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HOUSE BILL 1771

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State of Washington

67th Legislature

2022 Regular Session

By Representatives Berry, Chopp, Fitzgibbon, Ryu, Sells, Bateman, Davis, Goodman, Macri, Ramel, Santos, Senn, Simmons, Bergquist, Valdez, Pollet, Riccelli, Harris-Talley, and Frame

Prefiled 01/05/22. Read first time 01/10/22. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to permitting family child care providers to  
2 collectively bargain defined contribution retirement benefits; and  
3 amending RCW 41.56.028.

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

5 **Sec. 1.** RCW 41.56.028 and 2007 c 278 s 2 are each amended to  
6 read as follows:

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

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

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

1 (b) The exclusive bargaining representative of family child care  
2 providers in the unit specified in (a) of this subsection shall be  
3 the representative chosen in an election conducted pursuant to RCW  
4 41.56.070, except that in the initial election conducted under  
5 chapter 54, Laws of 2006, if more than one labor organization is on  
6 the ballot and none of the choices receives a majority of the votes  
7 cast, a runoff election shall be held.

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

21 (d) The mediation and interest arbitration provisions of RCW  
22 41.56.430 through 41.56.470 and 41.56.480 apply, except that:

23 (i) With respect to commencement of negotiations between the  
24 governor and the exclusive bargaining representative of family child  
25 care providers, negotiations shall be commenced initially upon  
26 certification of an exclusive bargaining representative under (a) of  
27 this subsection and, thereafter, by February 1st of any even-numbered  
28 year; and

29 (ii) The decision of the arbitration panel is not binding on the  
30 legislature and, if the legislature does not approve the request for  
31 funds necessary to implement the compensation and benefit provisions  
32 of the arbitrated collective bargaining agreement, is not binding on  
33 the state.

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

35 (3) Family child care providers who are public employees solely  
36 for the purposes of collective bargaining under subsection (1) of  
37 this section are not, for that reason, employees of the state for any  
38 purpose. This section applies only to the governance of the  
39 collective bargaining relationship between the employer and family

1 child care providers as provided in subsections (1) and (2) of this  
2 section.

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

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

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

12 (c) Chapter 26.44 RCW, RCW 43.43.832, 43.20A.205, and 74.15.130;  
13 and

14 (d) The legislature's right to make programmatic modifications to  
15 the delivery of state services through child care subsidy programs,  
16 including standards of eligibility of parents, legal guardians, and  
17 family child care providers participating in child care subsidy  
18 programs, and the nature of services provided. The governor shall not  
19 enter into, extend, or renew any agreement under this section that  
20 does not expressly reserve the legislative rights described in this  
21 subsection (4)(d).

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

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

33 (a) Submitted to the director of financial management by October  
34 1st before the legislative session at which the request is to be  
35 considered, except that, for initial negotiations under this section,  
36 the request must be submitted by November 15, 2006; and

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

1 (7) The legislature must approve or reject the submission of the  
2 request for funds as a whole. If the legislature rejects or fails to  
3 act on the submission, any such agreement will be reopened solely for  
4 the purpose of renegotiating the funds necessary to implement the  
5 agreement.

6 (8) The governor shall periodically consult with the joint  
7 committee on employment relations established by RCW 41.80.010  
8 regarding appropriations necessary to implement the compensation and  
9 benefit provisions of any collective bargaining agreement and, upon  
10 completion of negotiations, advise the committee on the elements of  
11 the agreement and on any legislation necessary to implement such  
12 agreement.

13 (9) After the expiration date of any collective bargaining  
14 agreement entered into under this section, all of the terms and  
15 conditions specified in any such agreement remain in effect until the  
16 effective date of a subsequent agreement, not to exceed one year from  
17 the expiration date stated in the agreement, except as provided in  
18 subsection (4) (d) of this section.

19 (10) 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 (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 family child care providers and their exclusive  
28 bargaining representative to the extent such activities are  
29 authorized by this chapter.

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