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SENATE BILL 5682

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State of Washington

65th Legislature

2017 Regular Session

By Senators Saldaña, Hasegawa, Chase, Conway, Cleveland, Hunt, McCoy, Keiser, and Kuderer

Read first time 02/02/17. Referred to Committee on Commerce, Labor & Sports.

1 AN ACT Relating to interpreter services; amending RCW 39.26.100,  
2 41.56.030, and 41.56.510; adding a new section to chapter 39.26 RCW;  
3 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 spoken language  
7 interpreter services and expand the use of language access providers,  
8 thereby reducing administrative costs while protecting consumers. The  
9 legislature further intends to exclude interpreter services for  
10 sensory impaired persons from the provisions of this act.

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

13 (1) The department of social and health services and the health  
14 care authority are each authorized to purchase interpreter services  
15 on behalf of limited-English speaking applicants and recipients of  
16 public assistance.

17 (2) The department of labor and industries is authorized to  
18 purchase interpreter services for medical and vocational providers  
19 authorized to provide services to limited-English speaking injured  
20 workers or crime victims.

1 (3) Upon the expiration of the any contract in effect on the  
2 effective date of this section, but no later than September 1, 2020,  
3 the department of social and health services, the health care  
4 authority, and the department of labor and industries must purchase  
5 in-person spoken language interpreter services directly from language  
6 access providers, or through contracts with scheduling and  
7 coordinating delivery organizations, or both. Each agency must have  
8 at least one contract with an entity that provides interpreter  
9 services through telephonic and video remote technologies.

10 (4) Notwithstanding subsection (3) of this section, the  
11 department of labor and industries may pay a language access provider  
12 directly for the costs of interpreter services when the services are  
13 necessary for use by a medical provider for emergency or urgent care,  
14 or where the medical provider determines that advanced notice is not  
15 feasible.

16 (5) Upon the expiration of the any contract in effect on the  
17 effective date of this section, but no later than September 1, 2020,  
18 the department of enterprise services must develop and implement a  
19 model that all state agencies must use to procure spoken language  
20 interpreter services by purchasing directly from language access  
21 providers or through contracts with scheduling and coordinating  
22 entities, or both. The department must have at least one contract  
23 with an entity that provides interpreter services through telephonic  
24 and video remote technologies. If the department of enterprise  
25 services determines it is more cost effective or efficient, it may  
26 jointly purchase these services with the department of social and  
27 health services, the health care authority, and the department of  
28 labor and industries as provided in subsection (3) of this section.  
29 The department of social and health services, the health care  
30 authority, and the department of labor and industries have the  
31 authority to procure interpreters through the department of  
32 enterprise services if the demand for spoken language interpreters  
33 cannot be met through their respective contracts.

34 (6) All language access providers procured under this section  
35 must be certified or authorized by the state, or be nationally  
36 certified by the certification commission for health care  
37 interpreters or the national board for certification of medical  
38 interpreters. When a nationally certified, state-certified, or  
39 authorized language access provider is not available, a state agency  
40 is authorized to contract with a spoken language interpreter with

1 other certifications or qualifications deemed to meet agency needs.  
2 Nothing in this subsection precludes providing interpretive services  
3 through state employees or employees of medical or vocational  
4 providers.

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

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

14 **Sec. 3.** RCW 39.26.100 and 2013 2nd sp.s. c 33 s 2 are each  
15 amended to read as follows:

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

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

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

31 (4) Universities operating hospitals with approval from the  
32 director, as the agent for state hospitals as defined in RCW  
33 72.23.010, and for health care programs provided in state  
34 correctional institutions as defined in RCW 72.65.010(3) and  
35 veterans' institutions as defined in RCW 72.36.010 and 72.36.070, may  
36 make purchases for hospital operation by participating in contracts  
37 for materials, supplies, and equipment entered into by nonprofit  
38 cooperative hospital group purchasing organizations if documented to  
39 be more cost-effective.

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

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

8 ~~(7) ((The authority to purchase interpreter services and  
9 interpreter brokerage services on behalf of limited English speaking  
10 or sensory impaired applicants and recipients of public assistance  
11 rests with the department of social and health services and the  
12 health care authority.~~

13 ~~(8))~~ The provisions of this chapter do not apply to information  
14 technology purchases by state agencies, other than institutions of  
15 higher education and agencies of the judicial branch, if (a) the  
16 purchase is less than one hundred thousand dollars, (b) the initial  
17 purchase is approved by the chief information officer of the state,  
18 and (c) the agency director and the chief information officer of the  
19 state jointly prepare a public document providing a detailed  
20 justification for the expenditure.

21 **Sec. 4.** RCW 41.56.030 and 2015 2nd sp.s. c 6 s 1 are each  
22 amended to read as follows:

23 As used in this chapter:

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

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

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

34 (4) "Collective bargaining" means the performance of the mutual  
35 obligations of the public employer and the exclusive bargaining  
36 representative to meet at reasonable times, to confer and negotiate  
37 in good faith, and to execute a written agreement with respect to  
38 grievance procedures and collective negotiations on personnel  
39 matters, including wages, hours and working conditions, which may be

1 peculiar to an appropriate bargaining unit of such public employer,  
2 except that by such obligation neither party shall be compelled to  
3 agree to a proposal or be required to make a concession unless  
4 otherwise provided in this chapter.

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

7 (6) "Executive director" means the executive director of the  
8 commission.

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

17 (8) "Individual provider" means an individual provider as defined  
18 in RCW 74.39A.240(~~((+4))~~) (3) who, solely for the purposes of  
19 collective bargaining, is a public employee as provided in RCW  
20 74.39A.270.

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

26 (10)(a) "Language access provider" means any independent  
27 contractor who provides spoken language interpreter services (~~((for~~  
28 ~~department of social and health services appointments or medicaid~~  
29 ~~enrollee appointments, or provided these services on or after January~~  
30 ~~1, 2009, and before June 10, 2010, whether paid by a broker, language~~  
31 ~~access agency, or the department))~~, whether paid by a language access  
32 agency, broker, or the respective department: (i) For department of  
33 social and health services appointments or medicaid enrollee  
34 appointments, or who provided these services on or after January 1,  
35 2011, and before June 10, 2012; (ii) for department of labor and  
36 industries authorized medical and vocational providers, or who  
37 provided these services on or after January 1, 2016, and before the  
38 effective date of this section; or (iii) for state agencies, or who  
39 provided these services on or after January 1, 2016, and before the  
40 effective date of this section.

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

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

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

31 (13) "Uniformed personnel" means: (a) Law enforcement officers as  
32 defined in RCW 41.26.030 employed by the governing body of any city  
33 or town with a population of two thousand five hundred or more and  
34 law enforcement officers employed by the governing body of any county  
35 with a population of ten thousand or more; (b) correctional employees  
36 who are uniformed and nonuniformed, commissioned and noncommissioned  
37 security personnel employed in a jail as defined in RCW 70.48.020(9),  
38 by a county with a population of seventy thousand or more, and who  
39 are trained for and charged with the responsibility of controlling  
40 and maintaining custody of inmates in the jail and safeguarding

1 inmates from other inmates; (c) general authority Washington peace  
2 officers as defined in RCW 10.93.020 employed by a port district in a  
3 county with a population of one million or more; (d) security forces  
4 established under RCW 43.52.520; (e) firefighters as that term is  
5 defined in RCW 41.26.030; (f) employees of a port district in a  
6 county with a population of one million or more whose duties include  
7 crash fire rescue or other firefighting duties; (g) employees of fire  
8 departments of public employers who dispatch exclusively either fire  
9 or emergency medical services, or both; (h) employees in the several  
10 classes of advanced life support technicians, as defined in RCW  
11 18.71.200, who are employed by a public employer; or (i) court  
12 marshals of any county who are employed by, trained for, and  
13 commissioned by the county sheriff and charged with the  
14 responsibility of enforcing laws, protecting and maintaining security  
15 in all county-owned or contracted property, and performing any other  
16 duties assigned to them by the county sheriff or mandated by judicial  
17 order.

18 **Sec. 5.** RCW 41.56.510 and 2010 c 296 s 2 are each amended to  
19 read as follows:

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

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

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

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

37 (ii) A statewide unit for language access providers who provide  
38 spoken language interpreter services for injured workers or crime

1 victims receiving benefits from the department of labor and  
2 industries; 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  
6 providers included in (a)(i) and (ii) of this subsection;

7 (b) The exclusive bargaining representatives of language access  
8 providers in the units specified in (a) of this subsection shall be  
9 the representatives chosen in ~~((a))~~ elections conducted pursuant to  
10 RCW 41.56.070.

11 Bargaining authorization cards furnished as the showing of  
12 interest in support of any representation petition or motion for  
13 intervention filed under this section are exempt from disclosure  
14 under chapter 42.56 RCW. The public employment relations commission  
15 may not certify any bargaining unit under (a)(ii) and (iii) of this  
16 subsection before January 1, 2018;

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

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

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

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



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

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

10 (g) If a single employee organization is the exclusive bargaining  
11 representative for two or more bargaining units, the governor and the  
12 employee organization may agree to negotiate a single collective  
13 bargaining agreement for all of the bargaining units that the  
14 employee organization represents.

15 (3) Language access providers who are public employees solely for  
16 the purposes of collective bargaining under subsection (1) of this  
17 section are not, for that reason, employees of the state for any  
18 other purpose. This section applies only to the governance of the  
19 collective bargaining relationship between the employer and language  
20 access providers as provided in subsections (1) and (2) of this  
21 section.

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

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

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

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

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

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

13 ~~((+7))~~ (8) A request for funds necessary to implement the  
14 compensation and benefit provisions of a collective bargaining  
15 agreement entered into under this section may not be submitted by the  
16 governor to the 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))~~ (9) The legislature must approve or reject the submission  
26 of the request for funds as a whole. If the legislature rejects or  
27 fails to act on the submission, any collective bargaining agreement  
28 must be reopened for the sole purpose of renegotiating the funds  
29 necessary to implement the agreement.

30 ~~((+9))~~ (10) If, after the compensation and benefit provisions of  
31 an 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))~~ (11) After the expiration date of any collective  
37 bargaining agreement entered into under this section, all of the  
38 terms and conditions specified in the agreement remain in effect  
39 until the effective date of a subsequent agreement, not to exceed one  
40 year from the expiration date stated in the agreement.

1        (~~(11)~~) (12) In enacting this section, the legislature intends  
2 to provide state action immunity under federal and state antitrust  
3 laws for the joint activities of language access providers and their  
4 exclusive bargaining representative to the extent the activities are  
5 authorized by this chapter.

6        NEW SECTION.    **Sec. 6.** If any part of this act is found to be in  
7 conflict with federal requirements that are a prescribed condition to  
8 the allocation of federal funds to the state, the conflicting part of  
9 this act is inoperative solely to the extent of the conflict and with  
10 respect to the agencies directly affected, and this finding does not  
11 affect the operation of the remainder of this act in its application  
12 to the agencies concerned. Rules adopted under this act must meet  
13 federal requirements that are a necessary condition to the receipt of  
14 federal funds by the state. Nothing in this act may restrict an  
15 agency's ability to serve limited English proficient clients in a  
16 timely manner.

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