S-3239.1

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**SUBSTITUTE SENATE BILL 6126**

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**State of Washington 64th Legislature 2015 1st Special Session**

**By** Senate Ways & Means (originally sponsored by Senator Braun)

AN ACT Relating to collective bargaining; amending RCW 42.30.140, 28B.52.060, 41.76.030, 41.80.090, 41.40.023, 74.39A.270, 41.80.005, 41.80.010, 41.56.028, 41.56.029, 41.56.510, 74.39A.240, and 74.39A.300; reenacting and amending RCW 41.80.020; adding a new section to chapter 42.30 RCW; adding new sections to chapter 41.56 RCW; adding a new section to chapter 28B.52 RCW; adding a new section to chapter 41.59 RCW; adding a new section to chapter 41.76 RCW; adding new sections to chapter 41.80 RCW; adding a new section to chapter 47.64 RCW; adding a new section to chapter 49.39 RCW; adding a new section to chapter 74.39A RCW; adding a new section to chapter 43.88 RCW; providing an expiration date; and declaring an emergency.

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

**PART I - TRANSPARENT NEGOTIATIONS**

**Sec.**  RCW 42.30.140 and 1990 c 98 s 1 are each amended to read as follows:

If any provision of this chapter conflicts with the provisions of any other statute, the provisions of this chapter shall control: PROVIDED, That this chapter shall not apply to:

(1) The proceedings concerned with the formal issuance of an order granting, suspending, revoking, or denying any license, permit, or certificate to engage in any business, occupation, or profession or to any disciplinary proceedings involving a member of such business, occupation, or profession, or to receive a license for a sports activity or to operate any mechanical device or motor vehicle where a license or registration is necessary; or

(2) That portion of a meeting of a quasi-judicial body which relates to a quasi-judicial matter between named parties as distinguished from a matter having general effect on the public or on a class or group; or

(3) Matters governed by chapter 34.05 RCW, the Administrative Procedure Act; or

(4)(a) Collective bargaining sessions with employee organizations, including ((~~contract negotiations,~~)) grievance meetings((~~,~~)) and discussions relating to the interpretation or application of a labor agreement; or (b) that portion of a meeting during which the governing body is planning or adopting the strategy or position to be taken by the governing body during the course of any collective bargaining, professional negotiations, or grievance or mediation proceedings, or reviewing the proposals made in the negotiations or proceedings while in progress.

NEW SECTION. **Sec.**  A new section is added to chapter 42.30 RCW to read as follows:

Collective bargaining sessions with employee organizations involving contract negotiations must be open to the public.

NEW SECTION. **Sec.**  A new section is added to chapter 41.56 RCW to read as follows:

Collective bargaining sessions between bargaining representatives and public employers, or their representatives, involving contract negotiations under this chapter must be open to the public.

NEW SECTION. **Sec.**  A new section is added to chapter 28B.52 RCW to read as follows:

Collective bargaining sessions between employee organizations, or their representatives, and public employers, or their representatives, involving contract negotiations under this chapter must be open to the public.

NEW SECTION. **Sec.**  A new section is added to chapter 41.59 RCW to read as follows:

Collective bargaining sessions between employee organizations, or their representatives, and public employers, or their representatives, involving contract negotiations under this chapter must be open to the public.

NEW SECTION. **Sec.**  A new section is added to chapter 41.76 RCW to read as follows:

Collective bargaining sessions between employee organizations, or their representatives, and public employers, or their representatives, involving contract negotiations under this chapter must be open to the public.

NEW SECTION. **Sec.**  A new section is added to chapter 41.80 RCW to read as follows:

Collective bargaining sessions between employee organizations, or their representatives, and public employers, or their representatives, involving contract negotiations under this chapter must be open to the public.

NEW SECTION. **Sec.**  A new section is added to chapter 47.64 RCW to read as follows:

Collective bargaining sessions between ferry employee organizations, or their representatives, and public employers, or their representatives, involving contract negotiations under this chapter must be open to the public.

NEW SECTION. **Sec.**  A new section is added to chapter 49.39 RCW to read as follows:

Collective bargaining sessions between bargaining representatives and public employers, or their representatives, involving contract negotiations under this chapter must be open to the public.

NEW SECTION. **Sec.**  A new section is added to chapter 74.39A RCW to read as follows:

Collective bargaining sessions between bargaining representatives and public employers, or their representatives, involving contract negotiations under this chapter must be open to the public.

NEW SECTION. **Sec.**  A new section is added to chapter 41.80 RCW to read as follows:

(1) The joint committee on employment relations created in RCW 41.80.010(5) must meet six times each year, generally every two months, for the purpose of consulting with the governor or the governor's designee and institutions of higher education on matters related to collective bargaining conducted under the authority of chapters 41.80, 41.56, 47.64, and 74.39A RCW. Meetings must be scheduled to provide the joint committee with the opportunity to review the collective bargaining agreements submitted to the office of financial management by October 1st and to review information to be used by the office of financial management to determine the financial feasibility of submitted collective bargaining agreements.

(2) The purpose of the meetings shall include, but not be limited to:

(a) Seeking the advice of the joint committee on the elements of master collective bargaining agreements under negotiation and any supplemental bargaining of agency-specific issues;

(b) Informing and reviewing elements of collective bargaining agreements that have reached impasse and have been certified for resolution by interest arbitration;

(c) Informing the joint committee of the elements of master, supplemental, or modified collective bargaining agreements reached with the governor and institutions of higher education;

(d) Informing the joint committee of the appropriations necessary to implement the compensation and fringe benefit provisions of collective bargaining agreements and on any legislation necessary to implement the agreement;

(e) Informing and seeking the advice of the joint committee on modifications to bargaining agreements that do not require a request for funds, but will have an impact on agency budgets in excess of one hundred thousand dollars; and

(f) Reviewing issues affecting collective bargaining with state and local governments.

(3) The joint committee, upon majority vote of its members present, may meet more or less frequently. A quorum of the joint committee is not required for the meeting to take place. Meetings may take place by conference telephone or similar communications equipment so that all persons participating in the meeting can hear each other at the same time. Participation by that method constitutes presence in person at a meeting.

(4) A meeting must be held within ten working days of a determination of the director of the office of financial management that a collective bargaining agreement cannot be certified as financially feasible.

(5) Staff of the appropriate labor and fiscal committees of the house and senate must schedule and staff the meetings. The governor or the governor's designee, and institutions of higher education who negotiate collective bargaining agreements, must attend, participate, and provide information as directed by the joint committee.

NEW SECTION. **Sec.**  A new section is added to chapter 43.88 RCW to read as follows:

(1) In order to facilitate public inspection of state collective bargaining agreements, the office of financial management must maintain a web site that is accessible to the public of all agreements collectively bargained under the authority of chapters 41.80 and 47.64 RCW and RCW 41.56.026, 41.56.028, 41.56.029, 41.56.473, 41.56.510, and 74.39A.270.

(2) In order to facilitate public understanding of state collective bargaining agreements, the office of financial management must prepare a summary of each agreement subject to subsection (1) of this section for posting on the web site. The summary must identify the following information for each agreement:

(a) The term of agreement;

(b) The bargaining units covered by the agreement by state agency;

(c) Base compensation;

(d) Eligibility for and rate of overtime pay;

(e) Eligibility for and rate of compensatory time;

(f) Eligibility for and rate of any other compensation, including but not limited to shift premium pay, on-call pay, stand-by pay, assignment pay, special pay, or employer provided housing or meals;

(g) Eligibility for and rate of pay for each paid leave provision;

(h) Eligibility for and rate of pay for any cash out provisions for compensatory time or paid leave;

(i) Temporary layoff provision;

(j) Any impasse procedure subject to bargaining;

(k) Employer and employee health care benefits expressed as a percentage of cost or as a dollar amount;

(l) Any retirement benefit subject to bargaining;

(m) A brief description of each component and its cost that comprise the amount funded by the legislature to implement the compensation and fringe benefits of the agreement;

(n) Number of bargaining unit members covered by the agreement as of the date the agreement is implemented; and

(o) Content of any agency specific supplemental agreements affecting (a) through (m) of this subsection.

(3) Information may include links to salary schedules, pay ranges, and other information on state or federal agency web sites to summarize information. Information may include links to specific language within an agreement to summarize information.

(4) The web site must be updated within sixty days of implementation of any agreement or revisions to an agreement.

(5) No later than January 1, 2016, the information under this section must be incorporated into the state expenditure information web site maintained by the legislative evaluation and accountability program committee under RCW 44.48.150.

(6) The summaries of collective bargaining agreements must not disclose personally identifiable information of any bargaining unit member.

**PART II - BINDING INTEREST ARBITRATION**

NEW SECTION. **Sec.**  A new section is added to chapter 41.56 RCW to read as follows:

Except as explicitly permitted in RCW 41.56.450, 41.56.475, and 41.56.492, no public employer may enter into an agreement pursuant to this chapter that permits the use of interest arbitration as a means of resolving issues arising in collective bargaining. Any such provision in an agreement with an exclusive bargaining representative is void and unenforceable.

**Sec.**  RCW 28B.52.060 and 1991 c 238 s 150 are each amended to read as follows:

The commission shall conduct mediation activities upon the request of either party as a means of assisting in the settlement of unresolved matters considered under this chapter.

In the event that any matter being jointly considered by the employee organization and the board of trustees of the college district is not settled by the means provided in this chapter, either party, twenty-four hours after serving written notice of its intended action to the other party, may, request the assistance and advice of the commission. Nothing in this section prohibits an employer and an employee organization from agreeing to substitute, at their own expense, some other impasse procedure or other means of resolving matters considered under this chapter. However, the board of trustees of the college district may not enter into an agreement under this chapter that permits the use of interest arbitration as a means of resolving issues arising in collective bargaining. Any such provision in an agreement with an exclusive bargaining representative is void and unenforceable.

**Sec.**  RCW 41.76.030 and 2002 c 356 s 9 are each amended to read as follows:

(1) The commission shall conduct mediation activities upon the request of either party as a means of assisting in the settlement of unresolved matters considered under this chapter.

(2) If any matter being jointly considered by the exclusive bargaining representative and the board of regents or trustees is not settled by the means provided in this chapter, either party may request the assistance and advice of the commission. Except as provided in subsection (3) of this section, nothing in this section prohibits an employer and an employee organization from agreeing to substitute, at their own expense, some other impasse procedure or other means of resolving matters considered under this chapter.

(3) The board of regents or trustees may not enter into an agreement pursuant to this chapter that permits the use of interest arbitration as a means of resolving issues arising in collective bargaining. Any such provision in an agreement with an exclusive bargaining representative is void and unenforceable.

**Sec.**  RCW 41.80.090 and 2002 c 354 s 310 are each amended to read as follows:

Should the parties fail to reach agreement in negotiating a collective bargaining agreement, either party may request of the commission the assistance of an impartial third party to mediate the negotiations.

If a collective bargaining agreement previously negotiated under this chapter should expire while negotiations are underway, the terms and conditions specified in the collective bargaining agreement shall remain in effect for a period not to exceed one year from the expiration date stated in the agreement. Thereafter, the employer may unilaterally implement according to law.

If resolution is not reached through mediation by one hundred days beyond the expiration date of a contract previously negotiated under this chapter, or one hundred days from the initiation of mediated negotiations if no such contract exists, an independent fact finder shall be appointed by the commission.

The fact finder shall meet with the parties or their representatives, or both, and make inquiries and investigations, hold hearings, and take such other steps as may be appropriate. If the dispute is not settled, the fact finder shall make findings of fact and recommend terms of settlement within thirty days.

Such recommendations, together with the findings of fact, shall be submitted in writing to the parties and the commission privately before they are made public. The commission, the fact finder, the employer, or the exclusive bargaining representative may make such findings and recommendations public if the dispute is not settled within ten working days after their receipt from the fact finder.

Nothing in this section shall be construed to prohibit an employer and an exclusive bargaining representative from agreeing to substitute, at their own expense, their own procedure for resolving impasses in collective bargaining for that provided in this section or from agreeing to utilize for the purposes of this section any other governmental or other agency or person in lieu of the commission. However, the employer may not enter into an agreement under this chapter that permits the use of interest arbitration as a means of resolving issues arising in collective bargaining. Any such provision in an agreement with an exclusive bargaining representative is void and unenforceable.

Costs for mediator services shall be borne by the commission, and costs for fact-finding shall be borne equally by the negotiating parties.

NEW SECTION. **Sec.**  A new section is added to chapter 41.56 RCW to read as follows:

(1) In addition to the entities listed in RCW 41.56.020, this chapter applies to the state with respect to employees covered by chapter 41.06 RCW working for the department of corrections, except confidential employees as defined in RCW 41.80.005, members of the Washington management service, and internal auditors.

(2) This chapter governs the collective bargaining relationship between the state and employees working for the department of corrections, as described in subsection (1) of this section, except as follows:

(a) The state shall be represented by the governor or the governor's designee who is appointed under chapter 41.80 RCW.

(b) A bargaining unit of employees within the department of corrections existing on the effective date of this section is an appropriate unit unless the unit does not meet the requirements of RCW 41.56.060.

(c) The exclusive bargaining representative or representatives certified to represent the bargaining units existing at the department of corrections on the effective date of this section shall continue as the exclusive bargaining representative without the necessity of an election.

(d) If an exclusive bargaining representative represents more than one bargaining unit within the department of corrections, the exclusive bargaining representative shall negotiate with the governor or the governor's designee one master collective bargaining agreement on behalf of all the employees in bargaining units that the exclusive bargaining representative represents within the department of corrections.

(e) Notwithstanding the definition of collective bargaining in RCW 41.56.030, the scope of collective bargaining between the representatives of the employer and the exclusive bargaining representative is the same as the scope of collective bargaining described in RCW 41.80.020. The employer and the exclusive bargaining representative shall not bargain over matters pertaining to management rights established in RCW 41.80.040.

(f) The governor or the governor's designee and one coalition of all the exclusive bargaining representatives subject to this section and chapter 41.80 RCW shall conduct negotiations regarding the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits as described in RCW 41.80.020.

(3) The governor or the governor's designee shall periodically consult with the joint committee on employment relations created in RCW 41.80.010(5) regarding appropriations necessary to implement the compensation and fringe benefit provisions in a collective bargaining agreement and, upon completion of negotiations, advise the committee on the elements of the agreement and on any legislation necessary to implement the agreement.

(4) The governor shall submit a request for funds necessary to implement the compensation and fringe benefit provisions in the collective bargaining agreement or interest arbitration award, or for legislation necessary to implement the agreement or award. Requests for funds necessary to implement the compensation and fringe benefit provisions of bargaining agreements or interest arbitration awards shall not be submitted to the legislature by the governor unless such requests:

(a) Have been submitted to the director of financial management by October 1st before the legislative session at which the requests are to be considered; and

(b) Have been certified by the director of financial management as being feasible financially for the state.

(5) The legislature shall approve or reject the submission of the request for funds as a whole. The legislature shall not consider a request for funds to implement a collective bargaining agreement or interest arbitration award unless the request is transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060. If the legislature rejects or fails to act on the submission, the agreement or award may be reopened for the sole purpose of renegotiating the funds necessary to implement the agreement.

(6) If, after the compensation and fringe benefit provisions of an agreement or award are approved by the legislature, a significant revenue shortfall occurs resulting in reduced appropriations, as declared by proclamation of the governor or by resolution of the legislature, both parties shall immediately enter into collective bargaining for a mutually agreed upon modification of the agreement.

(7) After the expiration date of a collective bargaining agreement negotiated under this chapter, all of the terms and conditions specified in the collective bargaining agreement remain in effect until the effective date of a subsequently negotiated agreement, not to exceed one year from the expiration date stated in the agreement. Thereafter, the employer may unilaterally implement according to law.

(8) For any collective bargaining agreement for the 2023-2025 fiscal biennium and thereafter, negotiations between the state and employees working for the department of corrections, as described in subsection (1) of this section, shall be conducted under chapter 41.80 RCW.

NEW SECTION. **Sec.**  A new section is added to chapter 41.56 RCW to read as follows:

In addition to the classes of employees listed in RCW 41.56.030(13), the provisions of RCW 41.56.430 through 41.56.452 and 41.56.470, 41.56.480, and 41.56.490 also apply to the employees of the state working for the department of corrections as described in section 17(1) of this act until July 1, 2023, subject to the following:

(1) Within ten working days after the first Monday in September of every odd-numbered year, the governor or the governor's designee and the bargaining representative for the appropriate bargaining unit shall attempt to agree on an interest arbitration panel consisting of three members to be used if the parties are not successful in negotiating a comprehensive collective bargaining agreement. Each party shall name one person to serve as its arbitrator on the arbitration panel. The two members so appointed shall meet within seven days following the appointment of the later appointed member to attempt to choose a third member to act as the neutral chair of the arbitration panel. Upon the failure of the arbitrators to select a neutral chair within seven days, the two appointed members shall use one of the two following options in the appointment of the third member, who shall act as chair of the panel: (a) By mutual consent, the two appointed members may jointly request the commission to, and the commission shall, appoint a third member within two days of such a request. Costs of each party's appointee shall be borne by each party respectively; other costs of the arbitration proceedings shall be borne by the commission; or (b) either party may apply to the commission, the federal mediation and conciliation service, or the American arbitration association to provide a list of five qualified arbitrators from which the neutral chair shall be chosen. Each party shall pay the fees and expenses of its arbitrator, and the fees and expenses of the neutral chair shall be shared equally between the parties. Immediately upon selecting an interest arbitration panel, the parties shall cooperate to reserve dates with the arbitration panel for potential arbitration between August 1st and September 15th of the following even-numbered year. The parties shall also prepare a schedule of at least five negotiation dates for the following year, absent an agreement to the contrary. The parties shall execute a written agreement before November 1st of each odd-numbered year setting forth the names of the members of the arbitration panel and the dates reserved for bargaining and arbitration. This subsection imposes minimum obligations only and is not intended to define or limit a party's full, good faith bargaining obligation under other sections of this chapter.

(2) The mediator or arbitration panel may consider only matters that are subject to bargaining under section 17 of this act, and may not consider the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits.

(3) In making its determination, the arbitration panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and, as additional standards or guidelines to aid it in reaching a decision, shall take into consideration the following factors:

(a) The financial ability of the department of corrections to pay for the compensation and benefit provisions of a collective bargaining agreement;

(b) The constitutional and statutory authority of the employer;

(c) Stipulations of the parties;

(d) Comparison of the wages, hours, and working conditions of employment of personnel involved in the proceedings with the hours and conditions of employment of like personnel of like state government employers of comparable population, revenues, and rates of incarceration in the United States;

(e) The ability of the state to retain employees working for the department of corrections;

(f) The overall compensation presently received by employees of the department of corrections, including direct wage compensation, vacations, holidays and other paid excused time, pensions, insurance benefits, and all other direct or indirect monetary benefits received;

(g) Changes in any of the factors listed in this subsection during the pendency of the proceedings; and

(h) Such other factors, not confined to those listed in this subsection, which are normally or traditionally taken into consideration in the determination of matters that are subject to bargaining under section 17 of this act and mediation or arbitration under this section.

(4) The decision of an arbitration panel is not binding on the legislature and, if the legislature does not approve the funds necessary to implement the compensation and fringe benefit provisions of the arbitrated collective bargaining agreement, is not binding on the state or the department of corrections.

(5) Subsections (1) through (4) of this section apply to collective bargaining agreements through the 2021-2023 fiscal biennium. For any collective bargaining agreement for the 2023-2025 fiscal biennium and thereafter, any impasse or disputes between the state and employees working for the department of corrections, as described in section 17(1) of this act, shall be resolved under the procedures contained in chapter 41.80 RCW.

**Sec.**  RCW 41.80.020 and 2011 1st sp.s. c 50 s 939 and 2011 1st sp.s. c 43 s 445 are each reenacted and amended to read as follows:

(1) Except as otherwise provided in this chapter, the matters subject to bargaining include wages, hours, and other terms and conditions of employment, and the negotiation of any question arising under a collective bargaining agreement.

(2) The employer is not required to bargain over matters pertaining to:

(a) Health care benefits or other employee insurance benefits, except as required in subsection (3) of this section;

(b) Any retirement system or retirement benefit; or

(c) Rules of the human resources director, the director of enterprise services, or the Washington personnel resources board adopted under RCW 41.06.157.

(3) Matters subject to bargaining include the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits. However, except as provided otherwise in this subsection for institutions of higher education, negotiations regarding the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits shall be conducted between the employer and one coalition of all the exclusive bargaining representatives subject to this chapter and all the exclusive bargaining representatives subject to section 17 of this act. The exclusive bargaining representatives for employees that are subject to chapter 47.64 RCW shall bargain the dollar amount expended on behalf of each employee for health care benefits with the employer as part of the coalition under this subsection. Any such provision agreed to by the employer and the coalition shall be included in all master collective bargaining agreements negotiated by the parties. For institutions of higher education, promotional preferences and the number of names to be certified for vacancies shall be bargained under the provisions of RCW 41.80.010(4). For agreements covering the 2011-2013 fiscal biennium, any agreement between the employer and the coalition regarding the dollar amount expended on behalf of each employee for health care benefits is a separate agreement and shall not be included in the master collective bargaining agreements negotiated by the parties.

(4) The employer and the exclusive bargaining representative shall not agree to any proposal that would prevent the implementation of approved affirmative action plans or that would be inconsistent with the comparable worth agreement that provided the basis for the salary changes implemented beginning with the 1983-1985 biennium to achieve comparable worth.

(5) The employer and the exclusive bargaining representative shall not bargain over matters pertaining to management rights established in RCW 41.80.040.

(6) Except as otherwise provided in this chapter, if a conflict exists between an executive order, administrative rule, or agency policy relating to wages, hours, and terms and conditions of employment and a collective bargaining agreement negotiated under this chapter, the collective bargaining agreement shall prevail. A provision of a collective bargaining agreement that conflicts with the terms of a statute is invalid and unenforceable.

(7) This section does not prohibit bargaining that affects contracts authorized by RCW 41.06.142.

NEW SECTION. **Sec.**  A new section is added to chapter 41.56 RCW to read as follows:

(1) Collective bargaining negotiations between the state and bargaining units of employees working for the department of corrections under this chapter shall commence no later than July 1, 2016. A collective bargaining agreement between the state and any bargaining unit of employees working for the department of corrections entered into under this chapter shall not be effective prior to July 1, 2017.

(2) Any collective bargaining agreement between the state and any bargaining unit of employees working for the department of corrections entered into under chapter 41.80 RCW before July 1, 2016, that expires after July 1, 2016, shall, unless a superseding agreement complying with this chapter is negotiated by the parties, remain in full force during its duration, but the agreement may not be renewed or extended beyond July 1, 2017. If an agreement under this chapter cannot be reached by July 1, 2017, the terms and conditions of any collective bargaining agreement negotiated under chapter 41.80 RCW shall remain in effect until the effective date of an agreement under this chapter, not to exceed one year from the expiration date stated in the agreement. Thereafter, the employer may unilaterally implement according to law.

(3) The duration of any collective bargaining agreement between the state and bargaining units of employees working for the department of corrections under this chapter shall not exceed one fiscal biennium.

NEW SECTION. **Sec.**  A new section is added to chapter 41.56 RCW to read as follows:

(1) The joint legislative audit and review committee shall review and study the effect of section 17 of this act, which provides binding interest arbitration to classified staff at the department of corrections. The study must consider the impact interest arbitration has had on:

(a) Recruitment, hiring, and retention of classified staff;

(b) Staffing levels;

(c) Training;

(d) Total compensation rates;

(e) Employee safety and injury rates;

(f) The number and subjects brought to interest arbitration; and

(g) Costs and saving to the state.

(2) The review committee also shall study the interest arbitration process and make recommendations concerning its continued use in connection with contracts disputes with the exclusive bargaining representatives of the department of corrections workforce. The office of financial management must collect and provide data to the committee as directed. The report is due no later than January 1, 2021.

**PART III - RETIREMENT BENEFIT**

**Sec.**  RCW 41.40.023 and 2010 c 80 s 1 are each amended to read as follows:

Membership in the retirement system shall consist of all regularly compensated employees and appointive and elective officials of employers, as defined in this chapter, with the following exceptions:

(1) Persons in ineligible positions;

(2) Employees of the legislature except the officers thereof elected by the members of the senate and the house and legislative committees, unless membership of such employees be authorized by the said committee;

(3)(a) Persons holding elective offices or persons appointed directly by the governor: PROVIDED, That such persons shall have the option of applying for membership during such periods of employment: AND PROVIDED FURTHER, That any persons holding or who have held elective offices or persons appointed by the governor who are members in the retirement system and who have, prior to becoming such members, previously held an elective office, and did not at the start of such initial or successive terms of office exercise their option to become members, may apply for membership to be effective during such term or terms of office, and shall be allowed to establish the service credit applicable to such term or terms of office upon payment of the employee contributions therefor by the employee with interest as determined by the director and employer contributions therefor by the employer or employee with interest as determined by the director: AND PROVIDED FURTHER, That all contributions with interest submitted by the employee under this subsection shall be placed in the employee's individual account in the employee's savings fund and be treated as any other contribution made by the employee, with the exception that any contributions submitted by the employee in payment of the employer's obligation, together with the interest the director may apply to the employer's contribution, shall not be considered part of the member's annuity for any purpose except withdrawal of contributions;

(b) A member holding elective office who has elected to apply for membership pursuant to (a) of this subsection and who later wishes to be eligible for a retirement allowance shall have the option of ending his or her membership in the retirement system. A member wishing to end his or her membership under this subsection must file, on a form supplied by the department, a statement indicating that the member agrees to irrevocably abandon any claim for service for future periods served as an elected official. A member who receives more than fifteen thousand dollars per year in compensation for his or her elective service, adjusted annually for inflation by the director, is not eligible for the option provided by this subsection (3)(b);

(4) Employees holding membership in, or receiving pension benefits under, any retirement plan operated wholly or in part by an agency of the state or political subdivision thereof, or who are by reason of their current employment contributing to or otherwise establishing the right to receive benefits from any such retirement plan except as follows:

(a) In any case where the retirement system has in existence an agreement with another retirement system in connection with exchange of service credit or an agreement whereby members can retain service credit in more than one system, such an employee shall be allowed membership rights should the agreement so provide;

(b) An employee shall be allowed membership if otherwise eligible while receiving survivor's benefits;

(c) An employee shall not either before or after June 7, 1984, be excluded from membership or denied service credit pursuant to this subsection solely on account of: (i) Membership in the plan created under chapter 2.14 RCW; or (ii) enrollment under the relief and compensation provisions or the pension provisions of the volunteer firefighters' relief and pension fund under chapter 41.24 RCW;

(d) Except as provided in RCW 41.40.109, on or after July 25, 1999, an employee shall not be excluded from membership or denied service credit pursuant to this subsection solely on account of participation in a defined contribution pension plan qualified under section 401 of the internal revenue code;

(e) Employees who have been reported in the retirement system prior to July 25, 1999, and who participated during the same period of time in a defined contribution pension plan qualified under section 401 of the internal revenue code and operated wholly or in part by the employer, shall not be excluded from previous retirement system membership and service credit on account of such participation;

(5) Patient and inmate help in state charitable, penal, and correctional institutions;

(6) "Members" of a state veterans' home or state soldiers' home;

(7) Persons employed by an institution of higher learning or community college, primarily as an incident to and in furtherance of their education or training, or the education or training of a spouse;

(8) Employees of an institution of higher learning or community college during the period of service necessary to establish eligibility for membership in the retirement plans operated by such institutions;

(9) Persons rendering professional services to an employer on a fee, retainer, or contract basis or when the income from these services is less than fifty percent of the gross income received from the person's practice of a profession;

(10) Persons appointed after April 1, 1963, by the liquor control board as contract liquor store managers;

(11) Employees of a labor guild, association, or organization: PROVIDED, That elective officials and employees of a labor guild, association, or organization which qualifies as an employer within this chapter shall have the option of applying for membership;

(12) Retirement system retirees: PROVIDED, That following reemployment in an eligible position, a retiree may elect to prospectively become a member of the retirement system if otherwise eligible;

(13) Persons employed by or appointed or elected as an official of a first class city that has its own retirement system: PROVIDED, That any member elected or appointed to an elective office on or after April 1, 1971, shall have the option of continuing as a member of this system in lieu of becoming a member of the city system. A member who elects to continue as a member of this system shall pay the appropriate member contributions and the city shall pay the employer contributions at the rates prescribed by this chapter. The city shall also transfer to this system all of such member's accumulated contributions together with such further amounts as necessary to equal all employee and employer contributions which would have been paid into this system on account of such service with the city and thereupon the member shall be granted credit for all such service. Any city that becomes an employer as defined in RCW 41.40.010(13) as the result of an individual's election under this subsection shall not be required to have all employees covered for retirement under the provisions of this chapter. Nothing in this subsection shall prohibit a city of the first class with its own retirement system from: (a) Transferring all of its current employees to the retirement system established under this chapter, or (b) allowing newly hired employees the option of continuing coverage under the retirement system established by this chapter.

Notwithstanding any other provision of this chapter, persons transferring from employment with a first class city of over four hundred thousand population that has its own retirement system to employment with the state department of agriculture may elect to remain within the retirement system of such city and the state shall pay the employer contributions for such persons at like rates as prescribed for employers of other members of such system;

(14) Employees who (a) are not citizens of the United States, (b) do not reside in the United States, and (c) perform duties outside of the United States;

(15) Employees who (a) are not citizens of the United States, (b) are not covered by chapter 41.48 RCW, (c) are not excluded from membership under this chapter or chapter 41.04 RCW, (d) are residents of this state, and (e) make an irrevocable election to be excluded from membership, in writing, which is submitted to the director within thirty days after employment in an eligible position;

(16) Employees who are citizens of the United States and who reside and perform duties for an employer outside of the United States: PROVIDED, That unless otherwise excluded under this chapter or chapter 41.04 RCW, the employee may apply for membership (a) within thirty days after employment in an eligible position and membership service credit shall be granted from the first day of membership service, and (b) after this thirty-day period, but membership service credit shall be granted only if payment is made for the noncredited membership service under RCW 41.50.165(2), otherwise service shall be from the date of application;

(17) The city manager or chief administrative officer of a city or town, other than a retiree, who serves at the pleasure of an appointing authority: PROVIDED, That such persons shall have the option of applying for membership within thirty days from date of their appointment to such positions. Persons serving in such positions as of April 4, 1986, shall continue to be members in the retirement system unless they notify the director in writing prior to December 31, 1986, of their desire to withdraw from membership in the retirement system. A member who withdraws from membership in the system under this section shall receive a refund of the member's accumulated contributions.

Persons serving in such positions who have not opted for membership within the specified thirty days, may do so by paying the amount required under RCW 41.50.165(2) for the period from the date of their appointment to the date of acceptance into membership;

(18) Persons serving as: (a) The chief administrative officer of a public utility district as defined in RCW 54.16.100; (b) the chief administrative officer of a port district formed under chapter 53.04 RCW; or (c) the chief administrative officer of a county who serves at the pleasure of an appointing authority: PROVIDED, That such persons shall have the option of applying for membership within thirty days from the date of their appointment to such positions. Persons serving in such positions as of July 25, 1999, shall continue to be members in the retirement system unless they notify the director in writing prior to December 31, 1999, of their desire to withdraw from membership in the retirement system. A member who withdraws from membership in the system under this section shall receive a refund of the member's accumulated contributions upon termination of employment or as otherwise consistent with the plan's tax qualification status as defined in internal revenue code section 401.

Persons serving in such positions who have not opted for membership within the specified thirty days, may do so at a later date by paying the amount required under RCW 41.50.165(2) for the period from the date of their appointment to the date of acceptance into membership;

(19) Persons enrolled in state-approved apprenticeship programs, authorized under chapter 49.04 RCW, and who are employed by local governments to earn hours to complete such apprenticeship programs, if the employee is a member of a union-sponsored retirement plan and is making contributions to such a retirement plan or if the employee is a member of a Taft-Hartley retirement plan;

(20) Beginning on July 22, 2001, persons employed exclusively as trainers or trainees in resident apprentice training programs operated by housing authorities authorized under chapter 35.82 RCW, (a) if the trainer or trainee is a member of a union-sponsored retirement plan and is making contributions to such a retirement plan or (b) if the employee is a member of a Taft-Hartley retirement plan;

(21) Employees who are removed from membership under RCW 41.40.823 or 41.40.633; ((~~and~~))

(22) Persons employed as the state director of fire protection under RCW 43.43.938 who were previously members of the law enforcement officers' and firefighters' retirement system plan 2 under chapter 41.26 RCW may continue as a member of the law enforcement officers' and firefighters' retirement system in lieu of becoming a member of this system; and

(23) Persons employed as individual providers under chapter 74.39A RCW and any other persons who are public employees solely for the purposes of collective bargaining are not eligible for coverage in the retirement plans provided pursuant to this chapter.

**Sec.**  RCW 74.39A.270 and 2011 1st sp.s. c 21 s 10 are each amended to read as follows:

(1) Solely for the purposes of collective bargaining and as expressly limited under subsections (2) and (3) of this section, the governor is the public employer, as defined in chapter 41.56 RCW, of individual providers, who, solely for the purposes of collective bargaining, are public employees as defined in chapter 41.56 RCW. To accommodate the role of the state as payor for the community-based services provided under this chapter and to ensure coordination with state employee collective bargaining under chapter 41.80 RCW and the coordination necessary to implement RCW 74.39A.300, the public employer shall be represented for bargaining purposes by the governor or the governor's designee appointed under chapter 41.80 RCW. The governor or governor's designee shall periodically consult with the authority during the collective bargaining process to allow the authority to communicate issues relating to the long-term in-home care services received by consumers. The department shall solicit input from the developmental disabilities council, the governor's committee on disability issues and employment, the state council on aging, and other consumer advocacy organizations to obtain informed input from consumers on their interests, including impacts on consumer choice, for all issues proposed for collective bargaining under subsections (5) and (6) of this section.

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

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

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

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

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

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

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

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

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

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

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

(a) The department's authority to establish a plan of care for each consumer or its core responsibility to manage long-term in-home care services under this chapter, including determination of the level of care that each consumer is eligible to receive. However, at the request of the exclusive bargaining representative, the governor or the governor's designee appointed under chapter 41.80 RCW shall engage in collective bargaining, as defined in RCW 41.56.030(4), with the exclusive bargaining representative over how the department's core responsibility affects hours of work for individual providers. This subsection shall not be interpreted to require collective bargaining over an individual consumer's plan of care;

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

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

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

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

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

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

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

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

(9) Collective bargaining agreements, including agreements reached by interest arbitration, may not include a provision for any type of defined benefit retirement plan or require the state to contribute to a defined contribution retirement plan at a level that exceeds three percent of individual provider wages.

**PART IV - FINANCIAL FEASIBILITY**

**Sec.**  RCW 41.80.005 and 2011 1st sp.s. c 43 s 444 are each amended to read as follows:

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

(1) "Agency" means any agency as defined in RCW 41.06.020 and covered by chapter 41.06 RCW.

(2) "Collective bargaining" means the performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times and to bargain in good faith in an effort to reach agreement with respect to the subjects of bargaining specified under RCW 41.80.020. The obligation to bargain does not compel either party to agree to a proposal or to make a concession, except as otherwise provided in this chapter.

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

(4) "Confidential employee" means an employee who, in the regular course of his or her duties, assists in a confidential capacity persons who formulate, determine, and effectuate management policies with regard to labor relations or who, in the regular course of his or her duties, has authorized access to information relating to the effectuation or review of the employer's collective bargaining policies, or who assists or aids a manager. "Confidential employee" also includes employees who assist assistant attorneys general who advise and represent managers or confidential employees in personnel or labor relations matters, or who advise or represent the state in tort actions.

(5) "Director" means the director of the public employment relations commission.

(6) "Employee" means any employee, including employees whose work has ceased in connection with the pursuit of lawful activities protected by this chapter, covered by chapter 41.06 RCW, except:

(a) Employees covered for collective bargaining by chapter 41.56 RCW;

(b) Confidential employees;

(c) Members of the Washington management service;

(d) Internal auditors in any agency; or

(e) Any employee of the commission, the office of financial management, or the office of risk management within the department of enterprise services.

(7) "Employee organization" means any organization, union, or association in which employees participate and that exists for the purpose, in whole or in part, of collective bargaining with employers.

(8) "Employer" means the state of Washington.

(9) "Estimate of state financial resources" means the amount of available fiscal resources that exceed projected maintenance level as those terms are defined in RCW 43.88.055 and as adopted by the economic and revenue forecast council in November as directed in RCW 82.33.060.

(10) "Exclusive bargaining representative" means any employee organization that has been certified under this chapter as the representative of the employees in an appropriate bargaining unit.

((~~(10)~~)) (11)(a) "Feasible financially for the state" means:

(i) The sum of the general fund and related funds cost of the requests for funds for all bargaining agreements negotiated or awarded under the authority of this chapter, section 17 of this act, RCW 41.56.026, 41.56.028, 41.56.029, 41.56.510, and 74.39A.270 does not exceed the most current estimate of state financial resources for the term of the agreement and for the ensuing biennium; or

(ii) For each bargaining agreement negotiated or awarded under the authority of this chapter, section 17 of this act, RCW 41.56.026, 41.56.028, 41.56.029, 41.56.510, and 74.39A.270, the request for funds does not exceed a three percent biennial increase in general fund and related funds costs from the current bargaining agreement for the term of the agreement and for the ensuing biennium.

(b) For purposes of this subsection, "related funds" has the same meaning in RCW 43.88.055.

(12) "Institutions of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges.

((~~(11)~~)) (13) "Labor dispute" means any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment with respect to the subjects of bargaining provided in this chapter, regardless of whether the disputants stand in the proximate relation of employer and employee.

((~~(12)~~)) (14) "Manager" means "manager" as defined in RCW 41.06.022.

((~~(13)~~)) (15) "Request for funds" means the incremental increased cost of the compensation and fringe benefits provisions of a bargaining agreement or interest arbitration award. A request for funds does not include appropriations necessary to maintain and continue the compensation and fringe benefits provisions of a current bargaining agreement into ensuing biennia.

(16) "Supervisor" means an employee who has authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, or discipline employees, or to adjust employee grievances, or effectively to recommend such action, if the exercise of the authority is not of a merely routine nature but requires the consistent exercise of individual judgment. However, no employee who is a member of the Washington management service may be included in a collective bargaining unit established under this section.

((~~(14)~~)) (17) "Unfair labor practice" means any unfair labor practice listed in RCW 41.80.110.

**Sec.**  RCW 41.80.010 and 2013 2nd sp.s. c 4 s 971 are each amended to read as follows:

(1) For the purpose of negotiating collective bargaining agreements under this chapter, the employer shall be represented by the governor or governor's designee, except as provided for institutions of higher education in subsection (4) of this section.

(2)(a) If an exclusive bargaining representative represents more than one bargaining unit, the exclusive bargaining representative shall negotiate with each employer representative as designated in subsection (1) of this section one master collective bargaining agreement on behalf of all the employees in bargaining units that the exclusive bargaining representative represents. For those exclusive bargaining representatives who represent fewer than a total of five hundred employees each, negotiation shall be by a coalition of all those exclusive bargaining representatives. The coalition shall bargain for a master collective bargaining agreement covering all of the employees represented by the coalition. The governor's designee and the exclusive bargaining representative or representatives are authorized to enter into supplemental bargaining of agency-specific issues for inclusion in or as an addendum to the master collective bargaining agreement, subject to the parties' agreement regarding the issues and procedures for supplemental bargaining. This section does not prohibit cooperation and coordination of bargaining between two or more exclusive bargaining representatives.

(b) This subsection (2) does not apply to exclusive bargaining representatives who represent employees of institutions of higher education, except when the institution of higher education has elected to exercise its option under subsection (4) of this section to have its negotiations conducted by the governor or governor's designee under the procedures provided for general government agencies in subsections (1) through (3) of this section.

(c) If five hundred or more employees of an independent state elected official listed in RCW 43.01.010 are organized in a bargaining unit or bargaining units under RCW 41.80.070, the official shall be consulted by the governor or the governor's designee before any agreement is reached under (a) of this subsection concerning supplemental bargaining of agency specific issues affecting the employees in such bargaining unit.

(3) The governor shall submit a request for funds necessary to implement the compensation and fringe benefit provisions in the master collective bargaining agreement or for legislation necessary to implement the agreement. Requests for funds necessary to implement the provisions of bargaining agreements shall not be submitted to the legislature by the governor unless such requests:

(a) Have been submitted to the director of the office of financial management by October 1 prior to the legislative session at which the requests are to be considered; and

(b) Have been certified by the director of the office of financial management as being feasible financially for the state.

The legislature shall approve or reject the submission of the request for funds as a whole. The legislature shall not consider a request for funds to implement a collective bargaining agreement unless the request is transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060. If the legislature rejects or fails to act on the submission, either party may reopen all or part of the agreement or the exclusive bargaining representative may seek to implement the procedures provided for in RCW 41.80.090.

(4)(a)(i) For the purpose of negotiating agreements for institutions of higher education, the employer shall be the respective governing board of each of the universities, colleges, or community colleges or a designee chosen by the board to negotiate on its behalf.

(ii) A governing board of a university or college may elect to have its negotiations conducted by the governor or governor's designee under the procedures provided for general government agencies in subsections (1) through (3) of this section, except that:

(A) The governor or the governor's designee and an exclusive bargaining representative shall negotiate one master collective bargaining agreement for all of the bargaining units of employees of a university or college that the representative represents; or

(B) If the parties mutually agree, the governor or the governor's designee and an exclusive bargaining representative shall negotiate one master collective bargaining agreement for all of the bargaining units of employees of more than one university or college that the representative represents.

(iii) A governing board of a community college may elect to have its negotiations conducted by the governor or governor's designee under the procedures provided for general government agencies in subsections (1) through (3) of this section.

(b) Prior to entering into negotiations under this chapter, the institutions of higher education or their designees shall consult with the director of the office of financial management regarding financial and budgetary issues that are likely to arise in the impending negotiations.

(c)(i) In the case of bargaining agreements reached between institutions of higher education other than the University of Washington and exclusive bargaining representatives agreed to under the provisions of this chapter, if appropriations are necessary to implement the compensation and fringe benefit provisions of the bargaining agreements, the governor shall submit a request for such funds to the legislature according to the provisions of subsection (3) of this section, except as provided in (c)(iii) of this subsection.

(ii) In the case of bargaining agreements reached between the University of Washington and exclusive bargaining representatives agreed to under the provisions of this chapter, if appropriations are necessary to implement the compensation and fringe benefit provisions of a bargaining agreement, the governor shall submit a request for such funds to the legislature according to the provisions of subsection (3) of this section, except as provided in this subsection (4)(c)(ii) and as provided in (c)(iii) of this subsection.

(A) If appropriations of less than ten thousand dollars are necessary to implement the provisions of a bargaining agreement, a request for such funds shall not be submitted to the legislature by the governor unless the request has been submitted to the director of the office of financial management by October 1 prior to the legislative session at which the request is to be considered.

(B) If appropriations of ten thousand dollars or more are necessary to implement the provisions of a bargaining agreement, a request for such funds shall not be submitted to the legislature by the governor unless the request:

(I) Has been submitted to the director of the office of financial management by October 1 prior to the legislative session at which the request is to be considered; and

(II) Has been certified by the director of the office of financial management as being feasible financially for the state.

(C) If the director of the office of financial management does not certify a request under (c)(ii)(B) of this subsection as being feasible financially for the state, the parties shall enter into collective bargaining solely for the purpose of reaching a mutually agreed upon modification of the agreement necessary to address the absence of those requested funds. The legislature may act upon the compensation and fringe benefit provisions of the modified collective bargaining agreement if those provisions are agreed upon and submitted to the office of financial management and legislative budget committees before final legislative action on the biennial or supplemental operating budget by the sitting legislature.

(iii) In the case of a bargaining unit of employees of institutions of higher education in which the exclusive bargaining representative is certified during or after the conclusion of a legislative session, the legislature may act upon the compensation and fringe benefit provisions of the unit's initial collective bargaining agreement if those provisions are agreed upon and submitted to the office of financial management and legislative budget committees before final legislative action on the biennial or supplemental operating budget by the sitting legislature.

(5) There is hereby created a joint committee on employment relations, which consists of two members with leadership positions in the house of representatives, representing each of the two largest caucuses; the chair and ranking minority member of the house appropriations committee, or its successor, representing each of the two largest caucuses; two members with leadership positions in the senate, representing each of the two largest caucuses; and the chair and ranking minority member of the senate ways and means committee, or its successor, representing each of the two largest caucuses. The governor shall periodically consult with the committee regarding appropriations necessary to implement the compensation and fringe benefit provisions in the master collective bargaining agreements, and upon completion of negotiations, advise the committee on the elements of the agreements and on any legislation necessary to implement the agreements.

(6) If, after the compensation and fringe benefit provisions of an agreement are approved by the legislature, a significant revenue shortfall occurs resulting in reduced appropriations, as declared by proclamation of the governor or by resolution of the legislature, both parties shall immediately enter into collective bargaining for a mutually agreed upon modification of the agreement.

(7) After the expiration date of a collective bargaining agreement negotiated under this chapter, all of the terms and conditions specified in the collective bargaining agreement remain in effect until the effective date of a subsequently negotiated agreement, not to exceed one year from the expiration date stated in the agreement. Thereafter, the employer may unilaterally implement according to law.

(8) For the 2013‑2015 fiscal biennium, a collective bargaining agreement related to employee health care benefits negotiated between the employer and coalition pursuant to RCW 41.80.020(3) regarding the dollar amount expended on behalf of each employee shall be a separate agreement for which the governor may request funds necessary to implement the agreement. The legislature may act upon a 2013‑2015 collective bargaining agreement related to employee health care benefits if an agreement is reached and submitted to the office of financial management and legislative budget committees before final legislative action on the biennial or supplemental operating appropriations act by the sitting legislature.

(9) If the director of the office of financial management does not certify a request for funds as being feasible financially for the state, the parties shall immediately enter into collective bargaining solely for the purpose of reaching a mutually agreed upon modification of the agreement. The legislature may act upon the compensation and fringe benefits provisions of the modified collective bargaining agreement if those provisions are agreed upon, have been certified by the director of the office of financial management as being feasible financially for the state, and submitted to legislative fiscal committees before final legislative action on the biennial or supplemental operating budget by the sitting legislature.

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

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

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

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

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

(c) Notwithstanding the definition of "collective bargaining" in RCW 41.56.030(4), the scope of collective bargaining for child care providers under this section shall be limited solely to: (i) Economic compensation, such as manner and rate of subsidy and reimbursement, including tiered reimbursements; (ii) health and welfare benefits; (iii) professional development and training; (iv) labor-management committees; (v) grievance procedures; and (vi) other economic matters. Retirement benefits shall not be subject to collective bargaining. By such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter.

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

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

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

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

(3) Family child care providers who are public employees solely for the purposes of collective bargaining under subsection (1) of this section are not, for that reason, employees of the state for any purpose. This section applies only to the governance of the collective bargaining relationship between the employer and family child care providers as provided in subsections (1) and (2) of this section.

(4) This section does not create or modify:

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

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

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

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

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

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

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

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

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

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

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

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

(11) In enacting this section, the legislature intends to provide state action immunity under federal and state antitrust laws for the joint activities of family child care providers and their exclusive bargaining representative to the extent such activities are authorized by this chapter.

(12) If the director of the office of financial management does not certify a request for funds as being feasible financially for the state, the parties shall immediately enter into collective bargaining solely for the purpose of reaching a mutually agreed upon modification of the agreement. The legislature may act upon the compensation and fringe benefits provisions of the modified collective bargaining agreement if those provisions are agreed upon, have been certified by the director of the office of financial management as being feasible financially for the state, and submitted to legislative fiscal committees before final legislative action on the biennial or supplemental operating budget by the sitting legislature.

(13) For purposes of this section, the terms "request for funds" and "feasible financially for the state" have the same meaning as in RCW 41.80.005.

**Sec.**  RCW 41.56.029 and 2007 c 184 s 1 are each amended to read as follows:

(1) In addition to the entities listed in RCW 41.56.020, this chapter applies to the governor with respect to adult family home providers. Solely for the purposes of collective bargaining and as expressly limited under subsections (2) and (3) of this section, the governor is the public employer of adult family home providers who, solely for the purposes of collective bargaining, are public employees. The public employer shall be represented for bargaining purposes by the governor or the governor's designee.

(2) There shall be collective bargaining, as defined in RCW 41.56.030, between the governor and adult family home providers, except as follows:

(a) A statewide unit of all adult family home providers is the only unit appropriate for purposes of collective bargaining under RCW 41.56.060.

(b) The exclusive bargaining representative of adult family home providers in the unit specified in (a) of this subsection shall be the representative chosen in an election conducted pursuant to RCW 41.56.070.

Bargaining authorization cards furnished as the showing of interest in support of any representation petition or motion for intervention filed under this section shall be exempt from disclosure under chapter 42.56 RCW.

(c) Notwithstanding the definition of "collective bargaining" in RCW 41.56.030(4), the scope of collective bargaining for adult family home providers under this section shall be limited solely to: (i) Economic compensation, such as manner and rate of subsidy and reimbursement, including tiered reimbursements; (ii) health and welfare benefits; (iii) professional development and training; (iv) labor-management committees; (v) grievance procedures; and (vi) other economic matters. Retirement benefits shall not be subject to collective bargaining. By such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter.

(d) In addition to the entities listed in the mediation and interest arbitration provisions of RCW 41.56.430 through 41.56.470 and 41.56.480, the provisions apply to the governor or the governor's designee and the exclusive bargaining representative of adult family home providers, except that:

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

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

(e) Adult family home providers do not have the right to strike.

(3) Adult family home providers who are public employees solely for the purposes of collective bargaining under subsection (1) of this section are not, for that reason, employees of the state for any other purpose. This section applies only to the governance of the collective bargaining relationship between the employer and adult family home providers as provided in subsections (1) and (2) of this section.

(4) This section does not create or modify:

(a) The department's authority to establish a plan of care for each consumer or its core responsibility to manage long-term care services under chapter 70.128 RCW, including determination of the level of care that each consumer is eligible to receive. However, at the request of the exclusive bargaining representative, the governor or the governor's designee appointed under chapter 41.80 RCW shall engage in collective bargaining, as defined in RCW 41.56.030(4), with the exclusive bargaining representative over how the department's core responsibility affects hours of work for adult family home providers. This subsection shall not be interpreted to require collective bargaining over an individual consumer's plan of care;

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

(c) The legislature's right to make programmatic modifications to the delivery of state services under chapter 70.128 RCW, including standards of eligibility of consumers and adult family home providers participating in the programs under chapter 70.128 RCW, and the nature of services provided. The governor shall not enter into, extend, or renew any agreement under this chapter that does not expressly reserve the legislative rights described in this subsection (4)(c);

(d) The residents', parents', or legal guardians' right to choose and terminate the services of any licensed adult family home provider; and

(e) RCW 43.43.832, 43.20A.205, or 74.15.130.

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

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

(a) Submitted to the director of financial management by October 1st prior to the legislative session at which the requests are to be considered; and

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

(7) The legislature must approve or reject the submission of the request for funds as a whole. If the legislature rejects or fails to act on the submission, any collective bargaining agreement must be reopened for the sole purpose of renegotiating the funds necessary to implement the agreement.

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

(9) After the expiration date of any collective bargaining agreement entered into under this section, all of the terms and conditions specified in the agreement remain in effect until the effective date of a subsequent agreement, not to exceed one year from the expiration date stated in the agreement.

(10) In enacting this section, the legislature intends to provide state action immunity under federal and state antitrust laws for the joint activities of adult family home providers and their exclusive bargaining representative to the extent the activities are authorized by this chapter.

(11) If the director of the office of financial management does not certify a request for funds as being feasible financially for the state, the parties shall immediately enter into collective bargaining solely for the purpose of reaching a mutually agreed upon modification of the agreement. The legislature may act upon the compensation and fringe benefits provisions of the modified collective bargaining agreement if those provisions are agreed upon, have been certified by the director of the office of financial management as being feasible financially for the state, and submitted to legislative fiscal committees before final legislative action on the biennial or supplemental operating budget by the sitting legislature.

(12) For purposes of this section:

(a) "Request for funds" has the same meaning as in RCW 41.80.005.

(b) "Financially feasible for the state" has the same meaning as "feasible financially for the state" in RCW 41.80.005.

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

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

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

(a) A statewide unit of all language access providers is the only unit appropriate for purposes of collective bargaining under RCW 41.56.060;

(b) The exclusive bargaining representative of language access providers in the unit specified in (a) of this subsection shall be the representative chosen in an election conducted pursuant to RCW 41.56.070.

Bargaining authorization cards furnished as the showing of interest in support of any representation petition or motion for intervention filed under this section are exempt from disclosure under chapter 42.56 RCW;

(c) Notwithstanding the definition of "collective bargaining" in RCW 41.56.030(4), the scope of collective bargaining for language access providers under this section is limited solely to: (i) Economic compensation, such as the manner and rate of payments; (ii) professional development and training; (iii) labor-management committees; and (iv) grievance procedures. Retirement benefits are not subject to collective bargaining. By such obligation neither party may be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter;

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

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

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

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

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

(4) Each party with whom the department of social and health services contracts for language access services and each of their subcontractors shall provide to the department an accurate list of language access providers, as defined in RCW 41.56.030, including their names, addresses, and other contact information, annually by January 30th, except that initially the lists must be provided within thirty days of June 10, 2010. The department shall, upon request, provide a list of all language access providers, including their names, addresses, and other contact information, to a labor union seeking to represent language access providers.

(5) This section does not create or modify:

(a) The department's obligation to comply with the federal statute and regulations; and

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

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

(7) A request for funds necessary to implement the compensation and benefit provisions of a collective bargaining agreement entered into under this section may not be submitted by the governor to the legislature unless the request has been:

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

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

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

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

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

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

(12) If the director of the office of financial management does not certify a request for funds as being feasible financially for the state, the parties shall immediately enter into collective bargaining solely for the purpose of reaching a mutually agreed upon modification of the agreement. The legislature may act upon the compensation and fringe benefits provisions of the modified collective bargaining agreement if those provisions are agreed upon, have been certified by the director of the office of financial management as being feasible financially for the state, and submitted to legislative fiscal committees before final legislative action on the biennial or supplemental operating budget by the sitting legislature.

(13) For purposes of this section:

(a) "Request for funds" has the same meaning as in RCW 41.80.005.

(b) "Financially feasible for the state" has the same meaning as "feasible financially for the state" in RCW 41.80.005.

**Sec.**  RCW 74.39A.240 and 2011 1st sp.s. c 21 s 7 are each amended to read as follows:

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

(1) "Consumer" means a person to whom an individual provider provides any such services.

(2) "Department" means the department of social and health services.

(3) "Feasible financially for the state" has the same meaning as in RCW 41.80.005.

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

(5) "Request for funds" has the same meaning as in RCW 41.80.005.

**Sec.**  RCW 74.39A.300 and 2004 c 3 s 2 are each amended to read as follows:

(1) Upon meeting the requirements of subsection (2) of this section, the governor must submit, as a part of the proposed biennial or supplemental operating budget submitted to the legislature under RCW 43.88.030, a request for funds necessary to administer chapter 3, Laws of 2002 and to implement the compensation and fringe benefits provisions of a collective bargaining agreement entered into under RCW 74.39A.270 or for legislation necessary to implement such agreement.

(2) A request for funds necessary to implement the compensation and fringe benefits provisions of a collective bargaining agreement entered into under RCW 74.39A.270 shall not be submitted by the governor to the legislature unless such request:

(a) Has been submitted to the director of financial management by October 1st prior to the legislative session at which the request is to be considered; and

(b) Has been certified by the director of financial management as being feasible financially for the state or reflects the binding decision of an arbitration panel reached under RCW 74.39A.270(2)(c).

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

(4) When any increase in individual provider wages or benefits is negotiated or agreed to, no increase in wages or benefits negotiated or agreed to under this chapter will take effect unless and until, before its implementation, the department has determined that the increase is consistent with federal law and federal financial participation in the provision of services under Title XIX of the federal social security act.

(5) The governor shall periodically consult with the joint committee on employment relations established by RCW 41.80.010 regarding appropriations necessary to implement the compensation and fringe benefits provisions of any collective bargaining agreement and, upon completion of negotiations, advise the committee on the elements of the agreement and on any legislation necessary to implement such agreement.

(6) After the expiration date of any collective bargaining agreement entered into under RCW 74.39A.270, all of the terms and conditions specified in any such agreement remain in effect until the effective date of a subsequent agreement, not to exceed one year from the expiration date stated in the agreement, except as provided in RCW 74.39A.270((~~(6)~~)) (5)(f).

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

(8) If the director of the office of financial management does not certify a request for funds as being feasible financially for the state, the parties shall immediately enter into collective bargaining solely for the purpose of reaching a mutually agreed upon modification of the agreement. The legislature may act upon the compensation and fringe benefits provisions of the modified collective bargaining agreement if those provisions are agreed upon, have been certified by the director of the office of financial management as being feasible financially for the state, and submitted to legislative fiscal committees before final legislative action on the biennial or supplemental operating budget by the sitting legislature.

**PART V - MISCELLANEOUS PROVISIONS**

NEW SECTION. **Sec.**  Sections 17 through 21 of this act expire July 1, 2023.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**--- END ---**