
Ways & Means Committee

HB 2830

Brief Description: Addressing language access providers.

Sponsors: Representative Hunter; by request of Governor Gregoire.

Brief Summary of Bill

- Provides for collective bargaining under the Public Employees' Collective Bargaining Act (PECBA) between the Governor and language access providers who provide services for Department of Labor and Industries medical appointments beginning in 2014.
- Excludes interpreters in legal proceedings and the Medicaid Administrative Match program from the PECBA.

Hearing Date: 4/4/12

Staff: Alexa Silver (786-7190) and Erik Cornellier (786-7116).

Background:

Collective Bargaining Rights of Language Access Providers.

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 (PERC). 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.

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

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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 (ESSB) 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.

Following the enactment of ESSB 6726, a dispute arose regarding the eligibility of two categories of interpreters: interpreters in the Medicaid Administrative Match (MAM) program and interpreters who work in legal settings. The PERC determined in November 2011 that the statewide unit of language access providers under the PECBA includes interpreters who work in the MAM program, as well as those who work in legal settings.

Interpreters in the MAM Program.

The MAM program provides matching federal funds to local health jurisdictions, public hospitals, schools, and tribes that provide outreach to Medicaid recipients. The federal government provides matching funds to the local entity through the Health Care Authority, the designated state Medicaid agency. The MAM program covers costs for indirect medical services, including interpreter services. Public hospitals and local health jurisdictions may have interpreters on staff or may contract with language access agencies for interpreter services.

Interpreters in Legal Proceedings.

When an interpreter is appointed to assist in a legal proceeding, the entity that appointed the interpreter, whether it is a court, state agency, or other governmental entity, must appoint a certified or qualified interpreter. The cost of providing an interpreter in legal proceedings is borne by the governmental entity that initiated the proceedings if the non-English-speaking person is a party or is compelled to appear. Subject to the availability of appropriated funds, the Administrative Office of the Courts must reimburse the governmental entity for up to half the cost of providing an interpreter under certain circumstances.

The DSHS, with the assistance of the Office of the Attorney General (AGO), initiates dependency proceedings, for which it must provide interpreters. Depending on the county, interpreters in dependency proceedings may be arranged for and paid by the DSHS, the AGO, or the court.

The DSHS is separately required to provide interpreters for non-English-speaking applicants and recipients. The agency certifies, authorizes, and qualifies language access providers to maintain an adequate pool.

Summary of Bill:

Collective Bargaining Rights of Language Access Providers.

Collective bargaining rights under the Public Employees' Collective Bargaining Act (PECBA) are granted to language access providers who provide spoken interpreter services for Department of Labor & Industries (L&I) medical appointments. This does not include legal proceedings of any nature, including criminal, civil, or administrative proceedings.

Two separate statewide bargaining units are created for language access providers: one unit for L&I interpreters and one unit for Department of Social and Health Services (DSHS) and Medicaid interpreters. If one exclusive bargaining representative represents both units, then one agreement must be negotiated on behalf of all language access providers in both units.

The parties with whom the L&I contracts for language access services must provide a list of language access providers to the L&I within 30 days of July 1, 2013. The Public Employment Relations Commission (PERC) may not certify the L&I bargaining unit before July 1, 2013.

For initial negotiations for the L&I bargaining unit, a request for funds to implement the collective bargaining agreement must be submitted to the Office of Financial Management no earlier than July 1, 2014.

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

Interpreters in Legal Proceedings and the Medicaid Administrative Match Program.

For purposes of both the collective bargaining rights of language access providers and the requirement that the DSHS provide and certify language access providers, "language access provider" does not include an interpreter appointed or required in legal proceedings or an interpreter under the Medicaid Administrative Match (MAM) program. "DSHS appointments" do not include legal proceedings of any nature, including criminal, civil, or administrative proceedings. "Medicaid enrollee appointments" do not include MAM appointments or any other service provided pursuant to the MAM program.

Retroactivity.

These changes apply both prospectively and retroactively.

Appropriation: None.

Fiscal Note: Requested on April 2, 2012.

Effective Date: The bill contains an emergency clause and takes effect immediately.