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**HOUSE BILL 1287**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Representatives Chandler and Manweller

AN ACT Relating to collective bargaining; amending RCW 42.30.140, 41.80.005, 41.80.010, 41.56.028, 41.56.029, 41.56.510, 74.39A.240, and 74.39A.300; adding a new section to chapter 42.30 RCW; adding a new section 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 a new section 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; and declaring an emergency.

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

**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.

**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, 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, 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 2016 1st sp.s. c 36 s 923 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)(a) For the 2015-2017 fiscal biennium, the governor may request funds to implement:

(i) Modifications to collective bargaining agreements as set forth in a memorandum of understanding negotiated between the employer and the service employees international union healthcare 1199nw, an exclusive bargaining representative, that was necessitated by an emergency situation or an imminent jeopardy determination by the center for medicare and medicaid services that relates to the safety or health of the clients, employees, or both the clients and employees.

(ii) Unilaterally implemented modifications to collective bargaining agreements, resulting from the employer being prohibited from negotiating with an exclusive bargaining representative due to a pending representation petition, necessitated by an emergency situation or an imminent jeopardy determination by the center for medicare and medicaid services that relates to the safety or health of the clients, employees, or both the clients and employees.

(iii) Modifications to collective bargaining agreements as set forth in a memorandum of understanding negotiated between the employer and the union of physicians of Washington, an exclusive bargaining representative, that was necessitated by an emergency situation or an imminent jeopardy determination by the center for medicare and medicaid services that relates to the safety or health of the clients, employees, or both the clients and employees. If the memorandum of understanding submitted to the legislature as part of the governor's budget document is rejected by the legislature, and the parties reach a new memorandum of understanding by June 30, 2016, within the funds, conditions, and limitations provided in section 204, chapter 36, Laws of 2016 1st sp. sess., the new memorandum of understanding shall be considered approved by the legislature and may be retroactive to December 1, 2015.

(iv) Modifications to collective bargaining agreements as set forth in a memorandum of understanding negotiated between the employer and the teamsters union local 117, an exclusive bargaining representative, for salary adjustments for the state employee job classifications of psychiatrist, psychiatric social worker((~~[,]~~)), and psychologist.

(b) For the 2015-2017 fiscal biennium, the legislature may act upon the request for funds for modifications to a 2015-2017 collective bargaining agreement under (a)(i), (ii), (iii), and (iv) of this subsection if funds are requested by the governor before final legislative action on the supplemental omnibus appropriations act by the sitting legislature.

(c) The request for funding made under this subsection and any action by the legislature taken pursuant to this subsection is limited to the modifications described in this subsection and may not otherwise affect the original terms of the 2015-2017 collective bargaining agreement.

(d) ((~~Subsections [Subsection]~~)) Subsection (3)(a) and (b) of this section ((~~do~~)) does not apply to requests for funding made pursuant to this subsection.

(10) 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.

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 ---**