
HOUSE BILL 2829

State of Washington

64th Legislature

2016 Regular Session

By Representatives Chandler and Manweller

Read first time 01/22/16. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to collective bargaining; amending RCW 42.30.140,
2 41.80.005, 41.80.010, 41.56.028, 41.56.029, 41.56.510, 74.39A.240,
3 and 74.39A.300; adding a new section to chapter 42.30 RCW; adding a
4 new section to chapter 41.56 RCW; adding a new section to chapter
5 28B.52 RCW; adding a new section to chapter 41.59 RCW; adding a new
6 section to chapter 41.76 RCW; adding a new section to chapter 41.80
7 RCW; adding a new section to chapter 47.64 RCW; adding a new section
8 to chapter 49.39 RCW; adding a new section to chapter 74.39A RCW; and
9 declaring an emergency.

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

11 **Sec. 1.** RCW 42.30.140 and 1990 c 98 s 1 are each amended to read
12 as follows:

13 If any provision of this chapter conflicts with the provisions of
14 any other statute, the provisions of this chapter shall control:
15 PROVIDED, That this chapter shall not apply to:

16 (1) The proceedings concerned with the formal issuance of an
17 order granting, suspending, revoking, or denying any license, permit,
18 or certificate to engage in any business, occupation, or profession
19 or to any disciplinary proceedings involving a member of such
20 business, occupation, or profession, or to receive a license for a

1 sports activity or to operate any mechanical device or motor vehicle
2 where a license or registration is necessary; or

3 (2) That portion of a meeting of a quasi-judicial body which
4 relates to a quasi-judicial matter between named parties as
5 distinguished from a matter having general effect on the public or on
6 a class or group; or

7 (3) Matters governed by chapter 34.05 RCW, the Administrative
8 Procedure Act; or

9 (4)(a) Collective bargaining sessions with employee
10 organizations, including (~~contract negotiations,~~) grievance
11 meetings(~~(,)~~) and discussions relating to the interpretation or
12 application of a labor agreement; or (b) that portion of a meeting
13 during which the governing body is planning or adopting the strategy
14 or position to be taken by the governing body during the course of
15 any collective bargaining, professional negotiations, or grievance or
16 mediation proceedings, or reviewing the proposals made in the
17 negotiations or proceedings while in progress.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 42.30
19 RCW to read as follows:

20 Collective bargaining sessions with employee organizations
21 involving contract negotiations must be open to the public.

22 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.56
23 RCW to read as follows:

24 Collective bargaining sessions between bargaining representatives
25 and public employers, or their representatives, involving contract
26 negotiations under this chapter must be open to the public.

27 NEW SECTION. **Sec. 4.** A new section is added to chapter 28B.52
28 RCW to read as follows:

29 Collective bargaining sessions between employee organizations, or
30 their representatives, and public employers, or their
31 representatives, involving contract negotiations under this chapter
32 must be open to the public.

33 NEW SECTION. **Sec. 5.** A new section is added to chapter 41.59
34 RCW to read as follows:

35 Collective bargaining sessions between employee organizations, or
36 their representatives, and public employers, or their

1 representatives, involving contract negotiations under this chapter
2 must be open to the public.

3 NEW SECTION. **Sec. 6.** A new section is added to chapter 41.76
4 RCW to read as follows:

5 Collective bargaining sessions between employee organizations, or
6 their representatives, and public employers, or their
7 representatives, involving contract negotiations under this chapter
8 must be open to the public.

9 NEW SECTION. **Sec. 7.** A new section is added to chapter 41.80
10 RCW to read as follows:

11 Collective bargaining sessions between employee organizations, or
12 their representatives, and public employers, or their
13 representatives, involving contract negotiations under this chapter
14 must be open to the public.

15 NEW SECTION. **Sec. 8.** A new section is added to chapter 47.64
16 RCW to read as follows:

17 Collective bargaining sessions between ferry employee
18 organizations, or their representatives, and public employers, or
19 their representatives, involving contract negotiations under this
20 chapter must be open to the public.

21 NEW SECTION. **Sec. 9.** A new section is added to chapter 49.39
22 RCW to read as follows:

23 Collective bargaining sessions between bargaining representatives
24 and public employers, or their representatives, involving contract
25 negotiations under this chapter must be open to the public.

26 NEW SECTION. **Sec. 10.** A new section is added to chapter 74.39A
27 RCW to read as follows:

28 Collective bargaining sessions between bargaining representatives
29 and public employers, or their representatives, involving contract
30 negotiations under this chapter must be open to the public.

31 **Sec. 11.** RCW 41.80.005 and 2011 1st sp.s. c 43 s 444 are each
32 amended to read as follows:

33 Unless the context clearly requires otherwise, the definitions in
34 this section apply throughout this chapter.

1 (1) "Agency" means any agency as defined in RCW 41.06.020 and
2 covered by chapter 41.06 RCW.

3 (2) "Collective bargaining" means the performance of the mutual
4 obligation of the representatives of the employer and the exclusive
5 bargaining representative to meet at reasonable times and to bargain
6 in good faith in an effort to reach agreement with respect to the
7 subjects of bargaining specified under RCW 41.80.020. The obligation
8 to bargain does not compel either party to agree to a proposal or to
9 make a concession, except as otherwise provided in this chapter.

10 (3) "Commission" means the public employment relations
11 commission.

12 (4) "Confidential employee" means an employee who, in the regular
13 course of his or her duties, assists in a confidential capacity
14 persons who formulate, determine, and effectuate management policies
15 with regard to labor relations or who, in the regular course of his
16 or her duties, has authorized access to information relating to the
17 effectuation or review of the employer's collective bargaining
18 policies, or who assists or aids a manager. "Confidential employee"
19 also includes employees who assist assistant attorneys general who
20 advise and represent managers or confidential employees in personnel
21 or labor relations matters, or who advise or represent the state in
22 tort actions.

23 (5) "Director" means the director of the public employment
24 relations commission.

25 (6) "Employee" means any employee, including employees whose work
26 has ceased in connection with the pursuit of lawful activities
27 protected by this chapter, covered by chapter 41.06 RCW, except:

28 (a) Employees covered for collective bargaining by chapter 41.56
29 RCW;

30 (b) Confidential employees;

31 (c) Members of the Washington management service;

32 (d) Internal auditors in any agency; or

33 (e) Any employee of the commission, the office of financial
34 management, or the office of risk management within the department of
35 enterprise services.

36 (7) "Employee organization" means any organization, union, or
37 association in which employees participate and that exists for the
38 purpose, in whole or in part, of collective bargaining with
39 employers.

40 (8) "Employer" means the state of Washington.

1 (9) "Estimate of state financial resources" means the amount of
2 available fiscal resources that exceed projected maintenance level as
3 those terms are defined in RCW 43.88.055 and as adopted by the
4 economic and revenue forecast council in November as directed in RCW
5 82.33.060.

6 (10) "Exclusive bargaining representative" means any employee
7 organization that has been certified under this chapter as the
8 representative of the employees in an appropriate bargaining unit.

9 ~~((10))~~ (11)(a) "Feasible financially for the state" means:

10 (i) The sum of the general fund and related funds cost of the
11 requests for funds for all bargaining agreements negotiated or
12 awarded under the authority of this chapter, RCW 41.56.026,
13 41.56.028, 41.56.029, 41.56.510, and 74.39A.270 does not exceed the
14 most current estimate of state financial resources for the term of
15 the agreement and for the ensuing biennium; or

16 (ii) For each bargaining agreement negotiated or awarded under
17 the authority of this chapter, RCW 41.56.026, 41.56.028, 41.56.029,
18 41.56.510, and 74.39A.270, the request for funds does not exceed a
19 three percent biennial increase in general fund and related funds
20 costs from the current bargaining agreement for the term of the
21 agreement and for the ensuing biennium.

22 (b) For purposes of this subsection, "related funds" has the same
23 meaning in RCW 43.88.055.

24 (12) "Institutions of higher education" means the University of
25 Washington, Washington State University, Central Washington
26 University, Eastern Washington University, Western Washington
27 University, The Evergreen State College, and the various state
28 community colleges.

29 ~~((11))~~ (13) "Labor dispute" means any controversy concerning
30 terms, tenure, or conditions of employment, or concerning the
31 association or representation of persons in negotiating, fixing,
32 maintaining, changing, or seeking to arrange terms or conditions of
33 employment with respect to the subjects of bargaining provided in
34 this chapter, regardless of whether the disputants stand in the
35 proximate relation of employer and employee.

36 ~~((12))~~ (14) "Manager" means "manager" as defined in RCW
37 41.06.022.

38 ~~((13))~~ (15) "Request for funds" means the incremental increased
39 cost of the compensation and fringe benefits provisions of a
40 bargaining agreement or interest arbitration award. A request for

1 funds does not include appropriations necessary to maintain and
2 continue the compensation and fringe benefits provisions of a current
3 bargaining agreement into ensuing biennia.

4 (16) "Supervisor" means an employee who has authority, in the
5 interest of the employer, to hire, transfer, suspend, lay off,
6 recall, promote, discharge, direct, reward, or discipline employees,
7 or to adjust employee grievances, or effectively to recommend such
8 action, if the exercise of the authority is not of a merely routine
9 nature but requires the consistent exercise of individual judgment.
10 However, no employee who is a member of the Washington management
11 service may be included in a collective bargaining unit established
12 under this section.

13 ~~((14))~~ (17) "Unfair labor practice" means any unfair labor
14 practice listed in RCW 41.80.110.

15 **Sec. 12.** RCW 41.80.010 and 2013 2nd sp.s. c 4 s 971 are each
16 amended to read as follows:

17 (1) For the purpose of negotiating collective bargaining
18 agreements under this chapter, the employer shall be represented by
19 the governor or governor's designee, except as provided for
20 institutions of higher education in subsection (4) of this section.

21 (2)(a) If an exclusive bargaining representative represents more
22 than one bargaining unit, the exclusive bargaining representative
23 shall negotiate with each employer representative as designated in
24 subsection (1) of this section one master collective bargaining
25 agreement on behalf of all the employees in bargaining units that the
26 exclusive bargaining representative represents. For those exclusive
27 bargaining representatives who represent fewer than a total of five
28 hundred employees each, negotiation shall be by a coalition of all
29 those exclusive bargaining representatives. The coalition shall
30 bargain for a master collective bargaining agreement covering all of
31 the employees represented by the coalition. The governor's designee
32 and the exclusive bargaining representative or representatives are
33 authorized to enter into supplemental bargaining of agency-specific
34 issues for inclusion in or as an addendum to the master collective
35 bargaining agreement, subject to the parties' agreement regarding the
36 issues and procedures for supplemental bargaining. This section does
37 not prohibit cooperation and coordination of bargaining between two
38 or more exclusive bargaining representatives.

1 (b) This subsection (2) does not apply to exclusive bargaining
2 representatives who represent employees of institutions of higher
3 education, except when the institution of higher education has
4 elected to exercise its option under subsection (4) of this section
5 to have its negotiations conducted by the governor or governor's
6 designee under the procedures provided for general government
7 agencies in subsections (1) through (3) of this section.

8 (c) If five hundred or more employees of an independent state
9 elected official listed in RCW 43.01.010 are organized in a
10 bargaining unit or bargaining units under RCW 41.80.070, the official
11 shall be consulted by the governor or the governor's designee before
12 any agreement is reached under (a) of this subsection concerning
13 supplemental bargaining of agency specific issues affecting the
14 employees in such bargaining unit.

15 (3) The governor shall submit a request for funds necessary to
16 implement the compensation and fringe benefit provisions in the
17 master collective bargaining agreement or for legislation necessary
18 to implement the agreement. Requests for funds necessary to implement
19 the provisions of bargaining agreements shall not be submitted to the
20 legislature by the governor unless such requests:

21 (a) Have been submitted to the director of the office of
22 financial management by October 1 prior to the legislative session at
23 which the requests are to be considered; and

24 (b) Have been certified by the director of the office of
25 financial management as being feasible financially for the state.

26 The legislature shall approve or reject the submission of the
27 request for funds as a whole. The legislature shall not consider a
28 request for funds to implement a collective bargaining agreement
29 unless the request is transmitted to the legislature as part of the
30 governor's budget document submitted under RCW 43.88.030 and
31 43.88.060. If the legislature rejects or fails to act on the
32 submission, either party may reopen all or part of the agreement or
33 the exclusive bargaining representative may seek to implement the
34 procedures provided for in RCW 41.80.090.

35 (4)(a)(i) For the purpose of negotiating agreements for
36 institutions of higher education, the employer shall be the
37 respective governing board of each of the universities, colleges, or
38 community colleges or a designee chosen by the board to negotiate on
39 its behalf.

1 (ii) A governing board of a university or college may elect to
2 have its negotiations conducted by the governor or governor's
3 designee under the procedures provided for general government
4 agencies in subsections (1) through (3) of this section, except that:

5 (A) The governor or the governor's designee and an exclusive
6 bargaining representative shall negotiate one master collective
7 bargaining agreement for all of the bargaining units of employees of
8 a university or college that the representative represents; or

9 (B) If the parties mutually agree, the governor or the governor's
10 designee and an exclusive bargaining representative shall negotiate
11 one master collective bargaining agreement for all of the bargaining
12 units of employees of more than one university or college that the
13 representative represents.

14 (iii) A governing board of a community college may elect to have
15 its negotiations conducted by the governor or governor's designee
16 under the procedures provided for general government agencies in
17 subsections (1) through (3) of this section.

18 (b) Prior to entering into negotiations under this chapter, the
19 institutions of higher education or their designees shall consult
20 with the director of the office of financial management regarding
21 financial and budgetary issues that are likely to arise in the
22 impending negotiations.

23 (c)(i) In the case of bargaining agreements reached between
24 institutions of higher education other than the University of
25 Washington and exclusive bargaining representatives agreed to under
26 the provisions of this chapter, if appropriations are necessary to
27 implement the compensation and fringe benefit provisions of the
28 bargaining agreements, the governor shall submit a request for such
29 funds to the legislature according to the provisions of subsection
30 (3) of this section, except as provided in (c)(iii) of this
31 subsection.

32 (ii) In the case of bargaining agreements reached between the
33 University of Washington and exclusive bargaining representatives
34 agreed to under the provisions of this chapter, if appropriations are
35 necessary to implement the compensation and fringe benefit provisions
36 of a bargaining agreement, the governor shall submit a request for
37 such funds to the legislature according to the provisions of
38 subsection (3) of this section, except as provided in this subsection
39 (4)(c)(ii) and as provided in (c)(iii) of this subsection.

1 (A) If appropriations of less than ten thousand dollars are
2 necessary to implement the provisions of a bargaining agreement, a
3 request for such funds shall not be submitted to the legislature by
4 the governor unless the request has been submitted to the director of
5 the office of financial management by October 1 prior to the
6 legislative session at which the request is to be considered.

7 (B) If appropriations of ten thousand dollars or more are
8 necessary to implement the provisions of a bargaining agreement, a
9 request for such funds shall not be submitted to the legislature by
10 the governor unless the request:

11 (I) Has been submitted to the director of the office of financial
12 management by October 1 prior to the legislative session at which the
13 request is to be considered; and

14 (II) Has been certified by the director of the office of
15 financial management as being feasible financially for the state.

16 (C) If the director of the office of financial management does
17 not certify a request under (c)(ii)(B) of this subsection as being
18 feasible financially for the state, the parties shall enter into
19 collective bargaining solely for the purpose of reaching a mutually
20 agreed upon modification of the agreement necessary to address the
21 absence of those requested funds. The legislature may act upon the
22 compensation and fringe benefit provisions of the modified collective
23 bargaining agreement if those provisions are agreed upon and
24 submitted to the office of financial management and legislative
25 budget committees before final legislative action on the biennial or
26 supplemental operating budget by the sitting legislature.

27 (iii) In the case of a bargaining unit of employees of
28 institutions of higher education in which the exclusive bargaining
29 representative is certified during or after the conclusion of a
30 legislative session, the legislature may act upon the compensation
31 and fringe benefit provisions of the unit's initial collective
32 bargaining agreement if those provisions are agreed upon and
33 submitted to the office of financial management and legislative
34 budget committees before final legislative action on the biennial or
35 supplemental operating budget by the sitting legislature.

36 (5) There is hereby created a joint committee on employment
37 relations, which consists of two members with leadership positions in
38 the house of representatives, representing each of the two largest
39 caucuses; the chair and ranking minority member of the house
40 appropriations committee, or its successor, representing each of the

1 two largest caucuses; two members with leadership positions in the
2 senate, representing each of the two largest caucuses; and the chair
3 and ranking minority member of the senate ways and means committee,
4 or its successor, representing each of the two largest caucuses. The
5 governor shall periodically consult with the committee regarding
6 appropriations necessary to implement the compensation and fringe
7 benefit provisions in the master collective bargaining agreements,
8 and upon completion of negotiations, advise the committee on the
9 elements of the agreements and on any legislation necessary to
10 implement the agreements.

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

17 (7) After the expiration date of a collective bargaining
18 agreement negotiated under this chapter, all of the terms and
19 conditions specified in the collective bargaining agreement remain in
20 effect until the effective date of a subsequently negotiated
21 agreement, not to exceed one year from the expiration date stated in
22 the agreement. Thereafter, the employer may unilaterally implement
23 according to law.

24 (8) For the 2013-2015 fiscal biennium, a collective bargaining
25 agreement related to employee health care benefits negotiated between
26 the employer and coalition pursuant to RCW 41.80.020(3) regarding the
27 dollar amount expended on behalf of each employee shall be a separate
28 agreement for which the governor may request funds necessary to
29 implement the agreement. The legislature may act upon a 2013-2015
30 collective bargaining agreement related to employee health care
31 benefits if an agreement is reached and submitted to the office of
32 financial management and legislative budget committees before final
33 legislative action on the biennial or supplemental operating
34 appropriations act by the sitting legislature.

35 (9) If the director of the office of financial management does
36 not certify a request for funds as being feasible financially for the
37 state, the parties shall immediately enter into collective bargaining
38 solely for the purpose of reaching a mutually agreed upon
39 modification of the agreement. The legislature may act upon the
40 compensation and fringe benefits provisions of the modified

1 collective bargaining agreement if those provisions are agreed upon,
2 have been certified by the director of the office of financial
3 management as being feasible financially for the state, and submitted
4 to legislative fiscal committees before final legislative action on
5 the biennial or supplemental operating budget by the sitting
6 legislature.

7 **Sec. 13.** RCW 41.56.028 and 2007 c 278 s 2 are each amended to
8 read as follows:

9 (1) In addition to the entities listed in RCW 41.56.020, this
10 chapter applies to the governor with respect to family child care
11 providers. Solely for the purposes of collective bargaining and as
12 expressly limited under subsections (2) and (3) of this section, the
13 governor is the public employer of family child care providers who,
14 solely for the purposes of collective bargaining, are public
15 employees. The public employer shall be represented for bargaining
16 purposes by the governor or the governor's designee appointed under
17 chapter 41.80 RCW.

18 (2) This chapter governs the collective bargaining relationship
19 between the governor and family child care providers, except as
20 follows:

21 (a) A statewide unit of all family child care providers is the
22 only unit appropriate for purposes of collective bargaining under RCW
23 41.56.060.

24 (b) The exclusive bargaining representative of family child care
25 providers in the unit specified in (a) of this subsection shall be
26 the representative chosen in an election conducted pursuant to RCW
27 41.56.070, except that in the initial election conducted under
28 chapter 54, Laws of 2006, if more than one labor organization is on
29 the ballot and none of the choices receives a majority of the votes
30 cast, a run-off election shall be held.

31 (c) Notwithstanding the definition of "collective bargaining" in
32 RCW 41.56.030(4), the scope of collective bargaining for child care
33 providers under this section shall be limited solely to: (i) Economic
34 compensation, such as manner and rate of subsidy and reimbursement,
35 including tiered reimbursements; (ii) health and welfare benefits;
36 (iii) professional development and training; (iv) labor-management
37 committees; (v) grievance procedures; and (vi) other economic
38 matters. Retirement benefits shall not be subject to collective
39 bargaining. By such obligation neither party shall be compelled to

1 agree to a proposal or be required to make a concession unless
2 otherwise provided in this chapter.

3 (d) The mediation and interest arbitration provisions of RCW
4 41.56.430 through 41.56.470 and 41.56.480 apply, except that:

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

11 (ii) The decision of the arbitration panel is not binding on the
12 legislature and, if the legislature does not approve the request for
13 funds necessary to implement the compensation and benefit provisions
14 of the arbitrated collective bargaining agreement, is not binding on
15 the state.

16 (e) Family child care providers do not have the right to strike.

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

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

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

28 (b) The secretary of the department of social and health
29 services' right to adopt requirements under RCW 74.15.030, except for
30 requirements related to grievance procedures and collective
31 negotiations on personnel matters as specified in subsection (2)(c)
32 of this section;

33 (c) Chapter 26.44 RCW, RCW 43.43.832, 43.20A.205, and 74.15.130;
34 and

35 (d) The legislature's right to make programmatic modifications to
36 the delivery of state services through child care subsidy programs,
37 including standards of eligibility of parents, legal guardians, and
38 family child care providers participating in child care subsidy
39 programs, and the nature of services provided. The governor shall not
40 enter into, extend, or renew any agreement under this section that

1 does not expressly reserve the legislative rights described in this
2 subsection (4)(d).

3 (5) Upon meeting the requirements of subsection (6) of this
4 section, the governor must submit, as a part of the proposed biennial
5 or supplemental operating budget submitted to the legislature under
6 RCW 43.88.030, a request for funds necessary to implement the
7 compensation and benefit provisions of a collective bargaining
8 agreement entered into under this section or for legislation
9 necessary to implement such agreement.

10 (6) A request for funds necessary to implement the compensation
11 and benefit provisions of a collective bargaining agreement entered
12 into under this section shall not be submitted by the governor to the
13 legislature unless such request has been:

14 (a) Submitted to the director of financial management by October
15 1st before the legislative session at which the request is to be
16 considered, except that, for initial negotiations under this section,
17 the request must be submitted by November 15, 2006; and

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

21 (7) The legislature must approve or reject the submission of the
22 request for funds as a whole. If the legislature rejects or fails to
23 act on the submission, any such agreement will be reopened solely for
24 the purpose of renegotiating the funds necessary to implement the
25 agreement.

26 (8) The governor shall periodically consult with the joint
27 committee on employment relations established by RCW 41.80.010
28 regarding appropriations necessary to implement the compensation and
29 benefit provisions of any collective bargaining agreement and, upon
30 completion of negotiations, advise the committee on the elements of
31 the agreement and on any legislation necessary to implement such
32 agreement.

33 (9) After the expiration date of any collective bargaining
34 agreement entered into under this section, all of the terms and
35 conditions specified in any such agreement remain in effect until the
36 effective date of a subsequent agreement, not to exceed one year from
37 the expiration date stated in the agreement, except as provided in
38 subsection (4)(d) of this section.

39 (10) If, after the compensation and benefit provisions of an
40 agreement are approved by the legislature, a significant revenue

1 shortfall occurs resulting in reduced appropriations, as declared by
2 proclamation of the governor or by resolution of the legislature,
3 both parties shall immediately enter into collective bargaining for a
4 mutually agreed upon modification of the agreement.

5 (11) In enacting this section, the legislature intends to provide
6 state action immunity under federal and state antitrust laws for the
7 joint activities of family child care providers and their exclusive
8 bargaining representative to the extent such activities are
9 authorized by this chapter.

10 (12) If the director of the office of financial management does
11 not certify a request for funds as being feasible financially for the
12 state, the parties shall immediately enter into collective bargaining
13 solely for the purpose of reaching a mutually agreed upon
14 modification of the agreement. The legislature may act upon the
15 compensation and fringe benefits provisions of the modified
16 collective bargaining agreement if those provisions are agreed upon,
17 have been certified by the director of the office of financial
18 management as being feasible financially for the state, and submitted
19 to legislative fiscal committees before final legislative action on
20 the biennial or supplemental operating budget by the sitting
21 legislature.

22 (13) For purposes of this section, the terms "request for funds"
23 and "feasible financially for the state" have the same meaning as in
24 RCW 41.80.005.

25 **Sec. 14.** RCW 41.56.029 and 2007 c 184 s 1 are each amended to
26 read as follows:

27 (1) In addition to the entities listed in RCW 41.56.020, this
28 chapter applies to the governor with respect to adult family home
29 providers. Solely for the purposes of collective bargaining and as
30 expressly limited under subsections (2) and (3) of this section, the
31 governor is the public employer of adult family home providers who,
32 solely for the purposes of collective bargaining, are public
33 employees. The public employer shall be represented for bargaining
34 purposes by the governor or the governor's designee.

35 (2) There shall be collective bargaining, as defined in RCW
36 41.56.030, between the governor and adult family home providers,
37 except as follows:

1 (a) A statewide unit of all adult family home providers is the
2 only unit appropriate for purposes of collective bargaining under RCW
3 41.56.060.

4 (b) The exclusive bargaining representative of adult family home
5 providers in the unit specified in (a) of this subsection shall be
6 the representative chosen in an election conducted pursuant to RCW
7 41.56.070.

8 Bargaining authorization cards furnished as the showing of
9 interest in support of any representation petition or motion for
10 intervention filed under this section shall be exempt from disclosure
11 under chapter 42.56 RCW.

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

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

28 (i) In addition to the factors to be taken into consideration by
29 an interest arbitration panel under RCW 41.56.465, the panel shall
30 consider the financial ability of the state to pay for the
31 compensation and benefit provisions of a collective bargaining
32 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
36 of the arbitrated collective bargaining agreement, the decision is
37 not binding on the state.

38 (e) Adult family home providers do not have the right to strike.

39 (3) Adult family home providers who are public employees solely
40 for the purposes of collective bargaining under subsection (1) of

1 this section are not, for that reason, employees of the state for any
2 other purpose. This section applies only to the governance of the
3 collective bargaining relationship between the employer and adult
4 family home providers as provided in subsections (1) and (2) of this
5 section.

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

7 (a) The department's authority to establish a plan of care for
8 each consumer or its core responsibility to manage long-term care
9 services under chapter 70.128 RCW, including determination of the
10 level of care that each consumer is eligible to receive. However, at
11 the request of the exclusive bargaining representative, the governor
12 or the governor's designee appointed under chapter 41.80 RCW shall
13 engage in collective bargaining, as defined in RCW 41.56.030(4), with
14 the exclusive bargaining representative over how the department's
15 core responsibility affects hours of work for adult family home
16 providers. This subsection shall not be interpreted to require
17 collective bargaining over an individual consumer's plan of care;

18 (b) The department's obligation to comply with the federal
19 medicaid statute and regulations and the terms of any community-based
20 waiver granted by the federal department of health and human services
21 and to ensure federal financial participation in the provision of the
22 services;

23 (c) The legislature's right to make programmatic modifications to
24 the delivery of state services under chapter 70.128 RCW, including
25 standards of eligibility of consumers and adult family home providers
26 participating in the programs under chapter 70.128 RCW, and the
27 nature of services provided. The governor shall not enter into,
28 extend, or renew any agreement under this chapter that does not
29 expressly reserve the legislative rights described in this subsection
30 (4)(c);

31 (d) The residents', parents', or legal guardians' right to choose
32 and terminate the services of any licensed adult family home
33 provider; and

34 (e) RCW 43.43.832, 43.20A.205, or 74.15.130.

35 (5) Upon meeting the requirements of subsection (6) of this
36 section, the governor must submit, as a part of the proposed biennial
37 or supplemental operating budget submitted to the legislature under
38 RCW 43.88.030, a request for funds necessary to implement the
39 compensation and benefit provisions of a collective bargaining

1 agreement entered into under this section or for legislation
2 necessary to implement the agreement.

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

7 (a) Submitted to the director of financial management by October
8 1st prior to the legislative session at which the requests are to be
9 considered; and

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

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

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

25 (9) After the expiration date of any collective bargaining
26 agreement entered into under this section, all of the terms and
27 conditions specified in the agreement remain in effect until the
28 effective date of a subsequent agreement, not to exceed one year from
29 the expiration date stated in the agreement.

30 (10) In enacting this section, the legislature intends to provide
31 state action immunity under federal and state antitrust laws for the
32 joint activities of adult family home providers and their exclusive
33 bargaining representative to the extent the activities are authorized
34 by this chapter.

35 (11) If the director of the office of financial management does
36 not certify a request for funds as being feasible financially for the
37 state, the parties shall immediately enter into collective bargaining
38 solely for the purpose of reaching a mutually agreed upon
39 modification of the agreement. The legislature may act upon the
40 compensation and fringe benefits provisions of the modified

1 collective bargaining agreement if those provisions are agreed upon,
2 have been certified by the director of the office of financial
3 management as being feasible financially for the state, and submitted
4 to legislative fiscal committees before final legislative action on
5 the biennial or supplemental operating budget by the sitting
6 legislature.

7 (12) For purposes of this section:

8 (a) "Request for funds" has the same meaning as in RCW 41.80.005.

9 (b) "Financially feasible for the state" has the same meaning as
10 "feasible financially for the state" in RCW 41.80.005.

11 **Sec. 15.** RCW 41.56.510 and 2010 c 296 s 2 are each amended to
12 read as follows:

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

21 (2) There shall be collective bargaining, as defined in RCW
22 41.56.030, between the governor and language access providers, except
23 as follows:

24 (a) A statewide unit of all language access providers is the only
25 unit appropriate for purposes of collective bargaining under RCW
26 41.56.060;

27 (b) The exclusive bargaining representative of language access
28 providers in the unit specified in (a) of this subsection shall be
29 the representative chosen in an election conducted pursuant to RCW
30 41.56.070.

31 Bargaining authorization cards furnished as the showing of
32 interest in support of any representation petition or motion for
33 intervention filed under this section are exempt from disclosure
34 under chapter 42.56 RCW;

35 (c) Notwithstanding the definition of "collective bargaining" in
36 RCW 41.56.030(4), the scope of collective bargaining for language
37 access providers under this section is limited solely to: (i)
38 Economic compensation, such as the manner and rate of payments; (ii)
39 professional development and training; (iii) labor-management

1 committees; and (iv) grievance procedures. Retirement benefits are
2 not subject to collective bargaining. By such obligation neither
3 party may be compelled to agree to a proposal or be required to make
4 a concession unless otherwise provided in this chapter;

5 (d) In addition to the entities listed in the mediation and
6 interest arbitration provisions of RCW 41.56.430 through 41.56.470
7 and 41.56.480, the provisions apply to the governor or the governor's
8 designee and the exclusive bargaining representative of language
9 access providers, except that:

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

15 (ii) The decision of the arbitration panel is not binding on the
16 legislature and, if the legislature does not approve the request for
17 funds necessary to implement the compensation and benefit provisions
18 of the arbitrated collective bargaining agreement, the decision is
19 not binding on the state;

20 (e) Language access providers do not have the right to strike.

21 (3) Language access providers who are public employees solely for
22 the purposes of collective bargaining under subsection (1) of this
23 section are not, for that reason, employees of the state for any
24 other purpose. This section applies only to the governance of the
25 collective bargaining relationship between the employer and language
26 access providers as provided in subsections (1) and (2) of this
27 section.

28 (4) Each party with whom the department of social and health
29 services contracts for language access services and each of their
30 subcontractors shall provide to the department an accurate list of
31 language access providers, as defined in RCW 41.56.030, including
32 their names, addresses, and other contact information, annually by
33 January 30th, except that initially the lists must be provided within
34 thirty days of June 10, 2010. The department shall, upon request,
35 provide a list of all language access providers, including their
36 names, addresses, and other contact information, to a labor union
37 seeking to represent language access providers.

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

39 (a) The department's obligation to comply with the federal
40 statute and regulations; and

1 (b) The legislature's right to make programmatic modifications to
2 the delivery of state services under chapter 74.04 RCW. The governor
3 may not enter into, extend, or renew any agreement under this chapter
4 that does not expressly reserve the legislative rights described in
5 this subsection.

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

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

17 (a) Submitted to the director of financial management by October
18 1st prior to the legislative session at which the requests are to be
19 considered, except that, for initial negotiations under this section,
20 the request may not be submitted before July 1, 2011; and

21 (b) Certified by the director of financial management as
22 financially feasible for the state or reflective of a binding
23 decision of an arbitration panel reached under subsection (2)(d) of
24 this section.

25 (8) The legislature must approve or reject the submission of the
26 request for funds as a whole. If the legislature rejects or fails to
27 act on the submission, any collective bargaining agreement must be
28 reopened for the sole purpose of renegotiating the funds necessary to
29 implement the agreement.

30 (9) If, after the compensation and benefit provisions of an
31 agreement are approved by the legislature, a significant revenue
32 shortfall occurs resulting in reduced appropriations, as declared by
33 proclamation of the governor or by resolution of the legislature,
34 both parties shall immediately enter into collective bargaining for a
35 mutually agreed upon modification of the agreement.

36 (10) After the expiration date of any collective bargaining
37 agreement entered into under this section, all of the terms and
38 conditions specified in the agreement remain in effect until the
39 effective date of a subsequent agreement, not to exceed one year from
40 the expiration date stated in the agreement.

1 (11) In enacting this section, the legislature intends to provide
2 state action immunity under federal and state antitrust laws for the
3 joint activities of language access providers and their exclusive
4 bargaining representative to the extent the activities are authorized
5 by this chapter.

6 (12) If the director of the office of financial management does
7 not certify a request for funds as being feasible financially for the
8 state, the parties shall immediately enter into collective bargaining
9 solely for the purpose of reaching a mutually agreed upon
10 modification of the agreement. The legislature may act upon the
11 compensation and fringe benefits provisions of the modified
12 collective bargaining agreement if those provisions are agreed upon,
13 have been certified by the director of the office of financial
14 management as being feasible financially for the state, and submitted
15 to legislative fiscal committees before final legislative action on
16 the biennial or supplemental operating budget by the sitting
17 legislature.

18 (13) For purposes of this section:

19 (a) "Request for funds" has the same meaning as in RCW 41.80.005.

20 (b) "Financially feasible for the state" has the same meaning as
21 "feasible financially for the state" in RCW 41.80.005.

22 **Sec. 16.** RCW 74.39A.240 and 2011 1st sp.s. c 21 s 7 are each
23 amended to read as follows:

24 The definitions in this section apply throughout RCW 74.39A.030
25 ~~((and))~~, 74.39A.095 ~~((and))~~, 74.39A.220 through 74.39A.300, and
26 41.56.026 unless the context clearly requires otherwise.

27 (1) "Consumer" means a person to whom an individual provider
28 provides any such services.

29 (2) "Department" means the department of social and health
30 services.

31 (3) "Feasible financially for the state" has the same meaning as
32 in RCW 41.80.005.

33 (4) "Individual provider" means a person, including a personal
34 aide, who has contracted with the department to provide personal care
35 or respite care services to functionally disabled persons under the
36 medicaid personal care, community options program entry system, chore
37 services program, or respite care program, or to provide respite care
38 or residential services and support to persons with developmental

1 disabilities under chapter 71A.12 RCW, or to provide respite care as
2 defined in RCW 74.13.270.

3 (5) "Request for funds" has the same meaning as in RCW 41.80.005.

4 **Sec. 17.** RCW 74.39A.300 and 2004 c 3 s 2 are each amended to
5 read as follows:

6 (1) Upon meeting the requirements of subsection (2) of this
7 section, the governor must submit, as a part of the proposed biennial
8 or supplemental operating budget submitted to the legislature under
9 RCW 43.88.030, a request for funds necessary to administer chapter 3,
10 Laws of 2002 and to implement the compensation and fringe benefits
11 provisions of a collective bargaining agreement entered into under
12 RCW 74.39A.270 or for legislation necessary to implement such
13 agreement.

14 (2) A request for funds necessary to implement the compensation
15 and fringe benefits provisions of a collective bargaining agreement
16 entered into under RCW 74.39A.270 shall not be submitted by the
17 governor to the legislature unless such request:

18 (a) Has been submitted to the director of financial management by
19 October 1st prior to the legislative session at which the request is
20 to be considered; and

21 (b) Has been certified by the director of financial management as
22 being feasible financially for the state or reflects the binding
23 decision of an arbitration panel reached under RCW 74.39A.270(2)(c).

24 (3) The legislature must approve or reject the submission of the
25 request for funds as a whole. If the legislature rejects or fails to
26 act on the submission, any such agreement will be reopened solely for
27 the purpose of renegotiating the funds necessary to implement the
28 agreement.

29 (4) When any increase in individual provider wages or benefits is
30 negotiated or agreed to, no increase in wages or benefits negotiated
31 or agreed to under this chapter will take effect unless and until,
32 before its implementation, the department has determined that the
33 increase is consistent with federal law and federal financial
34 participation in the provision of services under Title XIX of the
35 federal social security act.

36 (5) The governor shall periodically consult with the joint
37 committee on employment relations established by RCW 41.80.010
38 regarding appropriations necessary to implement the compensation and
39 fringe benefits provisions of any collective bargaining agreement

1 and, upon completion of negotiations, advise the committee on the
2 elements of the agreement and on any legislation necessary to
3 implement such agreement.

4 (6) After the expiration date of any collective bargaining
5 agreement entered into under RCW 74.39A.270, all of the terms and
6 conditions specified in any such agreement remain in effect until the
7 effective date of a subsequent agreement, not to exceed one year from
8 the expiration date stated in the agreement, except as provided in
9 RCW 74.39A.270(~~(+6)~~) (5)(f).

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

16 (8) If the director of the office of financial management does
17 not certify a request for funds as being feasible financially for the
18 state, the parties shall immediately enter into collective bargaining
19 solely for the purpose of reaching a mutually agreed upon
20 modification of the agreement. The legislature may act upon the
21 compensation and fringe benefits provisions of the modified
22 collective bargaining agreement if those provisions are agreed upon,
23 have been certified by the director of the office of financial
24 management as being feasible financially for the state, and submitted
25 to legislative fiscal committees before final legislative action on
26 the biennial or supplemental operating budget by the sitting
27 legislature.

28 NEW SECTION. Sec. 18. This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of
30 the state government and its existing public institutions, and takes
31 effect immediately.

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