

HB 2691 - S COMM AMD

By Committee on Labor & Commerce

ADOPTED AND ENGROSSED 3/4/20

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 41.56.030 and 2019 c 280 s 1 are each amended to  
4 read as follows:

5 As used in this chapter:

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

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

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

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

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

27 (6) "Executive director" means the executive director of the  
28 commission.

29 (7) "Family child care provider" means a person who: (a) Provides  
30 regularly scheduled care for a child or children in the home of the  
31 provider or in the home of the child or children for periods of less  
32 than twenty-four hours or, if necessary due to the nature of the

1 parent's work, for periods equal to or greater than twenty-four  
2 hours; (b) receives child care subsidies; and (c) under chapter  
3 43.216 RCW, is either licensed by the state or is exempt from  
4 licensing.

5 (8) "Individual provider" means an individual provider as defined  
6 in RCW 74.39A.240(3) who, solely for the purposes of collective  
7 bargaining, is a public employee as provided in RCW 74.39A.270.

8 (9) "Institution of higher education" means the University of  
9 Washington, Washington State University, Central Washington  
10 University, Eastern Washington University, Western Washington  
11 University, The Evergreen State College, and the various state  
12 community colleges.

13 (10)(a) "Language access provider" means any independent  
14 contractor who provides spoken language interpreter services, whether  
15 paid by a broker, language access agency, or the respective  
16 department:

17 (i) For department of social and health services appointments,  
18 department of children, youth, and families appointments, medicaid  
19 enrollee appointments, or who provided these services on or after  
20 January 1, 2011, and before June 10, 2012;

21 (ii) For department of labor and industries authorized medical  
22 and vocational providers(~~(, or)~~) who provided these services on or  
23 after January 1, (~~(2016, and before July 1, 2018)~~) 2019; or

24 (iii) For state agencies(~~(, or)~~) who provided these services on  
25 or after January 1, (~~(2016, and before July 1, 2018)~~) 2019.

26 (b) "Language access provider" does not mean a manager or  
27 employee of a broker or a language access agency.

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

1 court magistrate of superior court, district court, or a department  
2 of a district court organized under chapter 3.46 RCW, or (e) who is a  
3 personal assistant to a district court judge, superior court judge,  
4 or court commissioner. For the purpose of (e) of this subsection, no  
5 more than one assistant for each judge or commissioner may be  
6 excluded from a bargaining unit.

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

16 (13) "Uniformed personnel" means: (a) Law enforcement officers as  
17 defined in RCW 41.26.030 employed by the governing body of any city  
18 or town with a population of two thousand five hundred or more and  
19 law enforcement officers employed by the governing body of any county  
20 with a population of ten thousand or more; (b) correctional employees  
21 who are uniformed and nonuniformed, commissioned and noncommissioned  
22 security personnel employed in a jail as defined in RCW 70.48.020(9),  
23 by a county with a population of seventy thousand or more, in a  
24 correctional facility created under RCW 70.48.095, or in a detention  
25 facility created under chapter 13.40 RCW that is located in a county  
26 with a population over one million five hundred thousand, and who are  
27 trained for and charged with the responsibility of controlling and  
28 maintaining custody of inmates in the jail and safeguarding inmates  
29 from other inmates; (c) general authority Washington peace officers  
30 as defined in RCW 10.93.020 employed by a port district in a county  
31 with a population of one million or more; (d) security forces  
32 established under RCW 43.52.520; (e) firefighters as that term is  
33 defined in RCW 41.26.030; (f) employees of a port district in a  
34 county with a population of one million or more whose duties include  
35 crash fire rescue or other firefighting duties; (g) employees of fire  
36 departments of public employers who dispatch exclusively either fire  
37 or emergency medical services, or both; (h) employees in the several  
38 classes of advanced life support technicians, as defined in RCW  
39 18.71.200, who are employed by a public employer; or (i) court  
40 marshals of any county who are employed by, trained for, and

1 commissioned by the county sheriff and charged with the  
2 responsibility of enforcing laws, protecting and maintaining security  
3 in all county-owned or contracted property, and performing any other  
4 duties assigned to them by the county sheriff or mandated by judicial  
5 order.

6 **Sec. 2.** RCW 41.56.510 and 2018 c 253 s 8 are each amended to  
7 read as follows:

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

16 (2) There shall be collective bargaining, as defined in RCW  
17 41.56.030, between the governor and language access providers, except  
18 as follows:

19 (a) The only units appropriate for purposes of collective  
20 bargaining under RCW 41.56.060 are:

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

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

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

33 (b) The exclusive bargaining representative of language access  
34 providers in the unit specified in (a) of this subsection shall be  
35 the representative chosen in an election conducted pursuant to RCW  
36 41.56.070.

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

1 intervention filed under this section are exempt from disclosure  
2 under chapter 42.56 RCW;

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

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

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

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

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

30 (f) If a single employee organization is the exclusive bargaining  
31 representative for two or more units, upon petition by the employee  
32 organization, the units may be consolidated into a single larger unit  
33 if the commission considers the larger unit to be appropriate. If  
34 consolidation is appropriate, the commission shall certify the  
35 employee organization as the exclusive bargaining representative of  
36 the new unit;

37 (g) If a single employee organization is the exclusive bargaining  
38 representative for two or more bargaining units, the governor and the  
39 employee organization may agree to negotiate a single collective

1 bargaining agreement for all of the bargaining units that the  
2 employee organization represents.

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

10 (4) Each party with whom the department of social and health  
11 services, the department of children, youth, and families, the  
12 department of labor and industries, and the department of enterprise  
13 services contracts for language access services and each of their  
14 subcontractors shall provide to the respective department an accurate  
15 list of language access providers, as defined in RCW 41.56.030,  
16 including their names, addresses, and other contact information,  
17 annually by January 30th, except that initially the lists must be  
18 provided within thirty days of July 1, 2018. The department shall,  
19 upon request, provide a list of all language access providers,  
20 including their names, addresses, and other contact information, to a  
21 labor union seeking to represent language access providers.

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

23 (a) The obligation of any state agency to comply with federal  
24 statute and regulations; and

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

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

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

1 (a) Submitted to the director of financial management by October  
2 1st prior to the legislative session at which the requests are to be  
3 considered, except that, for initial negotiations under this section,  
4 the request may not be submitted before July 1, 2011; and

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

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

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

20 (10) After the expiration date of any collective bargaining  
21 agreement entered into under this section, all of the terms and  
22 conditions specified in the agreement remain in effect until the  
23 effective date of a subsequent agreement, not to exceed one year from  
24 the expiration date stated in the agreement.

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

30 (12) By December 1, 2020, the department of social and health  
31 services, the department of children, youth, and families, the  
32 department of labor and industries, the health care authority, and  
33 the department of enterprise services must report to the legislature  
34 on the following:

35 (a) Each agency's current process for procuring spoken language  
36 interpreters and whether the changes in chapter 253, Laws of 2018  
37 have been implemented;

38 (b) If chapter 253, Laws of 2018 has not been fully implemented  
39 by an agency, the barriers to implementation the agency has

1 encountered and recommendations for removing the barriers to  
2 implementation;

3 (c) The impacts of the changes to the bargaining units for  
4 language access providers in chapter 253, Laws of 2018; and

5 (d) Recommendations on how to improve the procurement and  
6 accessibility of language access providers."

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**ADOPTED 3/4/20**

7 On page 1, line 2 of the title, after "providers;" strike the  
8 remainder of the title and insert "and amending RCW 41.56.030 and  
9 41.56.510."

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