

HB 2691 - S COMM AMD

By Committee on Labor & Commerce

ADOPTED AS AMENDED 03/04/2020

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."

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30 On page 1, line 2 of the title, after "providers;" strike the
31 remainder of the title and insert "and amending RCW 41.56.030 and
32 41.56.510."

EFFECT: Modifies the date after which an individual must provide
interpreter services to be considered a language access provider for
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collective bargaining purposes from January 1, 2020, to January 1, 2019.

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