
HOUSE BILL 1869

State of Washington

65th Legislature

2017 Regular Session

By Representatives Orwall, Gregerson, Ortiz-Self, Bergquist, Ryu, Stonier, Sawyer, Santos, Hudgins, and Reeves

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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