
SENATE BILL 5833

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By Senators Murray, Keiser, Hasegawa, Harper, Conway, Shin, Hobbs, Nelson, Kohl-Welles, Kline, Fraser, McAuliffe, and Frockt

Read first time 02/21/13. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to interpreter services; amending RCW 39.26.100,
2 39.26.090, 41.56.030, and 41.56.510; adding new sections to chapter
3 39.26 RCW; and creating new 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 centralize and consolidate the procurement of interpreter services and
7 expand the use of language access providers, thereby reducing
8 administrative costs while protecting consumers. The legislature
9 further intends to institute quality controls by establishing an
10 advisory group to advise state agencies on the qualifications,
11 training, and education of state certified spoken language interpreters
12 through the department of social and health services.

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

15 (1) The department of social and health services and the Washington
16 state health care authority are each authorized to purchase interpreter
17 services on behalf of limited-English speaking or sensory-impaired
18 applicants and recipients of public assistance.

1 (2) The department of labor and industries is authorized to
2 purchase interpreter services for doctors providing services to
3 limited-English speaking or sensory-impaired injured workers or crime
4 victims. No later than July 1, 2014, the department must purchase
5 interpreter services directly from language access providers through
6 the use of scheduling and billing software, or through no more than
7 three contracts with scheduling and coordinating delivery
8 organizations, or both.

9 (3) No later than July 1, 2016, the department of social and health
10 services, the Washington state health care authority, and the
11 department of labor and industries shall integrate the purchase of
12 interpreter services through one centralized system.

13 (4) All language access providers procured under this section must
14 be certified or authorized by the department of social and health
15 services. When a state-certified language access provider is not
16 available, a language access provider with other certifications or
17 qualifications deemed to meet state standards may be used. Nothing in
18 this subsection shall preclude providing interpretive services through
19 state employees.

20 **Sec. 3.** RCW 39.26.100 and 2012 c 224 s 11 are each amended to read
21 as follows:

22 (1) The provisions of this chapter do not apply in any manner to
23 the operation of the state legislature except as requested by the
24 legislature.

25 (2) The provisions of this chapter do not apply to the contracting
26 for services and activities that are necessary to establish, operate,
27 or manage the state data center, including architecture, design,
28 engineering, installation, and operation of the facility, that are
29 approved by the technology services board or the acquisition of
30 proprietary software and information technology services necessary for
31 or part of the provision of services offered by the consolidated
32 technology services agency.

33 (3) Primary authority for the purchase of specialized equipment,
34 and instructional and research material, for their own use rests with
35 the institutions of higher education as defined in RCW 28B.10.016.

36 (4) Universities operating hospitals with approval from the
37 director, as the agent for state hospitals as defined in RCW 72.23.010,

1 and for health care programs provided in state correctional
2 institutions as defined in RCW 72.65.010(3) and veterans' institutions
3 as defined in RCW 72.36.010 and 72.36.070, may make purchases for
4 hospital operation by participating in contracts for materials,
5 supplies, and equipment entered into by nonprofit cooperative hospital
6 group purchasing organizations if documented to be more cost-effective.

7 (5) Primary authority for the purchase of materials, supplies, and
8 equipment, for resale to other than public agencies, rests with the
9 state agency concerned.

10 (6) The authority for the purchase of insurance and bonds rests
11 with the risk manager under RCW 43.19.769, except for institutions of
12 higher education that choose to exercise independent purchasing
13 authority under RCW 28B.10.029.

14 ~~((7) The authority to purchase interpreter services and
15 interpreter brokerage services on behalf of limited English speaking or
16 sensory impaired applicants and recipients of public assistance rests
17 with the department of social and health services and the health care
18 authority.))~~

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

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

31 (a) One language access officer each from the department of social
32 and health services, the department of labor and industries, the
33 department of enterprise services, or a designee department, and the
34 Washington state health care authority;

35 (b) Three language interpreters, initial terms being two serving
36 two years, and one serving three years;

1 (c) One medical provider, who shall serve an initial three-year
2 term;

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

5 (e) Two representatives from an immigrant or refugee advocacy
6 organization, 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 and

12 (h) One representative from the department of social and health
13 services language testing and certification program.

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

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

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

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

23 NEW SECTION. **Sec. 5.** A new section is added to chapter 39.26 RCW
24 to read as follows:

25 The advisory group established under section 4 of this act shall
26 have the following duties:

27 (1) Develop and recommend policies to enhance the quality of
28 interpreters;

29 (2) Evaluate the certification standards used by the department of
30 social and health services and make recommendations; and

31 (3) Other duties as requested.

32 **Sec. 6.** RCW 39.26.090 and 2012 c 224 s 10 are each amended to read
33 as follows:

34 The director shall:

35 (1) Establish overall state policies, standards, and procedures
36 regarding the procurement of goods and services by all state agencies;

- 1 (2) Develop policies and standards for the use of credit cards or
2 similar methods to make purchases;
- 3 (3) Establish procurement processes for information technology
4 goods and services, using technology standards and policies established
5 by the office of the chief information officer under chapter 43.41A
6 RCW;
- 7 (4) Enter into contracts or delegate the authority to enter into
8 contracts on behalf of the state to facilitate the purchase, lease,
9 rent, or otherwise acquire all goods and services and equipment needed
10 for the support, maintenance, and use of all state agencies, except as
11 provided in RCW 39.26.100;
- 12 (5) Have authority to delegate to agencies authorization to
13 purchase goods and services. The authorization must specify
14 restrictions as to dollar amount or to specific types of goods and
15 services, based on a risk assessment process developed by the
16 department. Acceptance of the purchasing authorization by an agency
17 does not relieve the agency from conformance with this chapter or from
18 policies established by the director. Also, the director may not
19 delegate to a state agency the authorization to purchase goods and
20 services if the agency is not in substantial compliance with overall
21 procurement policies as established by the director;
- 22 (6) Develop procurement policies and procedures, such as unbundled
23 contracting and subcontracting, that encourage and facilitate the
24 purchase of goods and services from Washington small businesses,
25 microbusinesses, and minibusinesses, and minority and women-owned
26 businesses to the maximum extent practicable and consistent with
27 international trade agreement commitments;
- 28 (7) Develop and implement an enterprise system for electronic
29 procurement;
- 30 (8) Provide for a commodity classification system and provide for
31 the adoption of goods and services commodity standards;
- 32 (9) Establish overall state policy for compliance by all agencies
33 regarding:
- 34 (a) Food procurement procedures and materials that encourage and
35 facilitate the purchase of Washington grown food by state agencies and
36 institutions to the maximum extent practicable and consistent with
37 international trade agreement commitments; and

1 (b) Policies requiring all food contracts to include a plan to
2 maximize to the extent practicable and consistent with international
3 trade agreement commitments the availability of Washington grown food
4 purchased through the contract;

5 (10) Develop guidelines and criteria for the purchase of vehicles,
6 high gas mileage vehicles, and alternate vehicle fuels and systems,
7 equipment, and materials, that reduce overall energy-related costs and
8 energy use by the state, including investigations into all
9 opportunities to aggregate the purchasing of clean technologies by
10 state and local governments, and including the requirement that new
11 passenger vehicles purchased by the state meet the minimum standards
12 for passenger automobile fuel economy established by the United States
13 secretary of transportation pursuant to the energy policy and
14 conservation act (15 U.S.C. Sec. 2002); ~~((and))~~

15 (11) By July 1, 2014, develop and implement a model for providing
16 interpreter services by purchasing the services of language access
17 providers through the use of scheduling and billing software, or
18 through no more than three contracts with scheduling and coordinating
19 delivery organizations, or both; and

20 (12) Develop and enact rules to implement the provisions of this
21 chapter.

22 **Sec. 7.** RCW 41.56.030 and 2011 1st sp.s. c 21 s 11 are each
23 amended to read as follows:

24 As used in this chapter:

25 (1) "Adult family home provider" means a provider as defined in RCW
26 70.128.010 who receives payments from the medicaid and state-funded
27 long-term care programs.

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

31 (3) "Child care subsidy" means a payment from the state through a
32 child care subsidy program established pursuant to RCW 74.12.340 (~~or~~
33 ~~74.08A.340~~), 45 C.F.R. Sec. 98.1 through 98.17, or any successor
34 program.

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

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

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

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

11 (7) "Family child care provider" means a person who: (a) Provides
12 regularly scheduled care for a child or children in the home of the
13 provider or in the home of the child or children for periods of less
14 than twenty-four hours or, if necessary due to the nature of the
15 parent's work, for periods equal to or greater than twenty-four hours;
16 (b) receives child care subsidies; and (c) is either licensed by the
17 state under RCW 74.15.030 or is exempt from licensing under chapter
18 74.15 RCW.

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

22 (9) "Institution of higher education" means the University of
23 Washington, Washington State University, Central Washington University,
24 Eastern Washington University, Western Washington University, The
25 Evergreen State College, and the various state community colleges.

26 (10)(a) "Language access provider" means any independent contractor
27 who provides spoken language interpreter services (~~for department of~~
28 ~~social and health services appointments or medicaid enrollee~~
29 ~~appointments, or provided these services on or after January 1, 2009,~~
30 ~~and before June 10, 2010, whether paid by a broker, language access~~
31 ~~agency, or the department)), whether paid by a language access agency,
32 broker, or the respective department: (i) For department of social and
33 health services appointments or medicaid enrollee appointments, or who
34 provided these services on or after January 1, 2009, and before June
35 10, 2010; (ii) for department of labor and industries authorized
36 providers, or who provided these services on or after January 1, 2012,
37 and before the effective date of this section; or (iii) for state~~

1 agencies through the department of enterprise services, or who provided
2 these services on or after January 1, 2012, and before the effective
3 date of this section.

4 (b) "Language access provider" does not mean an owner, manager, or
5 employee of a broker or a language access agency.

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

25 (12) "Public employer" means any officer, board, commission,
26 council, or other person or body acting on behalf of any public body
27 governed by this chapter, or any subdivision of such public body. For
28 the purposes of this section, the public employer of district court or
29 superior court employees for wage-related matters is the respective
30 county legislative authority, or person or body acting on behalf of the
31 legislative authority, and the public employer for nonwage-related
32 matters is the judge or judge's designee of the respective district
33 court or superior court.

34 (13) "Uniformed personnel" means: (a) Law enforcement officers as
35 defined in RCW 41.26.030 employed by the governing body of any city or
36 town with a population of two thousand five hundred or more and law
37 enforcement officers employed by the governing body of any county with
38 a population of ten thousand or more; (b) correctional employees who

1 are uniformed and nonuniformed, commissioned and noncommissioned
2 security personnel employed in a jail as defined in RCW 70.48.020(9),
3 by a county with a population of seventy thousand or more, and who are
4 trained for and charged with the responsibility of controlling and
5 maintaining custody of inmates in the jail and safeguarding inmates
6 from other inmates; (c) general authority Washington peace officers as
7 defined in RCW 10.93.020 employed by a port district in a county with
8 a population of one million or more; (d) security forces established
9 under RCW 43.52.520; (e) firefighters as that term is defined in RCW
10 41.26.030; (f) employees of a port district in a county with a
11 population of one million or more whose duties include crash fire
12 rescue or other firefighting duties; (g) employees of fire departments
13 of public employers who dispatch exclusively either fire or emergency
14 medical services, or both; or (h) employees in the several classes of
15 advanced life support technicians, as defined in RCW 18.71.200, who are
16 employed by a public employer.

17 **Sec. 8.** RCW 41.56.510 and 2010 c 296 s 2 are each amended to read
18 as follows:

19 (1) In addition to the entities listed in RCW 41.56.020, this
20 chapter applies to the governor with respect to language access
21 providers. Solely for the purposes of collective bargaining and as
22 expressly limited under subsections (2) and (3) of this section, the
23 governor is the public employer of language access providers who,
24 solely for the purposes of collective bargaining, are public employees.
25 The governor or the governor's designee shall represent the public
26 employer for bargaining purposes.

27 (2) There shall be collective bargaining, as defined in RCW
28 41.56.030, between the governor and language access providers, except
29 as follows:

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

33 (i) A statewide unit for language access providers who provide
34 spoken language interpreter services for department of social and
35 health services appointments or medicaid enrollee appointments;

36 (ii) A statewide unit for language access providers who provide

1 spoken language interpreter services for department of labor and
2 industries medical authorized providers; and

3 (iii) A statewide unit for language access providers who provide
4 spoken language interpreter services for any state agency through the
5 department of enterprise services, excluding language access providers
6 included in (a)(i) and (ii) of this subsection;

7 (b) The exclusive bargaining representative of language access
8 providers in the unit specified in (a) of this subsection shall be the
9 representative chosen in an election conducted pursuant to RCW
10 41.56.070.

11 Bargaining authorization cards furnished as the showing of interest
12 in support of any representation petition or motion for intervention
13 filed under this section are exempt from disclosure under chapter 42.56
14 RCW;

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

24 (d) In addition to the entities listed in the mediation and
25 interest arbitration provisions of RCW 41.56.430 through 41.56.470 and
26 41.56.480, the provisions apply to the governor or the governor's
27 designee and the exclusive bargaining representative of language access
28 providers, except that:

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

33 (ii) The decision of the arbitration panel is not binding on the
34 legislature and, if the legislature does not approve the request for
35 funds necessary to implement the compensation and benefit provisions of
36 the arbitrated collective bargaining agreement, the decision is not
37 binding on the state;

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

1 (f) If a single employee organization is the exclusive bargaining
2 representative for two or more units, upon petition by the employee
3 organization, the units may be consolidated into a single larger unit
4 if the public employment relations commission considers the larger unit
5 to be appropriate. If consolidation is appropriate, the public
6 employment relations commission shall certify the employee organization
7 as the exclusive bargaining representative of the new unit.

8 (3) Language access providers who are public employees solely for
9 the purposes of collective bargaining under subsection (1) of this
10 section are not, for that reason, employees of the state for any other
11 purpose. This section applies only to the governance of the collective
12 bargaining relationship between the employer and language access
13 providers as provided in subsections (1) and (2) of this section.

14 (4) Each party with whom the department of social and health
15 services, the department of labor and industries, and the department of
16 enterprise services contracts for language access services and each of
17 their subcontractors shall provide to the department an accurate list
18 of language access providers, as defined in RCW 41.56.030, including
19 their names, addresses, and other contact information, annually by
20 January 30th, except that initially the lists must be provided within
21 thirty days of (~~June 10, 2010~~) the effective date of this section.
22 The departments shall, upon request, provide a list of all language
23 access providers, including their names, addresses, and other contact
24 information, to a labor union seeking to represent language access
25 providers.

26 (5) This section does not create or modify:

27 (a) The (~~department's~~) obligation of the department of social and
28 health services, the department of labor and industries, and the
29 department of enterprise services to comply with the federal statute
30 and regulations; and

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

36 (6) Upon meeting the requirements of subsection (7) of this
37 section, the governor must submit, as a part of the proposed biennial
38 or supplemental operating budget submitted to the legislature under RCW

1 43.88.030, a request for funds necessary to implement the compensation
2 and benefit provisions of a collective bargaining agreement entered
3 into under this section or for legislation necessary to implement the
4 agreement.

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

9 (a) Submitted to the director of financial management by October
10 1st prior to the legislative session at which the requests are to be
11 considered, except that, for initial negotiations under this section,
12 the request may not be submitted before July 1, 2011; and

13 (b) Certified by the director of financial management as
14 financially feasible for the state or reflective of a binding decision
15 of an arbitration panel reached under subsection (2)(d) of this
16 section.

17 (8) The legislature must approve or reject the submission of the
18 request for funds as a whole. If the legislature rejects or fails to
19 act on the submission, any collective bargaining agreement must be
20 reopened for the sole purpose of renegotiating the funds necessary to
21 implement the agreement.

22 (9) If, after the compensation and benefit provisions of an
23 agreement are approved by the legislature, a significant revenue
24 shortfall occurs resulting in reduced appropriations, as declared by
25 proclamation of the governor or by resolution of the legislature, both
26 parties shall immediately enter into collective bargaining for a
27 mutually agreed upon modification of the agreement.

28 (10) After the expiration date of any collective bargaining
29 agreement entered into under this section, all of the terms and
30 conditions specified in the agreement remain in effect until the
31 effective date of a subsequent agreement, not to exceed one year from
32 the expiration date stated in 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 language access providers and their exclusive
36 bargaining representative to the extent the activities are authorized
37 by this chapter.

1 NEW SECTION. **Sec. 9.** If any part of this act is found to be in
2 conflict with federal requirements that are a prescribed condition to
3 the allocation of federal funds to the state, the conflicting part of
4 this act is inoperative solely to the extent of the conflict and with
5 respect to the agencies directly affected, and this finding does not
6 affect the operation of the remainder of this act in its application to
7 the agencies concerned. Rules adopted under this act must meet federal
8 requirements that are a necessary condition to the receipt of federal
9 funds by the state.

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