
SUBSTITUTE HOUSE BILL 1753

State of Washington

63rd Legislature

2013 Regular Session

By House Government Operations & Elections (originally sponsored by Representatives Jinkins, Hunt, Cody, Goodman, Freeman, Stanford, Fitzgibbon, Bergquist, Sawyer, Green, Ryu, Hope, Moscoso, Lias, Haler, Hudgins, Sullivan, Appleton, and Pollet)

READ FIRST TIME 02/22/13.

1 AN ACT Relating to interpreter services; amending RCW 39.26.100,
2 39.26.090, 41.56.030, and 41.56.510; adding new sections to chapter
3 39.26 RCW; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
6 centralize and consolidate the procurement of spoken language
7 interpreter services and expand the use of language access providers,
8 thereby reducing administrative costs while protecting consumers. The
9 legislature further intends to institute quality controls by
10 establishing an advisory group to advise state agencies on the
11 qualifications, training, and education of state certified spoken
12 language interpreters through the department of social and health
13 services.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 39.26 RCW
15 to read as follows:

16 (1) The department of social and health services and the Washington
17 state health care authority are each authorized to purchase interpreter

1 services on behalf of limited-English speaking or sensory-impaired
2 applicants and recipients of public assistance.

3 (2) The department of labor and industries is authorized to
4 purchase interpreter services for medical and vocational providers
5 authorized to provide services to limited-English speaking or sensory-
6 impaired injured workers or crime victims. No later than July 1, 2014,
7 the department must purchase spoken language interpreter services
8 directly from language access providers through the use of scheduling
9 and billing software, or through contracts with scheduling and
10 coordinating delivery organizations, or both. Nothing in this
11 subsection is intended to address how the department of labor and
12 industries procures interpreters for the sensory-impaired.

13 (3) No later than July 1, 2016, the department of social and health
14 services, the Washington state health care authority, and the
15 department of labor and industries shall integrate the purchase of
16 spoken language interpreter services through a centralized system
17 through the use of scheduling and billing software, or through
18 contracts with scheduling and coordinating delivery organizations, or
19 both. This system must include at least one scheduling and
20 coordinating entity that subcontracts with language access providers to
21 provide interpreter services through telephonic and video remote
22 technologies.

23 (4) All language access providers procured under this section must
24 be certified or authorized by the state. When a state-certified or
25 authorized language access provider is not available, a spoken language
26 interpreter with other certifications or qualifications deemed to meet
27 state standards may be used. Nothing in this subsection shall preclude
28 providing interpretive services through state employees.

29 **Sec. 3.** RCW 39.26.100 and 2012 c 224 s 11 are each amended to read
30 as follows:

31 (1) The provisions of this chapter do not apply in any manner to
32 the operation of the state legislature except as requested by the
33 legislature.

34 (2) The provisions of this chapter do not apply to the contracting
35 for services and activities that are necessary to establish, operate,
36 or manage the state data center, including architecture, design,
37 engineering, installation, and operation of the facility, that are

1 approved by the technology services board or the acquisition of
2 proprietary software and information technology services necessary for
3 or part of the provision of services offered by the consolidated
4 technology services agency.

5 (3) Primary authority for the purchase of specialized equipment,
6 and instructional and research material, for their own use rests with
7 the institutions of higher education as defined in RCW 28B.10.016.

8 (4) Universities operating hospitals with approval from the
9 director, as the agent for state hospitals as defined in RCW 72.23.010,
10 and for health care programs provided in state correctional
11 institutions as defined in RCW 72.65.010(3) and veterans' institutions
12 as defined in RCW 72.36.010 and 72.36.070, may make purchases for
13 hospital operation by participating in contracts for materials,
14 supplies, and equipment entered into by nonprofit cooperative hospital
15 group purchasing organizations if documented to be more cost-effective.

16 (5) Primary authority for the purchase of materials, supplies, and
17 equipment, for resale to other than public agencies, rests with the
18 state agency concerned.

19 (6) The authority for the purchase of insurance and bonds rests
20 with the risk manager under RCW 43.19.769, except for institutions of
21 higher education that choose to exercise independent purchasing
22 authority under RCW 28B.10.029.

23 ~~((7) The authority to purchase interpreter services and
24 interpreter brokerage services on behalf of limited English speaking or
25 sensory impaired applicants and recipients of public assistance rests
26 with the department of social and health services and the health care
27 authority.))~~

28 NEW SECTION. **Sec. 4.** A new section is added to chapter 39.26 RCW
29 to read as follows:

30 (1) The department of social and health services shall establish
31 the spoken language interpreter advisory group to advise the
32 departments of social and health services, labor and industries, and
33 enterprise services and the Washington state health care authority on
34 the policies, rules, and regulations governing certification and
35 authorization of spoken language interpreters. The director of the
36 department of social and health services, in consultation with the

1 directors of the departments of labor and industries and enterprise
2 services, and the director of the Washington state health care
3 authority shall make appointments to the advisory group as follows:

4 (a) One designated representative each from the department of
5 social and health services, the department of labor and industries, the
6 department of enterprise services, or a designee department, and the
7 Washington state health care authority;

8 (b) Three spoken language interpreters, initial terms being two
9 serving two years, and one serving three years;

10 (c) One physician licensed by the state under chapter 18.57 or
11 18.71 RCW, who shall serve an initial three-year term;

12 (d) One hospital language access administrator, who shall serve an
13 initial two-year term;

14 (e) Two representatives from an immigrant or refugee advocacy
15 organization, one serving an initial term of one year and the other an
16 initial term of two years;

17 (f) One representative from a labor organization, serving an
18 initial term of two years;

19 (g) One member from the public, serving an initial three-year term;
20 and

21 (h) One representative from the department of social and health
22 services language testing and certification program.

23 (2) After initial appointments, members under subsection (1)(b)
24 through (g) of this section shall serve three-year terms and may be
25 appointed to no more than two sequential terms.

26 (3) Members of the advisory group may be reimbursed for travel
27 expenses as provided in RCW 43.03.050 and 43.03.060.

28 (4) The department of social and health services shall provide
29 staff to the advisory group.

30 (5) The advisory group shall meet as needed or as requested by the
31 director of the department of social and health services.

32 NEW SECTION. **Sec. 5.** A new section is added to chapter 39.26 RCW
33 to read as follows:

34 The advisory group established under section 4 of this act shall
35 have the following duties:

36 (1) Develop and recommend policies to enhance the quality of
37 interpreters;

- 1 (2) Evaluate the certification standards used by the state,
2 including the code of ethics, and make recommendations; and
- 3 (3) Other duties as requested.

4 **Sec. 6.** RCW 39.26.090 and 2012 c 224 s 10 are each amended to read
5 as follows:

6 The director shall:

7 (1) Establish overall state policies, standards, and procedures
8 regarding the procurement of goods and services by all state agencies;

9 (2) Develop policies and standards for the use of credit cards or
10 similar methods to make purchases;

11 (3) Establish procurement processes for information technology
12 goods and services, using technology standards and policies established
13 by the office of the chief information officer under chapter 43.41A
14 RCW;

15 (4) Enter into contracts or delegate the authority to enter into
16 contracts on behalf of the state to facilitate the purchase, lease,
17 rent, or otherwise acquire all goods and services and equipment needed
18 for the support, maintenance, and use of all state agencies, except as
19 provided in RCW 39.26.100;

20 (5) Have authority to delegate to agencies authorization to
21 purchase goods and services. The authorization must specify
22 restrictions as to dollar amount or to specific types of goods and
23 services, based on a risk assessment process developed by the
24 department. Acceptance of the purchasing authorization by an agency
25 does not relieve the agency from conformance with this chapter or from
26 policies established by the director. Also, the director may not
27 delegate to a state agency the authorization to purchase goods and
28 services if the agency is not in substantial compliance with overall
29 procurement policies as established by the director;

30 (6) Develop procurement policies and procedures, such as unbundled
31 contracting and subcontracting, that encourage and facilitate the
32 purchase of goods and services from Washington small businesses,
33 microbusinesses, and minibusinesses, and minority and women-owned
34 businesses to the maximum extent practicable and consistent with
35 international trade agreement commitments;

36 (7) Develop and implement an enterprise system for electronic
37 procurement;

1 (8) Provide for a commodity classification system and provide for
2 the adoption of goods and services commodity standards;

3 (9) Establish overall state policy for compliance by all agencies
4 regarding:

5 (a) Food procurement procedures and materials that encourage and
6 facilitate the purchase of Washington grown food by state agencies and
7 institutions to the maximum extent practicable and consistent with
8 international trade agreement commitments; and

9 (b) Policies requiring all food contracts to include a plan to
10 maximize to the extent practicable and consistent with international
11 trade agreement commitments the availability of Washington grown food
12 purchased through the contract;

13 (10) Develop guidelines and criteria for the purchase of vehicles,
14 high gas mileage vehicles, and alternate vehicle fuels and systems,
15 equipment, and materials, that reduce overall energy-related costs and
16 energy use by the state, including investigations into all
17 opportunities to aggregate the purchasing of clean technologies by
18 state and local governments, and including the requirement that new
19 passenger vehicles purchased by the state meet the minimum standards
20 for passenger automobile fuel economy established by the United States
21 secretary of transportation pursuant to the energy policy and
22 conservation act (15 U.S.C. Sec. 2002); (~~and~~)

23 (11) By July 1, 2014, the department of enterprise services shall
24 develop and implement a model which all state agencies, other than the
25 department of labor and industries and the health care authority, must
26 use to procure spoken language interpreter services by purchasing the
27 services of language access providers through the use of scheduling and
28 billing software, or through contracts with scheduling and coordinating
29 entities, or both. At least one of the three scheduling and
30 coordinating entities must have the capacity to subcontract with
31 language access providers for telephonic and video remote interpreting;
32 and

33 (12) Develop and enact rules to implement the provisions of this
34 chapter.

35 **Sec. 7.** RCW 41.56.030 and 2011 1st sp.s. c 21 s 11 are each
36 amended to read as follows:

37 As used in this chapter:

1 (1) "Adult family home provider" means a provider as defined in RCW
2 70.128.010 who receives payments from the medicaid and state-funded
3 long-term care programs.

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

7 (3) "Child care subsidy" means a payment from the state through a
8 child care subsidy program established pursuant to RCW 74.12.340 (~~or~~
9 ~~74.08A.340~~), 45 C.F.R. Sec. 98.1 through 98.17, or any successor
10 program.

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

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

22 (6) "Executive director" means the executive director of the
23 commission.

24 (7) "Family child care provider" means a person who: (a) Provides
25 regularly scheduled care for a child or children in the home of the
26 provider or in the home of the child or children for periods of less
27 than twenty-four hours or, if necessary due to the nature of the
28 parent's work, for periods equal to or greater than twenty-four hours;
29 (b) receives child care subsidies; and (c) is either licensed by the
30 state under RCW 74.15.030 or is exempt from licensing under chapter
31 74.15 RCW.

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

35 (9) "Institution of higher education" means the University of
36 Washington, Washington State University, Central Washington University,
37 Eastern Washington University, Western Washington University, The
38 Evergreen State College, and the various state community colleges.

1 (10)(a) "Language access provider" means any independent contractor
2 who provides spoken language interpreter services (~~(for department of~~
3 ~~social and health services appointments or medicaid enrollee~~
4 ~~appointments, or provided these services on or after January 1, 2009,~~
5 ~~and before June 10, 2010, whether paid by a broker, language access~~
6 ~~agency, or the department)), whether paid by a language access agency,
7 broker, or the respective department: (i) For department of social and
8 health services appointments or medicaid enrollee appointments, or who
9 provided these services on or after January 1, 2009, and before June
10 10, 2010, excluding an interpreter appointed or required in a court
11 proceeding pursuant to RCW 2.43.030 or an interpreter under the
12 medicaid administrative match program; (ii) for department of labor and
13 industries authorized providers, or who provided these services on or
14 after January 1, 2012, and before the effective date of this section;
15 or (iii) for state agencies through the department of enterprise
16 services, or who provided these services on or after January 1, 2012,
17 and before the effective date of this section.~~

18 (b) "Language access provider" does not mean an owner, manager, or
19 employee of a broker or a language access agency, or an interpreter
20 under the medicaid administrative match program.

21 (c) "Department of social and health services appointments" does
22 not include court proceedings.

23 (d) "Medicaid enrollee appointments" does not include medicaid
24 administrative match program appointments or any other service provided
25 pursuant to that program.

26 (11) "Public employee" means any employee of a public employer
27 except any person (a) elected by popular vote, or (b) appointed to
28 office pursuant to statute, ordinance or resolution for a specified
29 term of office as a member of a multimember board, commission, or
30 committee, whether appointed by the executive head or body of the
31 public employer, or (c) whose duties as deputy, administrative
32 assistant or secretary necessarily imply a confidential relationship to
33 (i) the executive head or body of the applicable bargaining unit, or
34 (ii) any person elected by popular vote, or (iii) any person appointed
35 to office pursuant to statute, ordinance or resolution for a specified
36 term of office as a member of a multimember board, commission, or
37 committee, whether appointed by the executive head or body of the
38 public employer, or (d) who is a court commissioner or a court

1 magistrate of superior court, district court, or a department of a
2 district court organized under chapter 3.46 RCW, or (e) who is a
3 personal assistant to a district court judge, superior court judge, or
4 court commissioner. For the purpose of (e) of this subsection, no more
5 than one assistant for each judge or commissioner may be excluded from
6 a bargaining unit.

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

16 (13) "Uniformed personnel" means: (a) Law enforcement officers as
17 defined in RCW 41.26.030 employed by the governing body of any city or
18 town with a population of two thousand five hundred or more and law
19 enforcement officers employed by the governing body of any county with
20 a population of ten thousand or more; (b) correctional employees who
21 are uniformed and nonuniformed, commissioned and noncommissioned
22 security personnel employed in a jail as defined in RCW 70.48.020(9),
23 by a county with a population of seventy thousand or more, and who are
24 trained for and charged with the responsibility of controlling and
25 maintaining custody of inmates in the jail and safeguarding inmates
26 from other inmates; (c) general authority Washington peace officers as
27 defined in RCW 10.93.020 employed by a port district in a county with
28 a population of one million or more; (d) security forces established
29 under RCW 43.52.520; (e) firefighters as that term is defined in RCW
30 41.26.030; (f) employees of a port district in a county with a
31 population of one million or more whose duties include crash fire
32 rescue or other firefighting duties; (g) employees of fire departments
33 of public employers who dispatch exclusively either fire or emergency
34 medical services, or both; or (h) employees in the several classes of
35 advanced life support technicians, as defined in RCW 18.71.200, who are
36 employed by a public employer.

1 **Sec. 8.** RCW 41.56.510 and 2010 c 296 s 2 are each amended to read
2 as follows:

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

11 (2) There shall be collective bargaining, as defined in RCW
12 41.56.030, between the governor and language access providers, except
13 as follows:

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

17 (i) A statewide unit for language access providers who provide
18 spoken language interpreter services for department of social and
19 health services appointments, excluding an interpreter appointed or
20 required in a court proceeding pursuant to RCW 2.43.030, or medicaid
21 enrollee appointments;

22 (ii) A statewide unit for language access providers who provide
23 spoken language interpreter services for department of labor and
24 industries medical authorized providers; and

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

29 (b) The exclusive bargaining representative of language access
30 providers in the unit specified in (a) of this subsection shall be the
31 representative chosen in an election conducted pursuant to RCW
32 41.56.070.

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

37 (c) Notwithstanding the definition of "collective bargaining" in
38 RCW 41.56.030(4), the scope of collective bargaining for language

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

8 (d) In addition to the entities listed in the mediation and
9 interest arbitration provisions of RCW 41.56.430 through 41.56.470 and
10 41.56.480, the provisions apply to the governor or the governor's
11 designee and the exclusive bargaining representative of language access
12 providers, except that:

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

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

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

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

30 (g) If a single employee organization is the exclusive bargaining
31 representative for two or more units, upon mutual agreement between the
32 governor and the employee organization, there may be a single
33 collective bargaining agreement negotiated.

34 (3) Language access providers who are public employees solely for
35 the purposes of collective bargaining under subsection (1) of this
36 section are not, for that reason, employees of the state for any other
37 purpose. This section applies only to the governance of the collective

1 bargaining relationship between the employer and language access
2 providers as provided in subsections (1) and (2) of this section.

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

15 (5) This section does not create or modify:

16 (a) The (~~department's~~) obligation of the department of social and
17 health services, the department of labor and industries, and the
18 department of enterprise services to comply with the federal statute
19 and regulations; and

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

25 (6) Upon meeting the requirements of subsection (7) of this
26 section, the governor must submit, as a part of the proposed biennial
27 or supplemental operating budget submitted to the legislature under RCW
28 43.88.030, a request for funds necessary to implement the compensation
29 and benefit provisions of a collective bargaining agreement entered
30 into under this section or for legislation necessary to implement the
31 agreement.

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

36 (a) Submitted to the director of financial management by October
37 1st prior to the legislative session at which the requests are to be

1 considered, except that, for initial negotiations under this section,
2 the request may not be submitted before July 1, 2011; and

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

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

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

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

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

28 NEW SECTION. **Sec. 9.** If any part of this act is found to be in
29 conflict with federal requirements that are a prescribed condition to
30 the allocation of federal funds to the state, the conflicting part of
31 this act is inoperative solely to the extent of the conflict and with
32 respect to the agencies directly affected, and this finding does not
33 affect the operation of the remainder of this act in its application to
34 the agencies concerned. Rules adopted under this act must meet federal
35 requirements that are a necessary condition to the receipt of federal

1 funds by the state.

--- END ---