
HOUSE BILL 2953

State of Washington

61st Legislature

2010 Regular Session

By Representative Pettigrew; by request of Governor Gregoire

Read first time 01/19/10. Referred to Committee on Health & Human Services Appropriations.

1 AN ACT Relating to transferring the functions of the home care
2 quality authority and the department of services for the blind to the
3 department of social and health services; amending RCW 41.56.030,
4 43.105.340, 74.39A.095, 74.39A.220, 74.39A.240, 74.39A.260, 74.18.020,
5 74.18.030, 74.18.045, 74.18.070, 74.18.080, 74.18.090, 74.18.100,
6 74.18.190, 28A.155.160, 41.05.225, 42.17.2401, 43.01.090, 47.38.070,
7 and 74.09.720; reenacting and amending RCW 74.39A.270; creating new
8 sections; decodifying RCW 74.39A.290; repealing RCW 70.127.041,
9 74.39A.230, 74.39A.250, and 74.39A.280; and providing an effective
10 date.

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

12 PART I

13 HOME CARE QUALITY AUTHORITY

14 **Sec. 101.** RCW 41.56.030 and 2007 c 184 s 2 are each amended to
15 read as follows:

16 As used in this chapter:

17 (1) "Public employer" means any officer, board, commission,
18 council, or other person or body acting on behalf of any public body

1 governed by this chapter, or any subdivision of such public body. For
2 the purposes of this section, the public employer of district court or
3 superior court employees for wage-related matters is the respective
4 county legislative authority, or person or body acting on behalf of the
5 legislative authority, and the public employer for nonwage-related
6 matters is the judge or judge's designee of the respective district
7 court or superior court.

8 (2) "Public employee" means any employee of a public employer
9 except any person (a) elected by popular vote, or (b) appointed to
10 office pursuant to statute, ordinance or resolution for a specified
11 term of office as a member of a multimember board, commission, or
12 committee, whether appointed by the executive head or body of the
13 public employer, or (c) whose duties as deputy, administrative
14 assistant or secretary necessarily imply a confidential relationship to
15 (i) the executive head or body of the applicable bargaining unit, or
16 (ii) any person elected by popular vote, or (iii) any person appointed
17 to office pursuant to statute, ordinance or resolution for a specified
18 term of office as a member of a multimember board, commission, or
19 committee, whether appointed by the executive head or body of the
20 public employer, or (d) who is a court commissioner or a court
21 magistrate of superior court, district court, or a department of a
22 district court organized under chapter 3.46 RCW, or (e) who is a
23 personal assistant to a district court judge, superior court judge, or
24 court commissioner. For the purpose of (e) of this subsection, no more
25 than one assistant for each judge or commissioner may be excluded from
26 a bargaining unit.

27 (3) "Bargaining representative" means any lawful organization which
28 has as one of its primary purposes the representation of employees in
29 their employment relations with employers.

30 (4) "Collective bargaining" means the performance of the mutual
31 obligations of the public employer and the exclusive bargaining
32 representative to meet at reasonable times, to confer and negotiate in
33 good faith, and to execute a written agreement with respect to
34 grievance procedures and collective negotiations on personnel matters,
35 including wages, hours and working conditions, which may be peculiar to
36 an appropriate bargaining unit of such public employer, except that by
37 such obligation neither party shall be compelled to agree to a proposal

1 or be required to make a concession unless otherwise provided in this
2 chapter.

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

4 (6) "Executive director" means the executive director of the
5 commission.

6 (7) "Uniformed personnel" means: (a) Law enforcement officers as
7 defined in RCW 41.26.030 employed by the governing body of any city or
8 town with a population of two thousand five hundred or more and law
9 enforcement officers employed by the governing body of any county with
10 a population of ten thousand or more; (b) correctional employees who
11 are uniformed and nonuniformed, commissioned and noncommissioned
12 security personnel employed in a jail as defined in RCW
13 70.48.020(~~(+5+)~~) (9), by a county with a population of seventy thousand
14 or more, and who are trained for and charged with the responsibility of
15 controlling and maintaining custody of inmates in the jail and
16 safeguarding inmates from other inmates; (c) general authority
17 Washington peace officers as defined in RCW 10.93.020 employed by a
18 port district in a county with a population of one million or more; (d)
19 security forces established under RCW 43.52.520; (e) firefighters as
20 that term is defined in RCW 41.26.030; (f) employees of a port district
21 in a county with a population of one million or more whose duties
22 include crash fire rescue or other firefighting duties; (g) employees
23 of fire departments of public employers who dispatch exclusively either
24 fire or emergency medical services, or both; or (h) employees in the
25 several classes of advanced life support technicians, as defined in RCW
26 18.71.200, who are employed by a public employer.

27 (8) "Institution of higher education" means the University of
28 Washington, Washington State University, Central Washington University,
29 Eastern Washington University, Western Washington University, The
30 Evergreen State College, and the various state community colleges.

31 ~~(9) ("Home care quality authority" means the authority under
32 chapter 74.39A RCW.~~

33 ~~(+10+)~~) "Individual provider" means an individual provider as
34 defined in RCW 74.39A.240(4) who, solely for the purposes of collective
35 bargaining, is a public employee as provided in RCW 74.39A.270.

36 ~~((+11+))~~ (10) "Child care subsidy" means a payment from the state
37 through a child care subsidy program established pursuant to RCW

1 74.12.340 or 74.08A.340, 45 C.F.R. Sec. 98.1 through 98.17, or any
2 successor program.

3 ~~((+12+))~~ (11) "Family child care provider" means a person who: (a)
4 Provides regularly scheduled care for a child or children in the home
5 of the provider or in the home of the child or children for periods of
6 less than twenty-four hours or, if necessary due to the nature of the
7 parent's work, for periods equal to or greater than twenty-four hours;
8 (b) receives child care subsidies; and (c) is either licensed by the
9 state under RCW 74.15.030 or is exempt from licensing under chapter
10 74.15 RCW.

11 ~~((+13+))~~ (12) "Adult family home provider" means a provider as
12 defined in RCW 70.128.010 who receives payments from the medicaid and
13 state-funded long-term care programs.

14 **Sec. 102.** RCW 43.105.340 and 2008 c 151 s 2 are each amended to
15 read as follows:

16 (1) The department shall coordinate among state agencies to develop
17 a consumer protection web site. The web site shall serve as a one-stop
18 web site for consumer information. At a minimum, the web site must
19 provide links to information on:

20 (a) Insurance information provided by the office of the insurance
21 commissioner, including information on how to file consumer complaints
22 against insurance companies, how to look up authorized insurers, and
23 how to learn more about health insurance benefits;

24 (b) Child care information provided by the department of early
25 learning, including how to select a child care provider, how child care
26 providers are rated, and information about product recalls;

27 (c) Financial information provided by the department of financial
28 institutions, including consumer information on financial fraud,
29 investing, credit, and enforcement actions;

30 (d) Health care information provided by the department of health,
31 including health care provider listings and quality assurance
32 information;

33 ~~((Home care information provided by the home care quality
34 authority, including information to assist consumers in finding an in-
35 home provider+))~~

36 ~~(+f+))~~ Licensing information provided by the department of

1 licensing, including information regarding business, vehicle, and
2 professional licensing; and

3 ~~((g))~~ (f) Other information available on existing state agency
4 web sites that could be a helpful resource for consumers.

5 (2) By July 1, 2008, state agencies shall report to the department
6 on whether they maintain resources for consumers that could be made
7 available through the consumer protection web site.

8 (3) By September 1, 2008, the department shall make the consumer
9 protection web site available to the public.

10 (4) After September 1, 2008, the department, in coordination with
11 other state agencies, shall develop a plan on how to build upon the
12 consumer protection web site to create a consumer protection portal.
13 The plan must also include an examination of the feasibility of
14 developing a toll-free information line to support the consumer
15 protection portal. The plan must be submitted to the governor and the
16 appropriate committees of the legislature by December 1, 2008.

17 **Sec. 103.** RCW 74.39A.095 and 2009 c 580 s 8 are each amended to
18 read as follows:

19 (1) In carrying out case management responsibilities established
20 under RCW 74.39A.090 for consumers who are receiving services under the
21 medicaid personal care, community options programs entry system or
22 chore services program through an individual provider, each area agency
23 on aging shall provide oversight of the care being provided to
24 consumers receiving services under this section to the extent of
25 available funding. Case management responsibilities incorporate this
26 oversight, and include, but are not limited to:

27 (a) Verification that any individual provider (~~who has not been~~
28 ~~referred to a consumer by the authority~~) has met any training
29 requirements established by the department;

30 (b) Verification of a sample of worker time sheets;

31 (c) Monitoring the consumer's plan of care to verify that it
32 adequately meets the needs of the consumer, through activities such as
33 home visits, telephone contacts, and responses to information received
34 by the area agency on aging indicating that a consumer may be
35 experiencing problems relating to his or her home care;

36 (d) Reassessing and reauthorizing services;

1 (e) Monitoring of individual provider performance. If, in the
2 course of its case management activities, the area agency on aging
3 identifies concerns regarding the care being provided by an individual
4 provider (~~((who was referred by the authority))~~), the area agency on
5 aging must notify the (~~((authority))~~) department regarding its concerns;
6 and

7 (f) Conducting criminal background checks or verifying that
8 criminal background checks have been conducted for any individual
9 provider (~~((who has not been referred to a consumer by the authority))~~).
10 Individual providers who are hired after January 1, 2012, are subject
11 to background checks under RCW 74.39A.055.

12 (2) The area agency on aging case manager shall work with each
13 consumer to develop a plan of care under this section that identifies
14 and ensures coordination of health and long-term care services that
15 meet the consumer's needs. In developing the plan, they shall utilize,
16 and modify as needed, any comprehensive community service plan
17 developed by the department as provided in RCW 74.39A.040. The plan of
18 care shall include, at a minimum:

19 (a) The name and telephone number of the consumer's area agency on
20 aging case manager, and a statement as to how the case manager can be
21 contacted about any concerns related to the consumer's well-being or
22 the adequacy of care provided;

23 (b) The name and telephone numbers of the consumer's primary health
24 care provider, and other health or long-term care providers with whom
25 the consumer has frequent contacts;

26 (c) A clear description of the roles and responsibilities of the
27 area agency on aging case manager and the consumer receiving services
28 under this section;

29 (d) The duties and tasks to be performed by the area agency on
30 aging case manager and the consumer receiving services under this
31 section;

32 (e) The type of in-home services authorized, and the number of
33 hours of services to be provided;

34 (f) The terms of compensation of the individual provider;

35 (g) A statement by the individual provider that he or she has the
36 ability and willingness to carry out his or her responsibilities
37 relative to the plan of care; and

1 (h)(i) Except as provided in (h)(ii) of this subsection, a clear
2 statement indicating that a consumer receiving services under this
3 section has the right to waive any of the case management services
4 offered by the area agency on aging under this section, and a clear
5 indication of whether the consumer has, in fact, waived any of these
6 services.

7 (ii) The consumer's right to waive case management services does
8 not include the right to waive reassessment or reauthorization of
9 services, or verification that services are being provided in
10 accordance with the plan of care.

11 (3) Each area agency on aging shall retain a record of each waiver
12 of services included in a plan of care under this section.

13 (4) Each consumer has the right to direct and participate in the
14 development of their plan of care to the maximum practicable extent of
15 their abilities and desires, and to be provided with the time and
16 support necessary to facilitate that participation.

17 (5) A copy of the plan of care must be distributed to the
18 consumer's primary care provider, individual provider, and other
19 relevant providers with whom the consumer has frequent contact, as
20 authorized by the consumer.

21 (6) The consumer's plan of care shall be an attachment to the
22 contract between the department, or their designee, and the individual
23 provider.

24 (7) If the department or area agency on aging case manager finds
25 that an individual provider's inadequate performance or inability to
26 deliver quality care is jeopardizing the health, safety, or well-being
27 of a consumer receiving service under this section, the department or
28 the area agency on aging may take action to terminate the contract
29 between the department and the individual provider. If the department
30 or the area agency on aging has a reasonable, good faith belief that
31 the health, safety, or well-being of a consumer is in imminent
32 jeopardy, the department or area agency on aging may summarily suspend
33 the contract pending a fair hearing. The consumer may request a fair
34 hearing to contest the planned action of the case manager, as provided
35 in chapter 34.05 RCW. ~~((When the department or area agency on aging
36 terminates or summarily suspends a contract under this subsection, it
37 must provide oral and written notice of the action taken to the~~

1 ~~authority.))~~ The department may by rule adopt guidelines for
2 implementing this subsection.

3 (8) The department or area agency on aging may reject a request by
4 a consumer receiving services under this section to have a family
5 member or other person serve as his or her individual provider if the
6 case manager has a reasonable, good faith belief that the family member
7 or other person will be unable to appropriately meet the care needs of
8 the consumer. The consumer may request a fair hearing to contest the
9 decision of the case manager, as provided in chapter 34.05 RCW. The
10 department may by rule adopt guidelines for implementing this
11 subsection.

12 **Sec. 104.** RCW 74.39A.220 and 2002 c 3 s 1 are each amended to read
13 as follows:

14 The people of the state of Washington find as follows:

15 (1) Thousands of Washington seniors and persons with disabilities
16 live independently in their own homes, which they prefer and is less
17 costly than institutional care such as nursing homes.

18 (2) Many Washington seniors and persons with disabilities currently
19 receive long-term in-home care services from individual providers hired
20 directly by them under the medicaid personal care, community options
21 programs entry system, or chore services program.

22 (3) Quality long-term in-home care services allow Washington
23 seniors, persons with disabilities, and their families the choice of
24 allowing seniors and persons with disabilities to remain in their
25 homes, rather than forcing them into institutional care such as nursing
26 homes. Long-term in-home care services are also less costly, saving
27 Washington taxpayers significant amounts through lower reimbursement
28 rates.

29 (4) The quality of long-term in-home care services in Washington
30 would benefit from improved regulation, higher standards, better
31 accountability, and improved access to such services. The quality of
32 long-term in-home care services would further be improved by a well-
33 trained, stable individual provider workforce earning reasonable wages
34 and benefits.

35 ~~(5) ((Washington seniors and persons with disabilities would
36 benefit from the establishment of an authority that has the power and~~

1 ~~duty to regulate and improve the quality of long term in-home care~~
2 ~~services.~~

3 ~~(6))~~ The ~~((authority))~~ state should ensure that the quality of
4 long-term in-home care services provided by individual providers is
5 improved through better regulation, higher standards, increased
6 accountability, and the enhanced ability to obtain services. The
7 ~~((authority))~~ state should also encourage stability in the individual
8 provider workforce through collective bargaining and by providing
9 training opportunities.

10 **Sec. 105.** RCW 74.39A.240 and 2002 c 3 s 3 are each amended to read
11 as follows:

12 The definitions in this section apply throughout RCW 74.39A.030
13 ~~((and)),~~ 74.39A.095 ~~((and)),~~ 74.39A.220 through 74.39A.300, and
14 41.56.026 ~~((, 70.127.041, and 74.09.740))~~ unless the context clearly
15 requires otherwise.

16 (1) ~~(("Authority" means the home care quality authority.~~

17 ~~(2) "Board" means the board created under RCW 74.39A.230.~~

18 ~~(3))~~ "Consumer" means a person to whom an individual provider
19 provides any such services.

20 ~~((4))~~ (2) "Individual provider" means a person, including a
21 personal aide, who has contracted with the department to provide
22 personal care or respite care services to functionally disabled persons
23 under the medicaid personal care, community options program entry
24 system, chore services program, or respite care program, or to provide
25 respite care or residential services and support to persons with
26 developmental disabilities under chapter 71A.12 RCW, or to provide
27 respite care as defined in RCW 74.13.270.

28 **Sec. 106.** RCW 74.39A.260 and 2009 c 580 s 9 are each amended to
29 read as follows:

30 The department must perform criminal background checks for
31 individual providers and prospective individual providers ~~((and ensure~~
32 ~~that the authority has ready access to any long term care abuse and~~
33 ~~neglect registry used by the department))~~. Individual providers who
34 are hired after January 1, 2012, are subject to background checks under
35 RCW 74.39A.055.

1 **Sec. 107.** RCW 74.39A.270 and 2007 c 361 s 7 and 2007 c 278 s 3 are
2 each reenacted and amended to read as follows:

3 (1) Solely for the purposes of collective bargaining and as
4 expressly limited under subsections (2) and (3) of this section, the
5 governor is the public employer, as defined in chapter 41.56 RCW, of
6 individual providers, who, solely for the purposes of collective
7 bargaining, are public employees as defined in chapter 41.56 RCW. To
8 accommodate the role of the state as payor for the community-based
9 services provided under this chapter and to ensure coordination with
10 state employee collective bargaining under chapter 41.80 RCW and the
11 coordination necessary to implement RCW 74.39A.300, the public employer
12 shall be represented for bargaining purposes by the governor or the
13 governor's designee appointed under chapter 41.80 RCW. The governor or
14 governor's designee shall periodically consult with the ((authority))
15 department during the collective bargaining process to allow the
16 ((authority)) department to communicate issues relating to the long-
17 term in-home care services received by consumers. The governor or the
18 governor's designee shall consult the ((authority)) department on all
19 issues for which the exclusive bargaining representative requests to
20 engage in collective bargaining under subsections (5) and (6) ((and
21 (7))) of this section. The ((authority)) department shall work with
22 the developmental disabilities council, the governor's committee on
23 disability issues and employment, the state council on aging, and other
24 consumer advocacy organizations to obtain informed input from consumers
25 on their interests, including impacts on consumer choice, for all
26 issues proposed for collective bargaining under subsections (5) and (6)
27 ((and (7))) of this section.

28 (2) Chapter 41.56 RCW governs the collective bargaining
29 relationship between the governor and individual providers, except as
30 otherwise expressly provided in this chapter and except as follows:

31 (a) The only unit appropriate for the purpose of collective
32 bargaining under RCW 41.56.060 is a statewide unit of all individual
33 providers;

34 (b) The showing of interest required to request an election under
35 RCW 41.56.060 is ten percent of the unit, and any intervener seeking to
36 appear on the ballot must make the same showing of interest;

37 (c) The mediation and interest arbitration provisions of RCW
38 41.56.430 through 41.56.470 and 41.56.480 apply, except that:

1 (i) With respect to commencement of negotiations between the
2 governor and the bargaining representative of individual providers,
3 negotiations shall be commenced by May 1st of any year prior to the
4 year in which an existing collective bargaining agreement expires; and

5 (ii) The decision of the arbitration panel is not binding on the
6 legislature and, if the legislature does not approve the request for
7 funds necessary to implement the compensation and fringe benefit
8 provisions of the arbitrated collective bargaining agreement, is not
9 binding on ~~((the authority or))~~ the state;

10 (d) Individual providers do not have the right to strike; and

11 (e) Individual providers who are related to, or family members of,
12 consumers or prospective consumers are not, for that reason, exempt
13 from this chapter or chapter 41.56 RCW.

14 (3) Individual providers who are public employees solely for the
15 purposes of collective bargaining under subsection (1) of this section
16 are not, for that reason, employees of the state, its political
17 subdivisions, or an area agency on aging for any purpose. Chapter
18 41.56 RCW applies only to the governance of the collective bargaining
19 relationship between the employer and individual providers as provided
20 in subsections (1) and (2) of this section.

21 (4) Consumers and prospective consumers retain the right to select,
22 hire, supervise the work of, and terminate any individual provider
23 providing services to them. ~~((Consumers may elect to receive long term
24 in-home care services from individual providers who are not referred to
25 them by the authority.))~~

26 (5) ~~((In implementing and administering this chapter, neither the
27 authority nor any of its contractors may reduce or increase the hours
28 of service for any consumer below or above the amount determined to be
29 necessary under any assessment prepared by the department or an area
30 agency on aging.~~

31 ~~(6))~~ Except as expressly limited in this section and RCW
32 74.39A.300, the wages, hours, and working conditions of individual
33 providers are determined solely through collective bargaining as
34 provided in this chapter. No agency or department of the state may
35 establish policies or rules governing the wages or hours of individual
36 providers. However, this subsection does not modify:

37 (a) The department's authority to establish a plan of care for each
38 consumer or its core responsibility to manage long-term in-home care

1 services under this chapter, including determination of the level of
2 care that each consumer is eligible to receive. However, at the
3 request of the exclusive bargaining representative, the governor or the
4 governor's designee appointed under chapter 41.80 RCW shall engage in
5 collective bargaining, as defined in RCW 41.56.030(4), with the
6 exclusive bargaining representative over how the department's core
7 responsibility affects hours of work for individual providers. This
8 subsection shall not be interpreted to require collective bargaining
9 over an individual consumer's plan of care;

10 (b) The department's authority to terminate its contracts with
11 individual providers who are not adequately meeting the needs of a
12 particular consumer, or to deny a contract under RCW 74.39A.095(8);

13 (c) The consumer's right to assign hours to one or more individual
14 providers selected by the consumer within the maximum hours determined
15 by his or her plan of care;

16 (d) The consumer's right to select, hire, terminate, supervise the
17 work of, and determine the conditions of employment for each individual
18 provider providing services to the consumer under this chapter;

19 (e) The department's obligation to comply with the federal medicaid
20 statute and regulations and the terms of any community-based waiver
21 granted by the federal department of health and human services and to
22 ensure federal financial participation in the provision of the
23 services; and

24 (f) The legislature's right to make programmatic modifications to
25 the delivery of state services under this title, including standards of
26 eligibility of consumers and individual providers participating in the
27 programs under this title, and the nature of services provided. The
28 governor shall not enter into, extend, or renew any agreement under
29 this chapter that does not expressly reserve the legislative rights
30 described in this subsection (~~((+6+))~~) (5)(f).

31 (~~((+7+))~~) (6) At the request of the exclusive bargaining
32 representative, the governor or the governor's designee appointed under
33 chapter 41.80 RCW shall engage in collective bargaining, as defined in
34 RCW 41.56.030(4), with the exclusive bargaining representative over
35 employer contributions to the training partnership for the costs of:
36 (a) Meeting all training and peer mentoring required under this
37 chapter; and (b) other training intended to promote the career
38 development of individual providers.

1 ~~((8)(a))~~ (7) The state, the department, ~~((the authority,))~~ the
2 area agencies on aging, or their contractors under this chapter may not
3 be held vicariously or jointly liable for the action or inaction of any
4 individual provider or prospective individual provider, whether or not
5 that individual provider or prospective individual provider was
6 included on the ~~((authority's))~~ referral registry or referred to a
7 consumer or prospective consumer. The existence of a collective
8 bargaining agreement, the placement of an individual provider on the
9 referral registry, or the development or approval of a plan of care for
10 a consumer who chooses to use the services of an individual provider
11 and the provision of case management services to that consumer, by the
12 department or an area agency on aging, does not constitute a special
13 relationship with the consumer.

14 ~~((b) The members of the board are immune from any liability
15 resulting from implementation of this chapter.~~

16 (9)) (8) Nothing in this section affects the state's
17 responsibility with respect to unemployment insurance for individual
18 providers. However, individual providers are not to be considered, as
19 a result of the state assuming this responsibility, employees of the
20 state.

21 NEW SECTION. **Sec. 108.** (1) The home care quality authority is
22 hereby abolished and its powers, duties, and functions are hereby
23 transferred to the department of social and health services. All
24 references to the home care quality authority in the Revised Code of
25 Washington shall be construed to mean the department of social and
26 health services.

27 (2)(a) All reports, documents, surveys, books, records, files,
28 papers, or written material in the possession of the home care quality
29 authority shall be delivered to the custody of the department of social
30 and health services. All cabinets, furniture, office equipment, motor
31 vehicles, and other tangible property employed by the home care quality
32 authority shall be made available to the department of social and
33 health services. All funds, credits, or other assets held by the home
34 care quality authority shall be assigned to the department of social
35 and health services.

36 (b) Any appropriations made to the home care quality authority

1 shall, on the effective date of this section, be transferred and
2 credited to the department of social and health services.

3 (c) If any question arises as to the transfer of any funds, books,
4 documents, records, papers, files, equipment, or other tangible
5 property used or held in the exercise of the powers and the performance
6 of the duties and functions transferred, the director of financial
7 management shall make a determination as to the proper allocation and
8 certify the same to the state agencies concerned.

9 (3) All rules and all pending business before the home care quality
10 authority shall be continued and acted upon by the department of social
11 and health services. All existing contracts and obligations shall
12 remain in full force and shall be performed by the department of social
13 and health services.

14 (4) The transfer of the powers, duties, functions, and personnel of
15 the home care quality authority shall not affect the validity of any
16 act performed before the effective date of this section.

17 (5) If apportionments of budgeted funds are required because of the
18 transfers directed by this section, the director of financial
19 management shall certify the apportionments to the agencies affected,
20 the state auditor, and the state treasurer. Each of these shall make
21 the appropriate transfer and adjustments in funds and appropriation
22 accounts and equipment records in accordance with the certification.

23 (6) Nothing contained in this section may be construed to alter any
24 existing collective bargaining unit or the provisions of any existing
25 collective bargaining agreement until the agreement has expired or
26 until the bargaining unit has been modified by action of the public
27 employment relations commission as provided by law.

28 NEW SECTION. **Sec. 109.** RCW 74.39A.290 is decodified.

29 NEW SECTION. **Sec. 110.** The following acts or parts of acts are
30 each repealed:

31 (1) RCW 70.127.041 (Home care quality authority not subject to
32 regulation) and 2002 c 3 s 13;

33 (2) RCW 74.39A.230 (Authority created) and 2002 c 3 s 2;

34 (3) RCW 74.39A.250 (Authority duties) and 2002 c 3 s 4; and

35 (4) RCW 74.39A.280 (Powers) and 2002 c 3 s 7.

PART II

DEPARTMENT OF SERVICES FOR THE BLIND

Sec. 201. RCW 74.18.020 and 2003 c 409 s 3 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means ~~((an agency of state government called the department of services for the blind))~~ the department of social and health services.

~~(2) ("Director" means the director of the department of services for the blind. The director is appointed by the governor with the consent of the senate.)~~ "Secretary" means the secretary of the department.

(3) "Rehabilitation council for the blind" means the body of members appointed by the governor in accordance with the provisions of RCW 74.18.070 to advise the state agency.

(4) "Blind person" means a person who: (a) Has no vision or whose vision with corrective lenses is so limited that the individual requires alternative methods or skills to do efficiently those things that are ordinarily done with sight by individuals with normal vision; (b) has an eye condition of a progressive nature which may lead to blindness; or (c) is blind for purposes of the business enterprise program as set forth in RCW 74.18.200 through 74.18.230 in accordance with requirements of the Randolph-Sheppard Act of 1936.

(5) "Telephonic reading service" means audio information provided by telephone, including the acquisition and distribution of daily newspapers and other information of local, state, or national interest.

Sec. 202. RCW 74.18.030 and 1983 c 194 s 3 are each amended to read as follows:

~~((There is hereby created an agency of state government to be known as the department of services for the blind.))~~ The department shall deliver services to blind persons to the extent that appropriations are made available, provided that applicants meet the eligibility criteria for services authorized by this chapter.

Sec. 203. RCW 74.18.045 and 2003 c 409 s 4 are each amended to read as follows:

1 (1)(a) The (~~director~~) department shall provide access to a
2 telephonic reading service for blind and disabled persons.

3 (b) The (~~director~~) department shall establish criteria for
4 eligibility for blind and disabled persons who may receive the
5 telephonic reading services. The criteria may be based upon the
6 eligibility criteria for persons who receive services established by
7 the national library service for the blind and physically handicapped
8 of the library of congress.

9 (2) The (~~director~~) secretary or designee may enter into contracts
10 or other agreements that he or she determines to be appropriate to
11 provide telephonic reading services pursuant to this section.

12 (3) The (~~director~~) secretary or designee may expand the type and
13 scope of materials available on the telephonic reading service in order
14 to meet the local, regional, or foreign language needs of blind or
15 visually impaired residents of this state. The (~~director~~) secretary
16 or designee may also expand the scope of services and availability of
17 telephonic reading services by current methods and technologies that
18 may be developed. The (~~director~~) secretary or designee may inform
19 current and potential patrons of the availability of telephonic reading
20 services through appropriate means, including, but not limited to,
21 direct mailings, direct telephonic contact, and public service
22 announcements.

23 (4) The (~~director~~) secretary or designee may expend moneys from
24 the business enterprises revolving account accrued from vending machine
25 sales in state and local government buildings, as well as donations and
26 grants, for the purpose of supporting the cost of activities described
27 in this section.

28 **Sec. 204.** RCW 74.18.070 and 2003 c 409 s 7 are each amended to
29 read as follows:

30 (1) There is hereby created the rehabilitation council for the
31 blind. The rehabilitation council shall consist of the minimum number
32 of voting members to meet the requirements of the rehabilitation
33 council required under the federal rehabilitation act of 1973 as now or
34 hereafter amended. A majority of the voting members shall be blind
35 persons. Rehabilitation council members shall be residents of the
36 state of Washington, and shall be appointed in accordance with the

1 categories of membership specified in the federal rehabilitation act of
2 1973 as now or hereafter amended. The ((~~director of the department~~))
3 secretary or designee shall be an ex officio, nonvoting member.

4 (2) The governor shall appoint members of the rehabilitation
5 council for terms of three years, except that the initial appointments
6 shall be as follows: (a) Three members for terms of three years; (b)
7 two members for terms of two years; and (c) other members for terms of
8 one year. Vacancies in the membership of the rehabilitation council
9 shall be filled by the governor for the remainder of the unexpired
10 term.

11 (3) The governor may remove members of the rehabilitation council
12 for cause.

13 **Sec. 205.** RCW 74.18.080 and 2000 c 57 s 2 are each amended to read
14 as follows:

15 (1) The rehabilitation council for the blind shall meet officially
16 with the ((~~director of the department~~)) secretary or designee quarterly
17 to perform the duties enumerated in RCW 74.18.090. Additional meetings
18 of the rehabilitation council may be convened at the call of the
19 chairperson or of a majority of the members. The rehabilitation
20 council shall elect a chairperson from among its members for a term of
21 one year or until a successor has been elected.

22 (2) Rehabilitation council members shall receive reimbursement for
23 travel expenses incurred in the performance of their official duties in
24 accordance with RCW 43.03.050 and 43.03.060.

25 **Sec. 206.** RCW 74.18.090 and 2003 c 409 s 8 are each amended to
26 read as follows:

27 The rehabilitation council for the blind may:

28 (1) Provide counsel to the ((~~director~~)) department in developing,
29 reviewing, making recommendations, and agreeing on the department's
30 state plan for vocational rehabilitation, budget requests, permanent
31 rules concerning services to blind persons, and other major policies
32 which impact the quality or quantity of services for blind persons;

33 (2) Undertake annual reviews with the ((~~director~~)) department of
34 the needs of blind persons, the effectiveness of the services and
35 priorities of the department to meet those needs, and the measures that
36 could be taken to improve the department's services;

1 (3) Annually make recommendations to the governor and the
2 legislature on issues related to the department, other state agencies,
3 or state laws which have a significant effect on the opportunities,
4 services, or rights of blind persons;

5 (~~(4) ((Advise and make recommendations to the governor on the~~
6 ~~criteria and qualifications pertinent to the selection of the director;~~

7 ~~(5))~~) Perform additional functions as required by the federal
8 rehabilitation act of 1973 as now or hereafter amended.

9 **Sec. 207.** RCW 74.18.100 and 2000 c 57 s 4 are each amended to read
10 as follows:

11 It shall be the duty of the (~~(director))~~ secretary or designee to
12 consult in a timely manner with the rehabilitation council for the
13 blind on the matters enumerated in RCW 74.18.090. The (~~(director))~~
14 secretary or designee shall provide appropriate departmental resources
15 for the use of the rehabilitation council in conducting its official
16 business.

17 **Sec. 208.** RCW 74.18.190 and 1983 c 194 s 19 are each amended to
18 read as follows:

19 (1) The department may offer services to assist blind children and
20 their families to learn skills and locate resources which increase the
21 child's ability for personal development and participation in society.

22 (2) Services provided under this section may include:

23 (a) Direct consultation with blind children and their families to
24 provide needs assessment, counseling, developmental training, adaptive
25 skills, and information regarding other available resources;

26 (b) Consultation and technical assistance in all sectors of
27 society, at the request of a blind child, his or her family, or a
28 service provider working with the child or family, to assure the blind
29 child's rights to participate fully in educational, vocational, and
30 social opportunities. The department is encouraged to establish
31 working agreements and arrangements with community organizations and
32 other state agencies which provide services to blind children.

33 (3) To facilitate the coordination of services to blind children
34 and their families, the office of superintendent of public instruction
35 and the department (~~(of services for the blind))~~ shall negotiate an

1 interagency agreement providing for coordinated service delivery and
2 the sharing of information between the two agencies, including an
3 annual register of blind students in the state of Washington.

4 **Sec. 209.** RCW 28A.155.160 and 2009 c 381 s 24 are each amended to
5 read as follows:

6 Notwithstanding any other provision of law, the office of the
7 superintendent of public instruction, the department of early learning,
8 the Washington state center for childhood deafness and hearing loss,
9 the Washington state school for the blind, school districts,
10 educational service districts, and all other state and local government
11 educational agencies and the department of (~~services for the blind,~~
12 ~~the department of~~) social and health services, and all other state and
13 local government agencies concerned with the care, education, or
14 habilitation or rehabilitation of children with disabilities may enter
15 into interagency cooperative agreements for the purpose of providing
16 assistive technology devices and services to children with
17 disabilities. Such arrangements may include but are not limited to
18 interagency agreements for the acquisition, including joint funding,
19 maintenance, loan, sale, lease, or transfer of assistive technology
20 devices and for the provision of assistive technology services
21 including but not limited to assistive technology assessments and
22 training.

23 For the purposes of this section, "assistive device" means any
24 item, piece of equipment, or product system, whether acquired
25 commercially off-the-shelf, modified, or customized, that is used to
26 increase, maintain, or improve functional capabilities of children with
27 disabilities. The term "assistive technology service" means any
28 service that directly assists a child with a disability in the
29 selection, acquisition, or use of an assistive technology device.
30 Assistive technology service includes:

31 (1) The evaluation of the needs of a child with a disability,
32 including a functional evaluation of the child in the child's customary
33 environment;

34 (2) Purchasing, leasing, or otherwise providing for the acquisition
35 of assistive technology devices by children with disabilities;

36 (3) Selecting, designing, fitting, customizing, adapting, applying,
37 retaining, repairing, or replacing of assistive technology devices;

1 (4) Coordinating and using other therapies, interventions, or
2 services with assistive technology devices, such as those associated
3 with existing education and rehabilitation plans and programs;

4 (5) Training or technical assistance for a child with a disability
5 or if appropriate, the child's family; and

6 (6) Training or technical assistance for professionals, including
7 individuals providing education and rehabilitation services, employers,
8 or other individuals who provide services to, employ, or are otherwise
9 substantially involved in the major life functions of children with
10 disabilities.

11 **Sec. 210.** RCW 41.05.225 and 2002 c 71 s 1 are each amended to read
12 as follows:

13 (1) The board shall offer a plan of health insurance to blind
14 licensees who are actively operating facilities and participating in
15 the business enterprises program established in RCW 74.18.200 through
16 74.18.230, and maintained by the department of social and health
17 services (~~for the blind~~). The plan of health insurance benefits must
18 be the same or substantially similar to the plan of health insurance
19 benefits offered to state employees under this chapter. Enrollment
20 will be at the option of each individual licensee or vendor, under
21 rules established by the board.

22 (2) All costs incurred by the state or the board for providing
23 health insurance coverage to active blind vendors, excluding family
24 participation, under subsection (1) of this section may be paid for
25 from net proceeds from vending machine operations in public buildings
26 under RCW 74.18.230.

27 (3) Money from the business enterprises program under the federal
28 Randolph-Sheppard Act may not be used for family participation in the
29 health insurance benefits provided under this section. Family
30 insurance benefits are the sole responsibility of the individual blind
31 vendors.

32 **Sec. 211.** RCW 42.17.2401 and 2009 c 565 s 24 are each amended to
33 read as follows:

34 For the purposes of RCW 42.17.240, the term "executive state
35 officer" includes:

1 (1) The chief administrative law judge, the director of
2 agriculture, the administrator of the Washington basic health plan,
3 (~~the director of the department of services for the blind,~~) the
4 director of the state system of community and technical colleges, the
5 director of commerce, the secretary of corrections, the director of
6 early learning, the director of ecology, the commissioner of employment
7 security, the chair of the energy facility site evaluation council, the
8 secretary of the state finance committee, the director of financial
9 management, the director of fish and wildlife, the executive secretary
10 of the forest practices appeals board, the director of the gambling
11 commission, the director of general administration, the secretary of
12 health, the administrator of the Washington state health care
13 authority, the executive secretary of the health care facilities
14 authority, the executive secretary of the higher education facilities
15 authority, the executive secretary of the horse racing commission, the
16 executive secretary of the human rights commission, the executive
17 secretary of the indeterminate sentence review board, the director of
18 the department of information services, the executive director of the
19 state investment board, the director of labor and industries, the
20 director of licensing, the director of the lottery commission, the
21 director of the office of minority and women's business enterprises,
22 the director of parks and recreation, the director of personnel, the
23 executive director of the public disclosure commission, the executive
24 director of the Puget Sound partnership, the director of the recreation
25 and conservation office, the director of retirement systems, the
26 director of revenue, the secretary of social and health services, the
27 chief of the Washington state patrol, the executive secretary of the
28 board of tax appeals, the secretary of transportation, the secretary of
29 the utilities and transportation commission, the director of veterans
30 affairs, the president of each of the regional and state universities
31 and the president of The Evergreen State College, and each district and
32 each campus president of each state community college;

33 (2) Each professional staff member of the office of the governor;

34 (3) Each professional staff member of the legislature; and

35 (4) Central Washington University board of trustees, the boards of
36 trustees of each community college and each technical college, each
37 member of the state board for community and technical colleges, state
38 convention and trade center board of directors, committee for deferred

1 compensation, Eastern Washington University board of trustees,
2 Washington economic development finance authority, The Evergreen State
3 College board of trustees, executive ethics board, forest practices
4 appeals board, forest practices board, gambling commission, life
5 sciences discovery fund authority board of trustees, Washington health
6 care facilities authority, each member of the Washington health
7 services commission, higher education coordinating board, higher
8 education facilities authority, horse racing commission, state housing
9 finance commission, human rights commission, indeterminate sentence
10 review board, board of industrial insurance appeals, information
11 services board, recreation and conservation funding board, state
12 investment board, commission on judicial conduct, legislative ethics
13 board, liquor control board, lottery commission, marine oversight
14 board, Pacific Northwest electric power and conservation planning
15 council, parks and recreation commission, board of pilotage
16 commissioners, pollution control hearings board, public disclosure
17 commission, public pension commission, shorelines hearings board,
18 public employees' benefits board, salmon recovery funding board, board
19 of tax appeals, transportation commission, University of Washington
20 board of regents, utilities and transportation commission, Washington
21 state maritime commission, Washington personnel resources board,
22 Washington public power supply system executive board, Washington State
23 University board of regents, Western Washington University board of
24 trustees, and fish and wildlife commission.

25 **Sec. 212.** RCW 43.01.090 and 2005 c 330 s 5 are each amended to
26 read as follows:

27 The director of general administration may assess a charge or rent
28 against each state board, commission, agency, office, department,
29 activity, or other occupant or user for payment of a proportionate
30 share of costs for occupancy of buildings, structures, or facilities
31 including but not limited to all costs of acquiring, constructing,
32 operating, and maintaining such buildings, structures, or facilities
33 and the repair, remodeling, or furnishing thereof and for the rendering
34 of any service or the furnishing or providing of any supplies,
35 equipment, historic furnishings, or materials.

36 The director of general administration may recover the full costs
37 including appropriate overhead charges of the foregoing by periodic

1 billings as determined by the director including but not limited to
2 transfers upon accounts and advancements into the general
3 administration services account. Charges related to the rendering of
4 real estate services under RCW 43.82.010 and to the operation and
5 maintenance of public and historic facilities at the state capitol, as
6 defined in RCW 79.24.710, shall be allocated separately from other
7 charges assessed under this section. Rates shall be established by the
8 director of general administration after consultation with the director
9 of financial management. The director of general administration may
10 allot, provide, or furnish any of such facilities, structures,
11 services, equipment, supplies, or materials to any other public service
12 type occupant or user at such rates or charges as are equitable and
13 reasonably reflect the actual costs of the services provided:
14 PROVIDED, HOWEVER, That the legislature, its duly constituted
15 committees, interim committees and other committees shall be exempted
16 from the provisions of this section.

17 Upon receipt of such bill, each entity, occupant, or user shall
18 cause a warrant or check in the amount thereof to be drawn in favor of
19 the department of general administration which shall be deposited in
20 the state treasury to the credit of the general administration services
21 account unless the director of financial management has authorized
22 another method for payment of costs.

23 Beginning July 1, 1995, the director of general administration
24 shall assess a capital projects surcharge upon each agency or other
25 user occupying a facility owned and managed by the department of
26 general administration in Thurston county, excluding state capitol
27 public and historic facilities, as defined in RCW 79.24.710. The
28 capital projects surcharge does not apply to agencies or users that
29 agree to pay all future repairs, improvements, and renovations to the
30 buildings they occupy and a proportional share, as determined by the
31 office of financial management, of all other campus repairs,
32 installations, improvements, and renovations that provide a benefit to
33 the buildings they occupy or that have an agreement with the department
34 of general administration that contains a charge for a similar purpose,
35 including but not limited to RCW 43.01.091, in an amount greater than
36 the capital projects surcharge. Beginning July 1, 2002, the capital
37 projects surcharge does not apply to department of social and health
38 services (~~for the blind~~) vendors who, pursuant to chapter 74.18 RCW,

1 operate cafeteria services in facilities owned and managed by the
2 department of general administration; the department shall consider
3 this space to be a common area for purposes of allocating the capital
4 projects surcharge to other building tenants beginning July 1, 2003.
5 The director, after consultation with the director of financial
6 management, shall adopt differential capital project surcharge rates to
7 reflect the differences in facility type and quality. The initial
8 payment structure for this surcharge shall be one dollar per square
9 foot per year. The surcharge shall increase over time to an amount
10 that when combined with the facilities and service charge equals the
11 market rate for similar types of lease space in the area or equals five
12 dollars per square foot per year, whichever is less. The capital
13 projects surcharge shall be in addition to other charges assessed under
14 this section. Proceeds from the capital projects surcharge shall be
15 deposited into the Thurston county capital facilities account created
16 in RCW 43.19.501.

17 **Sec. 213.** RCW 47.38.070 and 2009 c 459 s 14 are each amended to
18 read as follows:

19 (1) As a necessary and desirable step to spur public and private
20 investment in electric vehicle infrastructure in accordance with
21 section 1, chapter 459, Laws of 2009, and to begin implementing the
22 provisions of RCW 43.19.648, the legislature authorizes an alternative
23 fuels corridor pilot project capable of supporting electric vehicle
24 charging and battery exchange technologies.

25 (2) To the extent permitted under federal programs, rules, or law,
26 the department may enter into partnership agreements with other public
27 and private entities for the use of land and facilities along state
28 routes and within interstate highway rights-of-way for an alternative
29 fuels corridor pilot project. At a minimum, the pilot project must:

30 (a) Limit renewable fuel and vehicle technology offerings to those
31 with a forecasted demand over the next fifteen years and approved by
32 the department;

33 (b) Ensure that a pilot project site does not compete with existing
34 retail businesses in the same geographic area for the provision of the
35 same refueling services, recharging technologies, or other retail
36 commercial activities;

1 (c) Provide existing truck stop operators and retail truck
2 refueling businesses with an absolute right of first refusal over the
3 offering of refueling services to class six trucks with a maximum gross
4 vehicle weight of twenty-six thousand pounds within the same geographic
5 area identified for a possible pilot project site;

6 (d) Reach agreement with the department of social and health
7 services (~~(for the blind)~~) ensuring that any activities at host sites
8 do not materially affect the revenues forecasted from their vending
9 operations at each site;

10 (e) Regulate the internal rate of return from the partnership,
11 including provisions to reduce or eliminate the level of state support
12 once the partnership attains economic self-sufficiency;

13 (f) Be limited to not more than five locations on state-owned land
14 within federal interstate rights-of-way or state highway rights-of-way
15 in Washington; and

16 (g) Be limited in duration to a term of years reasonably necessary
17 for the partnership to recover the cost of capital investments, plus
18 the regulated internal rate of return.

19 (3) The department is not responsible for providing capital
20 equipment nor operating refueling or recharging services. The
21 department must provide periodic status reports on the pilot project to
22 the office of financial management and the relevant standing committees
23 of the legislature not less than every biennium.

24 (4) The provisions of this section are subject to the availability
25 of existing funds. However, capital improvements under this section
26 must be funded with federal or private funds.

27 **Sec. 214.** RCW 74.09.720 and 1983 c 194 s 26 are each amended to
28 read as follows:

29 (1) A prevention of blindness program is hereby established in the
30 department of social and health services to provide prompt, specialized
31 medical eye care, including assistance with costs when necessary, for
32 conditions in which sight is endangered or sight can be restored or
33 significantly improved. The department of social and health services
34 shall adopt rules concerning program eligibility, levels of assistance,
35 and the scope of services.

36 (2) The department of social and health services shall employ on a
37 part-time basis an ophthalmological and/or an optometrical consultant

1 to provide liaison with participating eye physicians and to review
2 medical recommendations made by an applicant's eye physician to
3 determine whether the proposed services meet program standards.

4 ~~((3) The department of social and health services and the
5 department of services for the blind shall formulate a cooperative
6 agreement concerning referral of clients between the two agencies and
7 the coordination of policies and services.))~~

8 NEW SECTION. **Sec. 215.** (1) The department of services for the
9 blind is hereby abolished and its powers, duties, and functions are
10 hereby transferred to the department of social and health services.
11 All references to the director or the department of services for the
12 blind in the Revised Code of Washington shall be construed to mean the
13 secretary or the department of social and health services.

14 (2)(a) All reports, documents, surveys, books, records, files,
15 papers, or written material in the possession of the department of
16 services for the blind shall be delivered to the custody of the
17 department of social and health services. All cabinets, furniture,
18 office equipment, motor vehicles, and other tangible property employed
19 by the department of services for the blind shall be made available to
20 the department of social and health services. All funds, credits, or
21 other assets held by the department of services for the blind shall be
22 assigned to the department of social and health services.

23 (b) Any appropriations made to the department of services for the
24 blind shall, on the effective date of this section, be transferred and
25 credited to the department of social and health services.

26 (c) If any question arises as to the transfer of any personnel,
27 funds, books, documents, records, papers, files, equipment, or other
28 tangible property used or held in the exercise of the powers and the
29 performance of the duties and functions transferred, the director of
30 financial management shall make a determination as to the proper
31 allocation and certify the same to the state agencies concerned.

32 (3) All employees of the department of services for the blind
33 engaged in performing the powers, functions, and duties transferred are
34 transferred to the jurisdiction of the department of social and health
35 services. All employees classified under chapter 41.06 RCW, the state
36 civil service law, are assigned to the department of social and health
37 services to perform their usual duties upon the same terms as formerly,

1 without any loss of rights, subject to any action that may be
2 appropriate thereafter in accordance with the laws and rules governing
3 state civil service.

4 (4) All rules and all pending business before the department of
5 services for the blind shall be continued and acted upon by the
6 department of social and health services. All existing contracts and
7 obligations shall remain in full force and shall be performed by the
8 department of social and health services.

9 (5) The transfer of the powers, duties, functions, and personnel of
10 the department of services for the blind shall not affect the validity
11 of any act performed before the effective date of this section.

12 (6) If apportionments of budgeted funds are required because of the
13 transfers directed by this section, the director of financial
14 management shall certify the apportionments to the agencies affected,
15 the state auditor, and the state treasurer. Each of these shall make
16 the appropriate transfer and adjustments in funds and appropriation
17 accounts and equipment records in accordance with the certification.

18 (7) All classified employees of the department of services for the
19 blind assigned to the department of social and health services under
20 this act whose positions are within an existing bargaining unit
21 description at the department of social and health services shall
22 become a part of the existing bargaining unit and shall be considered
23 an appropriate addition or modification of the existing bargaining unit
24 under the provisions of chapter 41.80 RCW.

25 **PART III**
26 **MISCELLANEOUS PROVISIONS**

27 NEW SECTION. **Sec. 301.** This act takes effect July 1, 2010.

28 NEW SECTION. **Sec. 302.** If any part of this act is found to be in
29 conflict with federal requirements that are a prescribed condition to
30 the allocation of federal funds to the state, the conflicting part of
31 this act is inoperative solely to the extent of the conflict and with
32 respect to the agencies directly affected, and this finding does not
33 affect the operation of the remainder of this act in its application to
34 the agencies concerned. Rules adopted under this act must meet federal

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

3 NEW SECTION. **Sec. 303.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

--- END ---