

HOUSE BILL REPORT

HB 2701

As Reported by House Committee On:
Labor & Workforce Development

Title: An act relating to the governor as the public employer of language access providers.

Brief Description: Regarding the governor as the public employer of language access providers.

Sponsors: Representatives Sells, Green, Appleton, Reykdal, Stanford, Upthegrove, Ormsby and Santos.

Brief History:

Committee Activity:

Labor & Workforce Development: 1/30/12, 1/31/12 [DP].

Brief Summary of Bill

- Provides for collective bargaining under the Public Employees' Collective Bargaining Act between the Governor and a statewide unit of language access providers who provide services for the Department of Labor and Industries.

HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: Do pass. Signed by 8 members: Representatives Sells, Chair; Reykdal, Vice Chair; Green, Kenney, Miloscia, Moeller, Ormsby and Roberts.

Minority Report: Do not pass. Signed by 5 members: Representatives Condotta, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Fagan, Taylor and Warnick.

Staff: Alexa Silver (786-7190).

Background:

Employees of cities, counties, and other political subdivisions of the state bargain their wages and working conditions under the Public Employees' Collective Bargaining Act (PECBA) administered by the Public Employment Relations Commission. Individual providers (home care workers), family child care providers, adult family home providers, and certain language access providers also have collective bargaining rights under the PECBA.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Under the PECBA, the employer and exclusive bargaining representative have a mutual obligation to negotiate in good faith over specified mandatory subjects of bargaining (grievance procedures and personnel matters, including wages, hours, and working conditions). For uniformed personnel, the PECBA recognizes the public policy against strikes as a means of settling labor disputes. To resolve impasses over contract negotiations involving these uniformed personnel, the PECBA requires binding arbitration if negotiations for a contract reach impasse and cannot be resolved through mediation. Language access providers are subject to mediation and binding interest arbitration if an impasse occurs in negotiations.

In 2010 Engrossed Substitute Senate Bill 6726 granted collective bargaining rights under the PECBA to language access providers. "Language access providers" are defined as independent contractors who provide spoken language interpreter services for Department of Social and Health Services (DSHS) appointments or Medicaid enrollee appointments, but not owners, managers, or employees of brokers or language access agencies. Mandatory subjects of bargaining are limited to: (1) economic compensation, such as the manner and rate of payments; (2) professional development and training; (3) labor-management committees; and (4) grievance procedures. Retirement benefits are not subject to collective bargaining.

Summary of Bill:

Collective bargaining rights under the PECBA are granted to language access providers who provide spoken language interpreter services for Department of Labor and Industries (L&I) appointments, or who provided these services on or after January 1, 2011, and before the bill's effective date. Language access providers include any independent contractor who provides these services, whether paid by a language access agency, a broker, or the L&I.

Two statewide bargaining units are defined for language access providers: one unit for those who provide spoken language interpreter services for the L&I, and one unit for those who provide spoken language interpreter services for DSHS appointments and Medicaid enrollee appointments.

Mandatory subjects of bargaining for both units are limited to: (1) economic compensation, including but not limited to the manner and rate of payments, and scheduling and distribution of appointments; (2) health and welfare benefits; (3) professional development and training and certification requirements; (4) labor-management committees; (5) grievance procedures; and (6) complaints against language access providers, including but not limited to corrective actions.

The parties with whom the L&I contracts for language access services must provide the L&I with a list of language access providers within 30 days of the bill's effective date.

A request for funds to implement the collective bargaining agreement must be submitted to the Office of Financial Management by December 1, 2012, for the initial negotiations for L&I language access providers.

The L&I is obligated to comply with the federal statute and regulations. The Legislature has the right to make programmatic modifications to the workers' compensation laws.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Interpreters for the DSHS and Medicaid have collective bargaining rights, and that law is working. Wages have risen a little, and reforms are being implemented to reduce administrative costs. These same issues apply to interpreters in L&I settings. They are at the mercy of for-profit middlemen, who take half of what is paid by the L&I. Schedulers determine who will and will not work. Interpreters work in hospitals with sick people, but have no health insurance. Collective bargaining is the only tool for them to make their voices heard. The bill also amends the scope of bargaining for all interpreters to add scheduling guidelines and a complaint process. The existing language was understood to be flexible enough to cover these issues, but the Labor Relations Office refused to consider them.

(With concerns) This is an expansion of interest arbitration to a nonemployee group, which does not work well, because arbitrators do not recognize the impact of their actions. Expansion to both the DSHS and the L&I will create costs for the state, businesses, and workers. Legislation was passed last year related to medical provider networks, and interpreters would be one of those providers. The network will examine some of the issues within the scope of bargaining in this bill. It is unclear how a collective bargaining agreement could be administered if it covers the same scope of work. Use of the term "appointments" has unintended consequences. There is a concern that the scheduling and distribution of appointments would further complicate the system and increase burdens. Because interpreters are independent contractors, they often opt out of industrial insurance, regardless of the fact that there is workplace risk. A provision should be added to provide that the DSHS and the L&I are not only the employer of record for purposes of collective bargaining, but also for purposes of industrial insurance.

(Opposed) To the extent that collective bargaining leads to increased compensation, benefits, and work rules that increase the cost of medical claims, the business community covers half those costs or more, and self-insureds cover all those costs. To the extent that the bargaining would result in extending the duration of claims, the business community would be paying directly for the increase in time-loss benefits paid during those delays. This bill creates a disincentive for interpreter companies to continue growing and hiring Washington interpreters. It would impact companies' ability to provide services and would increase complexity and costs.

Persons Testifying: (In support) Alfonso Bautista, Department of Labor and Industries; and Dennis Eagle, Washington Federation of State Employees.

(With concerns) Chris Van Dyk, Language Service Provider Referral Services; and Julie Murray, Office of Financial Management.

(Opposed) Andrew Drake, In Demand Interpretation; and Kris Tefft, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.