
SENATE BILL 5664

State of Washington

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By Senators Jayapal, Miloscia, Hasegawa, Frockt, Darneille, Roach, Kohl-Welles, Nelson, Cleveland, Chase, Keiser, Hobbs, Conway, McAuliffe, Fraser, and Habib

Read first time 01/28/15. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to promoting efficiency in the procurement of
2 interpreter services; amending RCW 41.56.030 and 41.56.510; adding a
3 new section to chapter 39.26 RCW; 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) No later than September 1, 2016, the department of social and
2 health services, the health care authority, and the department of
3 labor and industries must purchase spoken language interpreter
4 services directly from language access providers, or through
5 contracts with scheduling and coordinating delivery organizations, or
6 both. Each department must have at least one contract with an entity
7 that provides interpreter services exclusively through telephonic and
8 video remote technologies.

9 (4) By September 1, 2016, the department of enterprise services
10 must develop and implement a model that all state agencies must use
11 to procure spoken language interpreter services by purchasing
12 directly from language access providers or through contracts with
13 scheduling and coordinating entities, or both. The department must
14 have at least one contract with an entity that provides interpreter
15 services through telephonic and video remote technologies. If the
16 department of enterprise services determines it is more cost
17 effective or efficient, it may jointly purchase these services with
18 the department of social and health services, the health care
19 authority, and the department of labor and industries as provided in
20 subsection (3) of this section. The department of social and health
21 services, the health care authority, and the department of labor and
22 industries have the authority to procure interpreters through the
23 department of enterprise services if the demand for spoken language
24 interpreters cannot be met through their respective contracts.

25 (5) All language access providers procured under this section
26 must be certified or authorized by the state, or be nationally
27 certified by the certification commission for health care
28 interpreters or the national board for certification of medical
29 interpreters. When a nationally certified, state-certified, or
30 authorized language access provider is not available, a state agency
31 is authorized to contract with a spoken language interpreter with
32 other certifications or qualifications deemed to meet state
33 standards. Nothing in this subsection precludes providing
34 interpretive services through state employees or employees of medical
35 or vocational providers.

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

38 (7) For purposes of this section, "state agency" means any state
39 office or activity of the executive branch of state government,
40 including state agencies, departments, offices, divisions, boards,

1 commissions, and correctional and other types of institutions, but
2 excludes institutions of higher education as defined in RCW
3 28B.10.016, the school for the blind, and the center for childhood
4 deafness and hearing loss.

5 (8) The department of social and health services, the health care
6 authority, the department of labor and industries, and the department
7 of enterprise services may not impose reimbursement rates or
8 obligations established through collective bargaining under RCW
9 41.56.510 in contracts with entities that do not provide interpreter
10 services through language access providers as defined in RCW
11 41.56.030(10).

12 **Sec. 3.** RCW 41.56.030 and 2011 1st sp.s. c 21 s 11 are each
13 amended to read as follows:

14 As used in this chapter:

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

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

21 (3) "Child care subsidy" means a payment from the state through a
22 child care subsidy program established pursuant to RCW 74.12.340 (~~or~~
23 ~~74.08A.340~~), 45 C.F.R. Sec. 98.1 through 98.17, or any successor
24 program.

25 (4) "Collective bargaining" means the performance of the mutual
26 obligations of the public employer and the exclusive bargaining
27 representative to meet at reasonable times, to confer and negotiate
28 in good faith, and to execute a written agreement with respect to
29 grievance procedures and collective negotiations on personnel
30 matters, including wages, hours and working conditions, which may be
31 peculiar to an appropriate bargaining unit of such public employer,
32 except that by such obligation neither party shall be compelled to
33 agree to a proposal or be required to make a concession unless
34 otherwise provided in this chapter.

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

37 (6) "Executive director" means the executive director of the
38 commission.

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

9 (8) "Individual provider" means an individual provider as defined
10 in RCW 74.39A.240(~~(+4)~~) (3) who, solely for the purposes of
11 collective bargaining, is a public employee as provided in RCW
12 74.39A.270.

13 (9) "Institution of higher education" means the University of
14 Washington, Washington State University, Central Washington
15 University, Eastern Washington University, Western Washington
16 University, The Evergreen State College, and the various state
17 community colleges.

18 (10)(a) "Language access provider" means any independent
19 contractor who provides spoken language interpreter services (~~for~~
20 ~~department of social and health services appointments or medicaid~~
21 ~~enrollee appointments, or provided these services on or after January~~
22 ~~1, 2009, and before June 10, 2010, whether paid by a broker, language~~
23 ~~access agency, or the department)), whether paid by a language access
24 agency, broker, or the respective department: (i) For department of
25 social and health services appointments or medicaid enrollee
26 appointments, or who provided these services on or after January 1,
27 2009, and before June 10, 2010; (ii) for department of labor and
28 industries authorized medical and vocational providers, or who
29 provided these services on or after January 1, 2014, and before the
30 effective date of this section; or (iii) for state agencies, or who
31 provided these services on or after January 1, 2014, and before the
32 effective date of this section.~~

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

35 (11) "Public employee" means any employee of a public employer
36 except any person (a) elected by popular vote, or (b) appointed to
37 office pursuant to statute, ordinance or resolution for a specified
38 term of office as a member of a multimember board, commission, or
39 committee, whether appointed by the executive head or body of the
40 public employer, or (c) whose duties as deputy, administrative

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

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

23 (13) "Uniformed personnel" means: (a) Law enforcement officers as
24 defined in RCW 41.26.030 employed by the governing body of any city
25 or town with a population of two thousand five hundred or more and
26 law enforcement officers employed by the governing body of any county
27 with a population of ten thousand or more; (b) correctional employees
28 who are uniformed and nonuniformed, commissioned and noncommissioned
29 security personnel employed in a jail as defined in RCW 70.48.020(9),
30 by a county with a population of seventy thousand or more, and who
31 are trained for and charged with the responsibility of controlling
32 and maintaining custody of inmates in the jail and safeguarding
33 inmates from other inmates; (c) general authority Washington peace
34 officers as defined in RCW 10.93.020 employed by a port district in a
35 county with a population of one million or more; (d) security forces
36 established under RCW 43.52.520; (e) firefighters as that term is
37 defined in RCW 41.26.030; (f) employees of a port district in a
38 county with a population of one million or more whose duties include
39 crash fire rescue or other firefighting duties; (g) employees of fire
40 departments of public employers who dispatch exclusively either fire

1 or emergency medical services, or both; or (h) employees in the
2 several classes of advanced life support technicians, as defined in
3 RCW 18.71.200, who are employed by a public employer.

4 **Sec. 4.** RCW 41.56.510 and 2010 c 296 s 2 are each amended to
5 read as follows:

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

14 (2) There shall be collective bargaining, as defined in RCW
15 41.56.030, between the governor and language access providers, except
16 as follows:

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

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

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

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

31 (b) The exclusive bargaining representatives of language access
32 providers in the units specified in (a) of this subsection shall be
33 the representatives chosen in (~~an~~) elections conducted pursuant to
34 RCW 41.56.070.

35 Bargaining authorization cards furnished as the showing of
36 interest in support of any representation petition or motion for
37 intervention filed under this section are exempt from disclosure
38 under chapter 42.56 RCW. The public employment relations commission

1 may not certify any bargaining unit under subsection (2)(a)(ii) and
2 (iii) of this section before January 1, 2016;

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 payments; (ii)
7 professional development and training; (iii) labor-management
8 committees; and (iv) grievance procedures. Retirement benefits are
9 not subject to collective bargaining. By such obligation neither
10 party may be compelled to agree to a proposal or be required to make
11 a concession unless otherwise provided in this chapter;

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

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

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

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

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

36 (g) If a single employee organization is the exclusive bargaining
37 representative for two or more bargaining units, the governor and the
38 employee organization may agree to negotiate a single collective
39 bargaining agreement for all of the bargaining units that the
40 employee organization represents.

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

8 (4) Each party with whom the department of social and health
9 services, the department of labor and industries, and the department
10 of enterprise services contracts for language access services and
11 each of their subcontractors shall provide to the respective
12 department an accurate list of language access providers, as defined
13 in RCW 41.56.030, including their names, addresses, and other contact
14 information, annually by January 30th, except that initially the
15 lists must be provided within thirty days of (~~June 10, 2010~~) the
16 effective date of this section. The departments shall, upon request,
17 provide a list of all language access providers, including their
18 names, addresses, and other contact information, to a labor union
19 seeking to represent language access providers.

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

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

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

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

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

38 (~~(7)~~) (8) A request for funds necessary to implement the
39 compensation and benefit provisions of a collective bargaining

1 agreement entered into under this section may not be submitted by the
2 governor to the legislature unless the request has been:

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

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

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

16 ~~((+9))~~ (10) If, after the compensation and benefit provisions of
17 an agreement are approved by the legislature, a significant revenue
18 shortfall occurs resulting in reduced appropriations, as declared by
19 proclamation of the governor or by resolution of the legislature,
20 both parties shall immediately enter into collective bargaining for a
21 mutually agreed upon modification of the agreement.

22 ~~((+10))~~ (11) After the expiration date of any collective
23 bargaining agreement entered into under this section, all of the
24 terms and conditions specified in the agreement remain in effect
25 until the effective date of a subsequent agreement, not to exceed one
26 year from the expiration date stated in the agreement.

27 ~~((+11))~~ (12) In enacting this section, the legislature intends
28 to provide state action immunity under federal and state antitrust
29 laws for the joint activities of language access providers and their
30 exclusive bargaining representative to the extent the activities are
31 authorized by this chapter.

32 NEW SECTION. **Sec. 5.** If any part of this act is found to be in
33 conflict with federal requirements that are a prescribed condition to
34 the allocation of federal funds to the state, the conflicting part of
35 this act is inoperative solely to the extent of the conflict and with
36 respect to the agencies directly affected, and this finding does not
37 affect the operation of the remainder of this act in its application
38 to the agencies concerned. Rules adopted under this act must meet

1 federal requirements that are a necessary condition to the receipt of
2 federal funds by the state.

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