
ENGROSSED SUBSTITUTE HOUSE BILL 1753

State of Washington

63rd Legislature

2013 Regular Session

By House Government Operations & Elections (originally sponsored by Representatives Jinkins, Hunt, Cody, Goodman, Freeman, Stanford, Fitzgibbon, Bergquist, Sawyer, Green, Ryu, Hope, Moscoso, Lias, Haler, Hudgins, Sullivan, Appleton, and Pollet)

READ FIRST TIME 02/22/13.

1 AN ACT Relating to interpreter services; amending RCW 41.56.030 and
2 41.56.510; adding new sections to chapter 39.26 RCW; and creating new
3 sections.

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

5 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
6 procure spoken language interpreter services directly from language
7 access providers through the use of scheduling and billing software or
8 through contracts with scheduling and coordinating organizations,
9 thereby reducing administrative costs while protecting consumers. The
10 legislature further intends to institute quality controls by
11 establishing an advisory group to advise state agencies on the
12 qualifications, training, and education of spoken language interpreters
13 for state certification. The legislature further intends to exclude
14 interpreter services for sensory impaired persons from the provisions
15 of this act.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 39.26 RCW
17 to read as follows:

18 (1) The department of social and health services and the health

1 care authority are each authorized to purchase interpreter services on
2 behalf of limited-English speaking applicants and recipients of public
3 assistance.

4 (2) The department of labor and industries is authorized to
5 purchase interpreter services for medical and vocational providers
6 authorized to provide services to limited-English speaking injured
7 workers or crime victims.

8 (3) No later than September 1, 2015, the department of social and
9 health services, the health care authority, and the department of labor
10 and industries must each purchase spoken language interpreter services
11 directly from language access providers through no more than three
12 contracts with scheduling and coordinating organizations. Each of the
13 departments must be able to provide spoken language interpreter
14 services through telephonic and video remote technologies.

15 (4) By September 1, 2015, the department of enterprise services
16 must purchase, for all other state agencies, spoken language
17 interpreter services directly from language access providers through no
18 more than three contracts with scheduling and coordinating delivery
19 organizations. The department must be able to provide spoken language
20 interpreter services through telephonic and video remote technologies.
21 If the department determines it is more cost-effective or efficient, it
22 may jointly purchase these services with the department of social and
23 health services, the health care authority, or the department of labor
24 and industries as provided in subsection (3) of this section.

25 (5) If the department of social and health services, the health
26 care authority, and the department of labor and industries determine
27 that it is more cost-effective or efficient, they may integrate
28 procurement of spoken language interpreter services through a single
29 centralized system. The department of social and health services, the
30 health care authority, and the department of labor and industries may
31 procure interpreters through the department of enterprise services if
32 the demand for spoken language interpreters cannot be met through their
33 respective contracts.

34 (6) All language access providers procured under this section must
35 be certified or authorized by the state, or be nationally certified by
36 the certification commission for health care interpreters or the
37 national board for certification of medical interpreters. When a
38 nationally certified, state-certified, or authorized language access

1 provider is not available, a state agency is authorized to contract
2 with a spoken language interpreter with other certifications or
3 qualifications deemed to meet state standards. Nothing in this
4 subsection shall preclude providing interpretive services through state
5 employees or employees of medical or vocational providers.

6 (7) Nothing in this section is intended to address how state
7 agencies procure interpreters for sensory-impaired persons.

8 (8) For purposes of this section, "state agency" means any state
9 office or activity of the executive branch of state government,
10 including state agencies, departments, offices, divisions, boards,
11 commissions, and correctional and other types of institutions, but
12 excludes institutions of higher education as defined in RCW 28B.10.016,
13 the school for the blind, and the center for childhood deafness and
14 hearing loss.

15 (9) The department of social and health services, the health care
16 authority, the department of labor and industries, and the department
17 of enterprise services may not impose reimbursement rates or
18 obligations established through collective bargaining under RCW
19 41.56.510 in contracts with entities that do not provide interpreter
20 services through language access providers as defined in RCW
21 41.56.030(10).

22 NEW SECTION. **Sec. 3.** A new section is added to chapter 39.26 RCW
23 to read as follows:

24 (1) The department of social and health services shall establish
25 the spoken language interpreter advisory group to advise the
26 departments of social and health services, labor and industries, and
27 enterprise services and the health care authority on the policies,
28 rules, and regulations governing certification and authorization of
29 spoken language interpreters. The secretary, in consultation with the
30 directors, shall make appointments to the advisory group as follows:

31 (a) One designated representative each from the department of
32 social and health services, the department of labor and industries, the
33 department of enterprise services, or a designee department, and the
34 health care authority;

35 (b) Three spoken language interpreters, one of whom must provide
36 interpreter services through telephonic and video remote technologies,
37 initial terms being two serving two years, and one serving three years;

1 (c) One physician licensed by the state under chapter 18.57 or
2 18.71 RCW, who shall serve an initial three-year term;

3 (d) One hospital language access administrator, who shall serve an
4 initial two-year term;

5 (e) Two representatives from immigrant or refugee advocacy
6 organizations, one serving an initial term of one year and the other an
7 initial term of two years;

8 (f) One representative from a labor organization, serving an
9 initial term of two years;

10 (g) One member from the public, serving an initial three-year term;

11 (h) One representative from an entity that provides interpreter
12 services through telephonic and video remote technologies;

13 (i) One representative for interpreter agencies, serving an initial
14 term of two years; and

15 (j) One representative from the department of social and health
16 services language testing and certification program.

17 (2) After initial appointments, members under subsection (1)(b)
18 through (i) of this section shall serve three-year terms and may be
19 appointed to no more than two sequential terms.

20 (3) Members of the advisory group may be reimbursed for travel
21 expenses as provided in RCW 43.03.050 and 43.03.060.

22 (4) The department of social and health services shall provide
23 staff to the advisory group.

24 (5) The advisory group shall meet as needed or as requested by the
25 director of the department of social and health services.

26 NEW SECTION. **Sec. 4.** A new section is added to chapter 39.26 RCW
27 to read as follows:

28 The advisory group established under section 3 of this act shall
29 have the following duties:

30 (1) Develop and recommend policies to enhance the quality of
31 interpreters;

32 (2) Evaluate the certification standards used by the state,
33 including the code of ethics, other states, and national certifications
34 and make recommendations for improving state certifications and
35 authorizations.

1 **Sec. 5.** RCW 41.56.030 and 2011 1st sp.s. c 21 s 11 are each
2 amended to read as follows:

3 As used in this chapter:

4 (1) "Adult family home provider" means a provider as defined in RCW
5 70.128.010 who receives payments from the medicaid and state-funded
6 long-term care programs.

7 (2) "Bargaining representative" means any lawful organization which
8 has as one of its primary purposes the representation of employees in
9 their employment relations with employers.

10 (3) "Child care subsidy" means a payment from the state through a
11 child care subsidy program established pursuant to RCW 74.12.340 (~~or~~
12 ~~74.08A.340~~), 45 C.F.R. Sec. 98.1 through 98.17, or any successor
13 program.

14 (4) "Collective bargaining" means the performance of the mutual
15 obligations of the public employer and the exclusive bargaining
16 representative to meet at reasonable times, to confer and negotiate in
17 good faith, and to execute a written agreement with respect to
18 grievance procedures and collective negotiations on personnel matters,
19 including wages, hours and working conditions, which may be peculiar to
20 an appropriate bargaining unit of such public employer, except that by
21 such obligation neither party shall be compelled to agree to a proposal
22 or be required to make a concession unless otherwise provided in this
23 chapter.

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

25 (6) "Executive director" means the executive director of the
26 commission.

27 (7) "Family child care provider" means a person who: (a) Provides
28 regularly scheduled care for a child or children in the home of the
29 provider or in the home of the child or children for periods of less
30 than twenty-four hours or, if necessary due to the nature of the
31 parent's work, for periods equal to or greater than twenty-four hours;
32 (b) receives child care subsidies; and (c) is either licensed by the
33 state under RCW 74.15.030 or is exempt from licensing under chapter
34 74.15 RCW.

35 (8) "Individual provider" means an individual provider as defined
36 in RCW 74.39A.240(4) who, solely for the purposes of collective
37 bargaining, is a public employee as provided in RCW 74.39A.270.

1 (9) "Institution of higher education" means the University of
2 Washington, Washington State University, Central Washington University,
3 Eastern Washington University, Western Washington University, The
4 Evergreen State College, and the various state community colleges.

5 (10)(a) "Language access provider" means any independent contractor
6 who provides spoken language interpreter services (~~(for department of~~
7 ~~social — and — health — services — appointments — or — medicaid — enrollee~~
8 ~~appointments, or provided these services on or after January 1, 2009,~~
9 ~~and before June 10, 2010, whether paid by a broker, language access~~
10 ~~agency, or the department)), whether paid by a language access agency,
11 broker, or the respective department: (i) For department of social and
12 health services appointments or medicaid enrollee appointments, or who
13 provided these services on or after January 1, 2009, and before June
14 10, 2010; (ii) for department of labor and industries authorized
15 medical and vocational providers, or who provided these services on or
16 after January 1, 2012, and before the effective date of this section;
17 or (iii) for state agencies, or who provided these services on or after
18 January 1, 2012, and before the effective date of this section.~~

19 (b) "Language access provider" does not mean an owner, manager, or
20 employee of a broker or a language access agency, an interpreter who
21 provides services through telephonic or video remote technologies from
22 outside the state of Washington, an interpreter under the medicaid
23 administrative match program, or an interpreter appointed or required
24 in a court proceeding pursuant to RCW 2.43.030 or when required by a
25 federal consent decree or settlement agreement.

26 (c) "Department of social and health services appointments" does
27 not include court proceedings.

28 (d) "Medicaid enrollee appointments" does not include medicaid
29 administrative match program appointments or any other service provided
30 pursuant to that program.

31 (11) "Public employee" means any employee of a public employer
32 except any person (a) elected by popular vote, or (b) appointed to
33 office pursuant to statute, ordinance or resolution for a specified
34 term of office as a member of a multimember board, commission, or
35 committee, whether appointed by the executive head or body of the
36 public employer, or (c) whose duties as deputy, administrative
37 assistant or secretary necessarily imply a confidential relationship to
38 (i) the executive head or body of the applicable bargaining unit, or

1 (ii) any person elected by popular vote, or (iii) any person appointed
2 to office pursuant to statute, ordinance or resolution for a specified
3 term of office as a member of a multimember board, commission, or
4 committee, whether appointed by the executive head or body of the
5 public employer, or (d) who is a court commissioner or a court
6 magistrate of superior court, district court, or a department of a
7 district court organized under chapter 3.46 RCW, or (e) who is a
8 personal assistant to a district court judge, superior court judge, or
9 court commissioner. For the purpose of (e) of this subsection, no more
10 than one assistant for each judge or commissioner may be excluded from
11 a bargaining unit.

12 (12) "Public employer" means any officer, board, commission,
13 council, or other person or body acting on behalf of any public body
14 governed by this chapter, or any subdivision of such public body. For
15 the purposes of this section, the public employer of district court or
16 superior court employees for wage-related matters is the respective
17 county legislative authority, or person or body acting on behalf of the
18 legislative authority, and the public employer for nonwage-related
19 matters is the judge or judge's designee of the respective district
20 court or superior court.

21 (13) "Uniformed personnel" means: (a) Law enforcement officers as
22 defined in RCW 41.26.030 employed by the governing body of any city or
23 town with a population of two thousand five hundred or more and law
24 enforcement officers employed by the governing body of any county with
25 a population of ten thousand or more; (b) correctional employees who
26 are uniformed and nonuniformed, commissioned and noncommissioned
27 security personnel employed in a jail as defined in RCW 70.48.020(9),
28 by a county with a population of seventy thousand or more, and who are
29 trained for and charged with the responsibility of controlling and
30 maintaining custody of inmates in the jail and safeguarding inmates
31 from other inmates; (c) general authority Washington peace officers as
32 defined in RCW 10.93.020 employed by a port district in a county with
33 a population of one million or more; (d) security forces established
34 under RCW 43.52.520; (e) firefighters as that term is defined in RCW
35 41.26.030; (f) employees of a port district in a county with a
36 population of one million or more whose duties include crash fire
37 rescue or other firefighting duties; (g) employees of fire departments
38 of public employers who dispatch exclusively either fire or emergency

1 medical services, or both; or (h) employees in the several classes of
2 advanced life support technicians, as defined in RCW 18.71.200, who are
3 employed by a public employer.

4 **Sec. 6.** RCW 41.56.510 and 2010 c 296 s 2 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 language access
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 language access providers who,
11 solely for the purposes of collective bargaining, are public employees.
12 The governor or the governor's designee shall represent the public
13 employer for bargaining purposes.

14 (2) There shall be collective bargaining, as defined in RCW
15 41.56.030, between the governor and language access providers, except
16 as follows:

17 (a) (~~A statewide unit of all language access providers is~~) The
18 only language access provider units appropriate for purposes of
19 collective bargaining under RCW 41.56.060 are:

20 (i) A statewide unit for language access providers who provide
21 spoken language interpreter services for department of social and
22 health services appointments, or medicaid enrollee appointments;

23 (ii) A statewide unit for language access providers who provide
24 spoken language interpreter services for injured workers or crime
25 victims receiving benefits from the department of labor and industries;
26 and

27 (iii) A statewide unit for language access providers who provide
28 spoken language interpreter services for any state agency, as defined
29 in section 2 of this act, through the department of enterprise
30 services, excluding language access providers included in (a)(i) and
31 (ii) of this subsection;

32 (b) The exclusive bargaining representatives of language access
33 providers in the units specified in (a) of this subsection shall be the
34 representatives chosen in (~~an~~) elections conducted pursuant to RCW
35 41.56.070.

36 Bargaining authorization cards furnished as the showing of interest
37 in support of any representation petition or motion for intervention

1 filed under this section are exempt from disclosure under chapter 42.56
2 RCW. The public employment relations commission may not certify any
3 bargaining unit under subsection (2)(a)(ii) and (iii) of this section
4 before January 1, 2014;

5 (c) Notwithstanding the definition of "collective bargaining" in
6 RCW 41.56.030(4), the scope of collective bargaining for language
7 access providers under this section is limited solely to: (i) Economic
8 compensation, such as the manner and rate of payments; (ii)
9 professional development and training; (iii) labor-management
10 committees; and (iv) grievance procedures. Retirement benefits are not
11 subject to collective bargaining. By such obligation neither party may
12 be compelled to agree to a proposal or be required to make a concession
13 unless otherwise provided in this chapter;

14 (d) In addition to the entities listed in the mediation and
15 interest arbitration provisions of RCW 41.56.430 through 41.56.470 and
16 41.56.480, the provisions apply to the governor or the governor's
17 designee and the exclusive bargaining representative of language access
18 providers, except that:

19 (i) In addition to the factors to be taken into consideration by an
20 interest arbitration panel under RCW 41.56.465, the panel shall
21 consider the financial ability of the state to pay for the compensation
22 and benefit provisions of a collective bargaining agreement;

23 (ii) The decision of the arbitration panel is not binding on the
24 legislature and, if the legislature does not approve the request for
25 funds necessary to implement the compensation and benefit provisions of
26 the arbitrated collective bargaining agreement, the decision is not
27 binding on the state;

28 (e) Language access providers do not have the right to strike;

29 (f) If a single employee organization is the exclusive bargaining
30 representative for two or more bargaining units, the governor and the
31 employee organization may agree to negotiate a single collective
32 bargaining agreement for all of the bargaining units that the employee
33 organization represents.

34 (3) Language access providers who are public employees solely for
35 the purposes of collective bargaining under subsection (1) of this
36 section are not, for that reason, employees of the state for any other
37 purpose. This section applies only to the governance of the collective

1 bargaining relationship between the employer and language access
2 providers as provided in subsections (1) and (2) of this section.

3 (4) Each party with whom the department of social and health
4 services, the department of labor and industries, and the department of
5 enterprise services contracts for language access services and each of
6 their subcontractors shall provide to the respective department an
7 accurate list of language access providers, as defined in RCW
8 41.56.030, including their names, addresses, and other contact
9 information, annually by January 30th, except that initially the lists
10 must be provided within thirty days of (~~June 10, 2010~~) the effective
11 date of this section. The departments shall, upon request, provide a
12 list of all language access providers, including their names,
13 addresses, and other contact information, to a labor union seeking to
14 represent language access providers.

15 (5) If a language access provider cannot be procured through a
16 bargaining unit, a state agency is authorized to contract with any
17 spoken language interpreter provider.

18 (6) This section does not create or modify:

19 (a) The (~~department's~~) obligation of any state agency to comply
20 with (~~the~~) federal statutes and regulations; and

21 (b) The legislature's right to make programmatic modifications to
22 the delivery of state services under chapter 74.04 or 39.26 RCW or
23 Title 51 RCW. The governor may not enter into, extend, or renew any
24 agreement under this chapter that does not expressly reserve the
25 legislative rights described in this subsection.

26 (~~(6)~~) (7) Upon meeting the requirements of subsection (~~(7)~~) (8)
27 of this section, the governor must submit, as a part of the proposed
28 biennial or supplemental operating budget submitted to the legislature
29 under RCW 43.88.030, a request for funds necessary to implement the
30 compensation and benefit provisions of a collective bargaining
31 agreement entered into under this section or for legislation necessary
32 to implement the agreement.

33 (~~(7)~~) (8) A request for funds necessary to implement the
34 compensation and benefit provisions of a collective bargaining
35 agreement entered into under this section may not be submitted by the
36 governor to the legislature unless the request has been:

37 (a) Submitted to the director of financial management by October

1 1st prior to the legislative session at which the requests are to be
2 considered, except that, for initial negotiations under this section,
3 the request may not be submitted before July 1, 2011; and

4 (b) Certified by the director of financial management as
5 financially feasible for the state or reflective of a binding decision
6 of an arbitration panel reached under subsection (2)(d) of this
7 section.

8 ~~((+8))~~ (9) The legislature must approve or reject the submission
9 of the request for funds as a whole. If the legislature rejects or
10 fails to act on the submission, any collective bargaining agreement
11 must be reopened for the sole purpose of renegotiating the funds
12 necessary to implement the agreement.

13 ~~((+9))~~ (10) If, after the compensation and benefit provisions of
14 an agreement are approved by the legislature, a significant revenue
15 shortfall occurs resulting in reduced appropriations, as declared by
16 proclamation of the governor or by resolution of the legislature, both
17 parties shall immediately enter into collective bargaining for a
18 mutually agreed upon modification of the agreement.

19 ~~((+10))~~ (11) After the expiration date of any collective
20 bargaining agreement entered into under this section, all of the terms
21 and conditions specified in the 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.

24 ~~((+11))~~ (12) In enacting this section, the legislature intends to
25 provide state action immunity under federal and state antitrust laws
26 for the joint activities of language access providers and their
27 exclusive bargaining representative to the extent the activities are
28 authorized by this chapter.

29 NEW SECTION. **Sec. 7.** 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.

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