
5 standards or guidelines to aid it in reaching a decision, the panel  
6 shall consider:

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

8       (b) Stipulations of the parties;

9       (c) The average consumer prices for goods and services, commonly  
10 known as the cost of living;

11       (d) Changes in any of the circumstances under (a) through (c) of  
12 this subsection during the pendency of the proceedings; and

13       (e) Such other factors, not confined to the factors under (a)  
14 through (d) of this subsection, that are normally or traditionally  
15 taken into consideration in the determination of wages, hours, and  
16 conditions of employment. For those employees listed in RCW  
17 41.56.030(7)(a) who are employed by the governing body of a city or  
18 town with a population of less than fifteen thousand, or a county with  
19 a population of less than seventy thousand, consideration must also be  
20 given to regional differences in the cost of living.

21       (2) For employees listed in RCW 41.56.030(7) (a) through (d), the  
22 panel shall also consider a comparison of the wages, hours, and  
23 conditions of employment of personnel involved in the proceedings with  
24 the wages, hours, and conditions of employment of like personnel of  
25 like employers of similar size on the west coast of the United States.

26       (3) For employees listed in RCW 41.56.030(7) (e) through (h), the  
27 panel shall also consider a comparison of the wages, hours, and  
28 conditions of employment of personnel involved in the proceedings with  
29 the wages, hours, and conditions of employment of like personnel of  
30 public fire departments of similar size on the west coast of the United  
31 States. However, when an adequate number of comparable employers  
32 exists within the state of Washington, other west coast employers may  
33 not be considered.

34       (4) For (~~employees~~) family child care providers listed in RCW  
35 41.56.028:

36       (a) The panel shall also consider:

37       (i) A comparison of child care provider subsidy rates and

1 reimbursement programs by public entities, including counties and  
2 municipalities, along the west coast of the United States; and

3 (ii) The financial ability of the state to pay for the compensation  
4 and benefit provisions of a collective bargaining agreement; and

5 (b) The panel may consider:

6 (i) The public's interest in reducing turnover and increasing  
7 retention of child care providers;

8 (ii) The state's interest in promoting, through education and  
9 training, a stable child care workforce to provide quality and reliable  
10 child care from all providers throughout the state; and

11 (iii) In addition, for employees exempt from licensing under  
12 chapter 74.15 RCW, the state's fiscal interest in reducing reliance  
13 upon public benefit programs including but not limited to medical  
14 coupons, food stamps, subsidized housing, and emergency medical  
15 services.

16 (5) For child care center directors and workers listed in RCW  
17 41.56.028, the panel shall also consider:

18 (a) A comparison of child care provider subsidy rates and  
19 reimbursement programs by public entities, including counties and  
20 municipalities, along the west coast of the United States; and

21 (b) The financial ability of the state to pay for a collective  
22 bargaining agreement.

23 (6) For employees listed in RCW 74.39A.270:

24 (a) The panel shall consider:

25 (i) A comparison of wages, hours, and conditions of employment of  
26 publicly reimbursed personnel providing similar services to similar  
27 clients, including clients who are elderly, frail, or have  
28 developmental disabilities, both in the state and across the United  
29 States; and

30 (ii) The financial ability of the state to pay for the compensation  
31 and fringe benefit provisions of a collective bargaining agreement; and

32 (b) The panel may consider:

33 (i) A comparison of wages, hours, and conditions of employment of  
34 publicly employed personnel providing similar services to similar  
35 clients, including clients who are elderly, frail, or have  
36 developmental disabilities, both in the state and across the United  
37 States;

1 (ii) The state's interest in promoting a stable long-term care  
2 workforce to provide quality and reliable care to vulnerable elderly  
3 and disabled recipients;

4 (iii) The state's interest in ensuring access to affordable,  
5 quality health care for all state citizens; and

6 (iv) The state's fiscal interest in reducing reliance upon public  
7 benefit programs including but not limited to medical coupons, food  
8 stamps, subsidized housing, and emergency medical services.

9 ((+6)) (7) Subsections (2) and (3) of this section may not be  
10 construed to authorize the panel to require the employer to pay,  
11 directly or indirectly, the increased employee contributions resulting  
12 from chapter 502, Laws of 1993 or chapter 517, Laws of 1993 as required  
13 under chapter 41.26 RCW.

14 **Sec. 6.** RCW 41.04.810 and 2007 c 184 s 4 are each amended to read  
15 as follows:

16 Individual providers, as defined in RCW 74.39A.240, family child  
17 care providers, as defined in RCW 41.56.030, child care center  
18 directors and workers, as defined in RCW 41.56.030, and adult family  
19 home providers, as defined in RCW 41.56.030, are not employees of the  
20 state or any of its political subdivisions and are specifically and  
21 entirely excluded from all provisions of this title, except as provided  
22 in RCW 74.39A.270, 41.56.028, and 41.56.029.

23 **Sec. 7.** RCW 43.01.047 and 2007 c 184 s 5 are each amended to read  
24 as follows:

25 RCW 43.01.040 through 43.01.044 do not apply to individual  
26 providers under RCW 74.39A.220 through 74.39A.300, family child care  
27 providers under RCW 41.56.028, child care center directors and workers  
28 under RCW 41.56.028, or adult family home providers under RCW  
29 41.56.029.

30 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.215 RCW  
31 to read as follows:

32 (1) Every child care center shall provide to the department a list  
33 of the names and addresses of all current child care center directors  
34 and workers, as defined in RCW 41.56.030, annually by January 30th,

1 except that initially the lists shall be provided within thirty days of  
2 the effective date of this section.

3 (2) The department shall, upon request, provide to a labor  
4 organization seeking to organize child care center directors and  
5 workers, a list of all directors and workers in the unit that the  
6 organization seeks to organize. The list shall contain the information  
7 collected with regard to the directors and workers pursuant to  
8 subsection (1) of this section.

9 (3) A labor organization receiving information under subsection (2)  
10 of this section may not release that information to any other party and  
11 may only use that information for collective bargaining and for the  
12 purposes specified in subsection (2) of this section.

13 NEW SECTION. **Sec. 9.** A new section is added to chapter 74.08A RCW  
14 to read as follows:

15 The department shall adjust the rates of child care subsidies, as  
16 defined in RCW 41.56.030, paid to all child care centers located in a  
17 department of social and health services region to reflect the rate  
18 provisions in a collective bargaining agreement for child care center  
19 directors and workers employed at child care centers located in the  
20 same region that was negotiated under RCW 41.56.028 and funded by the  
21 legislature.

22 NEW SECTION. **Sec. 10.** A new section is added to chapter 74.12 RCW  
23 to read as follows:

24 The department shall adjust the rates of child care subsidies, as  
25 defined in RCW 41.56.030, paid to all child care centers located in a  
26 department of social and health services region to reflect the rate  
27 provisions in a collective bargaining agreement for child care center  
28 directors and workers employed at child care centers located in the  
29 same region that was negotiated under RCW 41.56.028 and funded by the  
30 legislature.

31 **Sec. 11.** RCW 43.215.010 and 2007 c 415 s 2 and 2007 c 394 s 2 are  
32 each reenacted and amended to read as follows:

33 The definitions in this section apply throughout this chapter  
34 unless the context clearly requires otherwise.



1 (1) "Agency" means any person, firm, partnership, association,  
2 corporation, or facility that provides child care and early learning  
3 services outside a child's own home and includes the following  
4 irrespective of whether there is compensation to the agency:

5 (a) "Child day care center" means an agency that regularly provides  
6 child day care and early learning services for a group of children for  
7 periods of less than twenty-four hours;

8 (b) "Early learning" includes but is not limited to programs and  
9 services for child care; state, federal, private, and nonprofit  
10 preschool; child care subsidies; child care resource and referral;  
11 parental education and support; and training and professional  
12 development for early learning professionals;

13 (c) "Family day care provider" means a child day care provider who  
14 regularly provides child day care and early learning services for not  
15 more than twelve children in the provider's home in the family living  
16 quarters;

17 (d) "Nongovernmental private-public partnership" means an entity  
18 registered as a nonprofit corporation in Washington state with a  
19 primary focus on early learning, school readiness, and parental  
20 support, and an ability to raise a minimum of five million dollars in  
21 contributions;

22 (e) "Service provider" means the entity that operates a community  
23 facility.

24 (2) "Agency" does not include the following:

25 (a) Persons related to the child in the following ways:

26 (i) Any blood relative, including those of half-blood, and  
27 including first cousins, nephews or nieces, and persons of preceding  
28 generations as denoted by prefixes of grand, great, or great-great;

29 (ii) Stepfather, stepmother, stepbrother, and stepsister;

30 (iii) A person who legally adopts a child or the child's parent as  
31 well as the natural and other legally adopted children of such persons,  
32 and other relatives of the adoptive parents in accordance with state  
33 law; or

34 (iv) Spouses of any persons named in (i), (ii), or (iii) of this  
35 subsection (2)(a), even after the marriage is terminated;

36 (b) Persons who are legal guardians of the child;

37 (c) Persons who care for a neighbor's or friend's child or  
38 children, with or without compensation, where the person providing care

1 for periods of less than twenty-four hours does not conduct such  
2 activity on an ongoing, regularly scheduled basis for the purpose of  
3 engaging in business, which includes, but is not limited to,  
4 advertising such care;

5 (d) Parents on a mutually cooperative basis exchange care of one  
6 another's children;

7 (e) Nursery schools or kindergartens that are engaged primarily in  
8 educational work with preschool children and in which no child is  
9 enrolled on a regular basis for more than four hours per day;

10 (f) Schools, including boarding schools, that are engaged primarily  
11 in education, operate on a definite school year schedule, follow a  
12 stated academic curriculum, accept only school-age children, and do not  
13 accept custody of children;

14 (g) Seasonal camps of three months' or less duration engaged  
15 primarily in recreational or educational activities;

16 (h) Facilities providing care to children for periods of less than  
17 twenty-four hours whose parents remain on the premises to participate  
18 in activities other than employment;

19 (i) Any agency having been in operation in this state ten years  
20 before June 8, 1967, and not seeking or accepting moneys or assistance  
21 from any state or federal agency, and is supported in part by an  
22 endowment or trust fund;

23 (j) An agency operated by any unit of local, state, or federal  
24 government or an agency, located within the boundaries of a federally  
25 recognized Indian reservation, licensed by the Indian tribe;

26 (k) An agency located on a federal military reservation, except  
27 where the military authorities request that such agency be subject to  
28 the licensing requirements of this chapter;

29 (l) An agency that offers early learning and support services, such  
30 as parent education, and does not provide child care services on a  
31 regular basis.

32 (3) "Applicant" means a person who requests or seeks employment in  
33 an agency.

34 (4) "Child care center directors and workers" means the same as in  
35 RCW 41.56.030.

36 (5) "Department" means the department of early learning.

37 ((+5)) (6) "Director" means the director of the department.

1        ~~((+6))~~ (7) "Employer" means a person or business that engages the  
2 services of one or more people, especially for wages or salary to work  
3 in an agency.

4        ~~((+7))~~ (8) "Enforcement action" means denial, suspension,  
5 revocation, modification, or nonrenewal of a license pursuant to RCW  
6 43.215.300(1) or assessment of civil monetary penalties pursuant to RCW  
7 43.215.300(3).

8        ~~((+8))~~ (9) "Family child care licensee" means a person who: (a)  
9 Provides regularly scheduled care for a child or children in the home  
10 of the provider for periods of less than twenty-four hours or, if  
11 necessary due to the nature of the parent's work, for periods equal to  
12 or greater than twenty-four hours; (b) does not receive child care  
13 subsidies; and (c) is licensed by the state under RCW 43.215.200.

14        (10) "Probationary license" means a license issued as a  
15 disciplinary measure to an agency that has previously been issued a  
16 full license but is out of compliance with licensing standards.

17        ~~((+9))~~ (11) "Requirement" means any rule, regulation, or standard  
18 of care to be maintained by an agency.

19        **Sec. 12.** RCW 43.215.350 and 2007 c 17 s 15 are each amended to  
20 read as follows:

21        The director shall have the power and it shall be the director's  
22 duty to engage in negotiated rule making pursuant to RCW  
23 34.05.310(2)(a) with:

24        (1) The exclusive representative of the unit of family child care  
25 licensees selected in accordance with RCW 43.215.355 and with other  
26 affected interests before adopting requirements that affect family  
27 child care licensees; and

28        (2) The exclusive representative or representatives of the unit or  
29 units of child care center directors and workers selected in accordance  
30 with RCW 41.56.028 and with other affected interests before adopting  
31 requirements that affect child care center directors and workers.

32        **Sec. 13.** RCW 74.15.020 and 2007 c 412 s 1 are each amended to read  
33 as follows:

34        For the purpose of this chapter and RCW 74.13.031, and unless  
35 otherwise clearly indicated by the context thereof, the following terms  
36 shall mean:

1           (1) "Agency" means any person, firm, partnership, association,  
2 corporation, or facility which receives children, expectant mothers, or  
3 persons with developmental disabilities for control, care, or  
4 maintenance outside their own homes, or which places, arranges the  
5 placement of, or assists in the placement of children, expectant  
6 mothers, or persons with developmental disabilities for foster care or  
7 placement of children for adoption, and shall include the following  
8 irrespective of whether there is compensation to the agency or to the  
9 children, expectant mothers or persons with developmental disabilities  
10 for services rendered:

11           (a) "Child-placing agency" means an agency which places a child or  
12 children for temporary care, continued care, or for adoption;

13           (b) "Community facility" means a group care facility operated for  
14 the care of juveniles committed to the department under RCW 13.40.185.  
15 A county detention facility that houses juveniles committed to the  
16 department under RCW 13.40.185 pursuant to a contract with the  
17 department is not a community facility;

18           (c) "Crisis residential center" means an agency which is a  
19 temporary protective residential facility operated to perform the  
20 duties specified in chapter 13.32A RCW, in the manner provided in RCW  
21 74.13.032 through 74.13.036;

22           (d) "Emergency respite center" is an agency that may be commonly  
23 known as a crisis nursery, that provides emergency and crisis care for  
24 up to seventy-two hours to children who have been admitted by their  
25 parents or guardians to prevent abuse or neglect. Emergency respite  
26 centers may operate for up to twenty-four hours a day, and for up to  
27 seven days a week. Emergency respite centers may provide care for  
28 children ages birth through seventeen, and for persons eighteen through  
29 twenty with developmental disabilities who are admitted with a sibling  
30 or siblings through age seventeen. Emergency respite centers may not  
31 substitute for crisis residential centers or HOPE centers, or any other  
32 services defined under this section, and may not substitute for  
33 services which are required under chapter 13.32A or 13.34 RCW;

34           (e) "Foster-family home" means an agency which regularly provides  
35 care on a twenty-four hour basis to one or more children, expectant  
36 mothers, or persons with developmental disabilities in the family abode  
37 of the person or persons under whose direct care and supervision the

1 child, expectant mother, or person with a developmental disability is  
2 placed;

3 (f) "Group-care facility" means an agency, other than a foster-  
4 family home, which is maintained and operated for the care of a group  
5 of children on a twenty-four hour basis;

6 (g) "HOPE center" means an agency licensed by the secretary to  
7 provide temporary residential placement and other services to street  
8 youth. A street youth may remain in a HOPE center for thirty days  
9 while services are arranged and permanent placement is coordinated. No  
10 street youth may stay longer than thirty days unless approved by the  
11 department and any additional days approved by the department must be  
12 based on the unavailability of a long-term placement option. A street  
13 youth whose parent wants him or her returned to home may remain in a  
14 HOPE center until his or her parent arranges return of the youth, not  
15 longer. All other street youth must have court approval under chapter  
16 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

17 (h) "Maternity service" means an agency which provides or arranges  
18 for care or services to expectant mothers, before or during  
19 confinement, or which provides care as needed to mothers and their  
20 infants after confinement;

21 (i) "Responsible living skills program" means an agency licensed by  
22 the secretary that provides residential and transitional living  
23 services to persons ages sixteen to eighteen who are dependent under  
24 chapter 13.34 RCW and who have been unable to live in his or her  
25 legally authorized residence and, as a result, the minor lived outdoors  
26 or in another unsafe location not intended for occupancy by the minor.  
27 Dependent minors ages fourteen and fifteen may be eligible if no other  
28 placement alternative is available and the department approves the  
29 placement;

30 (j) "Service provider" means the entity that operates a community  
31 facility.

32 (2) "Agency" shall not include the following:

33 (a) Persons related to the child, expectant mother, or person with  
34 developmental disability in the following ways:

35 (i) Any blood relative, including those of half-blood, and  
36 including first cousins, second cousins, nephews or nieces, and persons  
37 of preceding generations as denoted by prefixes of grand, great, or  
38 great-great;

- 1 (ii) Stepfather, stepmother, stepbrother, and stepsister;
- 2 (iii) A person who legally adopts a child or the child's parent as  
3 well as the natural and other legally adopted children of such persons,  
4 and other relatives of the adoptive parents in accordance with state  
5 law;
- 6 (iv) Spouses of any persons named in (i), (ii), or (iii) of this  
7 subsection (2)(a), even after the marriage is terminated;
- 8 (v) Relatives, as named in (i), (ii), (iii), or (iv) of this  
9 subsection (2)(a), of any half sibling of the child; or
- 10 (vi) Extended family members, as defined by the law or custom of  
11 the Indian child's tribe or, in the absence of such law or custom, a  
12 person who has reached the age of eighteen and who is the Indian  
13 child's grandparent, aunt or uncle, brother or sister, brother-in-law  
14 or sister-in-law, niece or nephew, first or second cousin, or  
15 stepparent who provides care in the family abode on a twenty-four-hour  
16 basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);
- 17 (b) Persons who are legal guardians of the child, expectant mother,  
18 or persons with developmental disabilities;
- 19 (c) Persons who care for a neighbor's or friend's child or  
20 children, with or without compensation, where the parent and person  
21 providing care on a twenty-four-hour basis have agreed to the placement  
22 in writing and the state is not providing any payment for the care;
- 23 (d) A person, partnership, corporation, or other entity that  
24 provides placement or similar services to exchange students or  
25 international student exchange visitors or persons who have the care of  
26 an exchange student in their home;
- 27 (e) A person, partnership, corporation, or other entity that  
28 provides placement or similar services to international children who  
29 have entered the country by obtaining visas that meet the criteria for  
30 medical care as established by the United States immigration and  
31 naturalization service, or persons who have the care of such an  
32 international child in their home;
- 33 (f) Schools, including boarding schools, which are engaged  
34 primarily in education, operate on a definite school year schedule,  
35 follow a stated academic curriculum, accept only school-age children  
36 and do not accept custody of children;
- 37 (g) Hospitals licensed pursuant to chapter 70.41 RCW when

1 performing functions defined in chapter 70.41 RCW, nursing homes  
2 licensed under chapter 18.51 RCW and boarding homes licensed under  
3 chapter 18.20 RCW;

4 (h) Licensed physicians or lawyers;

5 (i) Facilities approved and certified under chapter 71A.22 RCW;

6 (j) Any agency having been in operation in this state ten years  
7 prior to June 8, 1967, and not seeking or accepting moneys or  
8 assistance from any state or federal agency, and is supported in part  
9 by an endowment or trust fund;

10 (k) Persons who have a child in their home for purposes of  
11 adoption, if the child was placed in such home by a licensed child-  
12 placing agency, an authorized public or tribal agency or court or if a  
13 replacement report has been filed under chapter 26.33 RCW and the  
14 placement has been approved by the court;

15 (l) An agency operated by any unit of local, state, or federal  
16 government or an agency licensed by an Indian tribe pursuant to RCW  
17 74.15.190;

18 (m) A maximum or medium security program for juvenile offenders  
19 operated by or under contract with the department;

20 (n) An agency located on a federal military reservation, except  
21 where the military authorities request that such agency be subject to  
22 the licensing requirements of this chapter.

23 (3) "Department" means the state department of social and health  
24 services.

25 ~~(4) ("Family child care licensee" means a person who: (a)~~  
26 ~~Provides regularly scheduled care for a child or children in the home~~  
27 ~~of the provider for periods of less than twenty four hours or, if~~  
28 ~~necessary due to the nature of the parent's work, for periods equal to~~  
29 ~~or greater than twenty four hours; (b) does not receive child care~~  
30 ~~subsidies; and (c) is licensed by the state under RCW 74.15.030.~~

31 ~~(5))~~ "Juvenile" means a person under the age of twenty-one who has  
32 been sentenced to a term of confinement under the supervision of the  
33 department under RCW 13.40.185.

34 ~~((6))~~ (5) "Probationary license" means a license issued as a  
35 disciplinary measure to an agency that has previously been issued a  
36 full license but is out of compliance with licensing standards.

37 ~~((7))~~ (6) "Requirement" means any rule, regulation, or standard  
38 of care to be maintained by an agency.

1        ~~((+8))~~ (7) "Secretary" means the secretary of social and health  
2 services.

3        ~~((+9))~~ (8) "Street youth" means a person under the age of eighteen  
4 who lives outdoors or in another unsafe location not intended for  
5 occupancy by the minor and who is not residing with his or her parent  
6 or at his or her legally authorized residence.

7        ~~((+10))~~ (9) "Transitional living services" means at a minimum, to  
8 the extent funds are available, the following:

9        (a) Educational services, including basic literacy and  
10 computational skills training, either in local alternative or public  
11 high schools or in a high school equivalency program that leads to  
12 obtaining a high school equivalency degree;

13        (b) Assistance and counseling related to obtaining vocational  
14 training or higher education, job readiness, job search assistance, and  
15 placement programs;

16        (c) Counseling and instruction in life skills such as money  
17 management, home management, consumer skills, parenting, health care,  
18 access to community resources, and transportation and housing options;

19        (d) Individual and group counseling; and

20        (e) Establishing networks with federal agencies and state and local  
21 organizations such as the United States department of labor, employment  
22 and training administration programs including the job training  
23 partnership act which administers private industry councils and the job  
24 corps; vocational rehabilitation; and volunteer programs.

25        NEW SECTION.    **Sec. 14.** If any provision of this act or its  
26 application to any person or circumstance is held invalid, the  
27 remainder of the act or the application of the provision to other  
28 persons or circumstances is not affected.

29        NEW SECTION.    **Sec. 15.** If any part of this act is found to be in  
30 conflict with federal requirements that are a prescribed condition to  
31 the allocation of federal funds to the state, the conflicting part of  
32 this act is inoperative solely to the extent of the conflict and with  
33 respect to the agencies directly affected, and this finding does not  
34 affect the operation of the remainder of this act in its application to  
35 the agencies concerned. Rules adopted under this act must meet federal



1 requirements that are a necessary condition to the receipt of federal  
2 funds by the state.

3 NEW SECTION. **Sec. 16.** This act may be known and cited as the  
4 access to quality child care workforce act.

--- END ---