
HOUSE BILL 2711

State of Washington

62nd Legislature

2012 Regular Session

By Representatives Pettigrew, Takko, and Eddy; by request of Office of Financial Management

Read first time 01/26/12. Referred to Committee on Labor & Workforce Development.

1 AN ACT Relating to narrowing the definition of language access
2 providers; amending RCW 41.56.030 and 74.04.025; creating new sections;
3 and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
6 clarify that state collective bargaining rights of language access
7 providers is limited to providers paid, in whole or in part, with an
8 expenditure of state funds and is not intended to cover providers in
9 legal proceedings. As a clarification of current law, this act is
10 intended to apply both prospectively and retroactively.

11 **Sec. 2.** RCW 41.56.030 and 2011 1st sp.s. c 21 s 11 are each
12 amended to read as follows:

13 As used in this chapter:

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

17 (2) "Bargaining representative" means any lawful organization which

1 has as one of its primary purposes the representation of employees in
2 their employment relations with employers.

3 (3) "Child care subsidy" means a payment from the state through a
4 child care subsidy program established pursuant to RCW 74.12.340 or
5 74.08A.340, 45 C.F.R. Sec. 98.1 through 98.17, or any successor
6 program.

7 (4) "Collective bargaining" means the performance of the mutual
8 obligations of the public employer and the exclusive bargaining
9 representative to meet at reasonable times, to confer and negotiate in
10 good faith, and to execute a written agreement with respect to
11 grievance procedures and collective negotiations on personnel matters,
12 including wages, hours and working conditions, which may be peculiar to
13 an appropriate bargaining unit of such public employer, except that by
14 such obligation neither party shall be compelled to agree to a proposal
15 or be required to make a concession unless otherwise provided in this
16 chapter.

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

18 (6) "Executive director" means the executive director of the
19 commission.

20 (7) "Family child care provider" means a person who: (a) Provides
21 regularly scheduled care for a child or children in the home of the
22 provider or in the home of the child or children for periods of less
23 than twenty-four hours or, if necessary due to the nature of the
24 parent's work, for periods equal to or greater than twenty-four hours;
25 (b) receives child care subsidies; and (c) is either licensed by the
26 state under RCW 74.15.030 or is exempt from licensing under chapter
27 74.15 RCW.

28 (8) "Individual provider" means an individual provider as defined
29 in RCW 74.39A.240(4) who, solely for the purposes of collective
30 bargaining, is a public employee as provided in RCW 74.39A.270.

31 (9) "Institution of higher education" means the University of
32 Washington, Washington State University, Central Washington University,
33 Eastern Washington University, Western Washington University, The
34 Evergreen State College, and the various state community colleges.

35 (10)(a) "Language access provider" means any independent contractor
36 who provides spoken language interpreter services for department of
37 social and health services appointments or medicaid enrollee

1 appointments, or provided these services on or after January 1, 2009,
2 and before June 10, 2010, whether paid by a broker, language access
3 agency, or the department.

4 (b) "Language access provider" does not mean: An owner, manager,
5 or employee of a broker or a language access agency; an interpreter
6 appointed or required in legal proceedings pursuant to RCW 2.43.030; or
7 an interpreter under the medicaid administrative match program.

8 (c) "Department of social and health services appointments" does
9 not include legal proceedings of any nature, including criminal, civil,
10 or administrative proceedings at any level.

11 (d) "Medicaid enrollee appointments" does not include medicaid
12 administrative match program appointments or any other service provided
13 pursuant to that program.

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

33 (12) "Public employer" means any officer, board, commission,
34 council, or other person or body acting on behalf of any public body
35 governed by this chapter, or any subdivision of such public body. For
36 the purposes of this section, the public employer of district court or
37 superior court employees for wage-related matters is the respective
38 county legislative authority, or person or body acting on behalf of the

1 legislative authority, and the public employer for nonwage-related
2 matters is the judge or judge's designee of the respective district
3 court or superior court.

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

25 **Sec. 3.** RCW 74.04.025 and 2011 1st sp.s. c 15 s 63 are each
26 amended to read as follows:

27 (1) The department, the authority, and the office of administrative
28 hearings shall ensure that bilingual services are provided to non-
29 English speaking applicants and recipients. The services shall be
30 provided to the extent necessary to assure that non-English speaking
31 persons are not denied, or unable to obtain or maintain, services or
32 benefits because of their inability to speak English.

33 (2) If the number of non-English speaking applicants or recipients
34 sharing the same language served by any community service office client
35 contact job classification equals or exceeds fifty percent of the
36 average caseload of a full-time position in such classification, the

1 department shall, through attrition, employ bilingual personnel to
2 serve such applicants or recipients.

3 (3) Regardless of the applicant or recipient caseload of any
4 community service office, each community service office shall ensure
5 that bilingual services required to supplement the community service
6 office staff are provided through contracts with language access
7 providers, local agencies, or other community resources.

8 (4) The department shall certify, authorize, and qualify language
9 access providers as needed to maintain an adequate pool of providers.

10 (5) The department shall require compliance with RCW 41.56.113(2)
11 through its contracts with third parties.

12 (6) Initial client contact materials shall inform clients in all
13 primary languages of the availability of interpretation services for
14 non-English speaking persons. Basic informational pamphlets shall be
15 translated into all primary languages.

16 (7) To the extent all written communications directed to applicants
17 or recipients are not in the primary language of the applicant or
18 recipient, the department and the office of administrative hearings
19 shall include with the written communication a notice in all primary
20 languages of applicants or recipients describing the significance of
21 the communication and specifically how the applicants or recipients may
22 receive assistance in understanding, and responding to if necessary,
23 the written communication. The department shall assure that sufficient
24 resources are available to assist applicants and recipients in a timely
25 fashion with understanding, responding to, and complying with the
26 requirements of all such written communications.

27 (8) As used in this section:

28 (a) "Language access provider" means any independent contractor who
29 provides spoken language interpreter services for department
30 appointments or medicaid enrollee appointments, or provided these
31 services on or after January 1, 2009, and before June 10, 2010, whether
32 paid by a broker, language access agency, or the department. "Language
33 access provider" does not mean: An owner, manager, or employee of a
34 broker or a language access agency; an interpreter appointed or
35 required in legal proceedings pursuant to RCW 2.43.030; or an
36 interpreter under the medicaid administrative match program.

37 (b) "Department appointments" does not include legal proceedings of

1 any nature, including criminal, civil, or administrative proceedings at
2 any level.

3 (c) "Medicaid enrollee appointments" does not include medicaid
4 administrative match program appointments or any other service provided
5 pursuant to that program.

6 ~~((b))~~ (d) "Primary languages" includes, but is not limited to,
7 Spanish, Vietnamese, Cambodian, Laotian, and Chinese.

8 NEW SECTION. Sec. 4. This act applies both prospectively and
9 retroactively.

10 NEW SECTION. Sec. 5. This act is necessary for the immediate
11 preservation of the public peace, health, or safety, or support of the
12 state government and its existing public institutions, and takes effect
13 immediately.

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