1753-S AMH JINK REIL 060

**SHB 1753** - H AMD **287**

By Representative Jinkins

**ADOPTED AS AMENDED 03/11/2013**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.** It is the intent of the legislature to procure spoken language interpreter services directly from language access providers through the use of scheduling and billing software or through contracts with scheduling and coordinating organizations, thereby reducing administrative costs while protecting consumers. The legislature further intends to institute quality controls by establishing an advisory group to advise state agencies on the qualifications, training, and education of spoken language interpreters for state certification. The legislature further intends to exclude interpreter services for sensory impaired persons from the provisions of this act.

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

(1) The department of social and health services and the health care authority are each authorized to purchase interpreter services on behalf of limited-English speaking applicants and recipients of public assistance.

(2) The department of labor and industries is authorized to purchase interpreter services for medical and vocational providers authorized to provide services to limited-English speaking injured workers or crime victims.

(3) No later than September 1, 2015, the department of social and health services, the health care authority, and the department of labor and industries must each purchase spoken language interpreter services directly from language access providers through no more than three contracts with scheduling and coordinating organizations. Each of the departments must be able to provide spoken language interpreter services through telephonic and video remote technologies.

(4) By September 1, 2015, the department of enterprise services must purchase, for all other state agencies, spoken language interpreter services directly from language access providers through no more than three contracts with scheduling and coordinating delivery organizations. The department must be able to provide spoken language interpreter services through telephonic and video remote technologies. If the department determines it is more cost effective or efficient, it may jointly purchase these services with the department of social and health services, the health care authority, or the department of labor and industries as provided in subsection (3) of this section.

(5) If the department of social and health services, the health care authority, and the department of labor and industries determine that it is more cost effective or efficient, they may integrate procurement of spoken language interpreter services through a single centralized system. The department of social and health services, the health care authority, and the department of labor and industries may procure interpreters through the department of enterprise services if the demand for spoken language interpreters cannot be met through their respective contracts.

(6) All language access providers procured under this section must be certified or authorized by the state, or be nationally certified by the certification commission for healthcare interpreters. When a nationally certified, state-certified, or authorized language access provider is not available, a state agency is authorized to contract with a spoken language interpreter with other certifications or qualifications deemed to meet state standards. Nothing in this subsection shall preclude providing interpretive services through state employees or employees of medical or vocational providers.

(6) Nothing in this section is intended to address how state agencies procure interpreters for sensory-impaired persons.

(7) For purposes of this section, "state agency" means any state office or activity of the executive branch of state government, including state agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions, but excludes institutions of higher education as defined in RCW 28B.10.016, the school for the blind, and the center for childhood deafness and hearing loss.

(8) The department of social and health services, the health care authority, the department of labor and industries, and the department of enterprise services may not impose reimbursement rates or obligations established through collective bargaining under RCW 41.56.510 in contracts with entities that do not provide interpreter services through language access providers as defined in RCW 41.56.030 (10).

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

(1) The department of social and health services shall establish the spoken language interpreter advisory group to advise the departments of social and health services, labor and industries, and enterprise services and the health care authority on the policies, rules, and regulations governing certification and authorization of spoken language interpreters. The secretary, in consultation with the directors, shall make appointments to the advisory group as follows:

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

(b) Three spoken language interpreters, one of whom must provide interpreter services through telephonic and video remote technologies, initial terms being two serving two years, and one serving three years;

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

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

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

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

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

(h) One representative from an entity that provides interpreter services through telephonic and video remote technologies;

(i) One representative for interpreter agencies, serving an initial term of two years; and

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

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

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

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

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

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

The advisory group established under section 3 of this act shall have the following duties:

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

(2) Evaluate the certification standards used by the state, including the code of ethics, other states, and national certifications and make recommendations for improving state certifications and authorizations; and

(3) Other duties as requested.

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

As used in this chapter:

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

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

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

(4) "Collective bargaining" means the performance of the mutual obligations of the public employer and the exclusive bargaining representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to grievance procedures and collective negotiations on personnel matters, including wages, hours and working conditions, which may be peculiar to an appropriate bargaining unit of such public employer, except that 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.

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

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

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

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

(9) "Institution 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.

(10)(a) "Language access provider" means any independent contractor who provides spoken language interpreter services ((~~for department of social and health services appointments or medicaid enrollee appointments, or provided these services on or after January 1, 2009, and before June 10, 2010, whether paid by a broker, language access agency, or the department~~)), whether paid by a language access agency, broker, or the respective department: (i) For department of social and health services appointments or medicaid enrollee appointments, or who provided these services on or after January 1, 2009, and before June 10, 2010; (ii) for department of labor and industries authorized medical and vocational providers, or who provided these services on or after January 1, 2012, and before the effective date of this section; or (iii) for state agencies, or who provided these services on or after January 1, 2012, and before the effective date of this section.

(b) "Language access provider" does not mean an owner, manager, or employee of a broker or a language access agency, an interpreter who provides services through telephonic or video remote technologies from outside the state of Washington, an interpreter under the medicaid administrative match program, or an interpreter appointed or required in a court proceeding pursuant to RCW 2.43.030 or when required by a federal consent decree or settlement agreement.  
 (c) "Department of social and health services appointments" does not include court proceedings.  
 (d) "Medicaid enrollee appointments" does not include medicaid administrative match program appointments or any other service provided pursuant to that program.

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

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

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

**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 language access provider units appropriate for purposes of collective bargaining under RCW 41.56.060 are:  
 (i) A statewide unit for language access providers who provide spoken language interpreter services for department of social and health services appointments, or medicaid enrollee appointments;  
 (ii) A statewide unit for language access providers who provide spoken language interpreter services for injured workers or crime victims receiving benefits from the department of labor and industries; and  
 (iii) A statewide unit for language access providers who provide spoken language interpreter services for any state agency, as defined in section 2 of this act, through the department of enterprise services, excluding language access providers included in (a)(i) and (ii) of this subsection;

(b) The exclusive bargaining representatives of language access providers in the units specified in (a) of this subsection shall be the representatives chosen in ((~~an~~)) elections 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. The public employment relations commission may not certify any bargaining unit under subsection (2)(a)(ii) and (iii) of this section before January 1, 2014;

(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;  
 (f) If a single employee organization is the exclusive bargaining representative for two or more bargaining units, the governor and the employee organization may agree to negotiate a single collective bargaining agreement for all of the bargaining units that the employee organization represents.

(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, the department of labor and industries, and the department of enterprise services contracts for language access services and each of their subcontractors shall provide to the respective 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 effective date of this section. The departments 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) If a language access provider cannot be procured through a bargaining unit, a state agency is authorized to contract with any spoken language interpreter provider.  
 (6) This section does not create or modify:

(a) The ((~~department's~~)) obligation of any state agency to comply with ((~~the~~)) federal statutes and regulations; and

(b) The legislature's right to make programmatic modifications to the delivery of state services under chapter 74.04 or 39.26 RCW or Title 51 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)~~)) (7) Upon meeting the requirements of subsection ((~~(7)~~)) (8) 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)~~)) (8) 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)~~)) (9) 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)~~)) (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.

((~~(10)~~)) (11) 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)~~)) (12) 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.

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

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|  | EFFECT: Strikes the underlying bill and provides for procurement of spoken language services as follows:   * Authorizes the Department of Labor and Industries (L&I) to purchase interpreter services for medical and vocational providers authorized to provide services to limited-English speaking injured workers or crime victims. * Requires, by September 1, 2015, the Department of Social and Health Services (DSHS), the Health Care Authority (HCA), the Department of Enterprise Services (DES), and the L&I to purchase spoken language interpreter services directly from language access providers through no more than three contracts with scheduling and coordinating organizations. Each agency must be able to provide spoken language interpreter services through telephonic and video remote technologies. * Allows the DSHS, the HCA, and the L&I to integrate procurement of spoken language interpreter services through a single centralized system. * Allows the DSHS, the HCA, and the L&I to procure interpreters through the DES contracts if the demand cannot be met through their respective contracts. * Allows the DES to jointly purchase interpreter services with the DSHS, the HCA, and the L&I. * Requires language access providers procured under the act to be certified or authorized by the state, or nationally certified by the Certification Commission for Health Care Interpreters; however, allows contracts with other spoken language interpreters with other certifications or qualifications deemed to meet state standards. * States that nothing precludes providing interpretive services through state employees or employees of medical or vocational providers. * Requires the DSHS to establish the Spoken Language Interpreter Advisory Group (Advisory Group) to advise the DSHS, the L&I, the DES, and the HCA on the policies, rules, and regulations governing certification and authorization of spoken language interpreters. * Provides a definition for "state agency" for the purposes of the act which excludes institutions of higher education, the School for the Blind, and the Center for Childhood Deafness and Hearing Loss. * Expands collective bargaining rights under the PECBA to language access providers who provide spoken language interpreter services for L&I appointments and for state agencies through contracts with the DES. * Provides that, for purposes of collective bargaining, that a language access provider does not include an interpreter who provides services through telephonic or video remote technologies from outside the state of Washington, an interpreter under the Medicaid Administrative Match program, or interpreters for a court proceeding under RCW 2.43.030. * Clarifies that DSHS appointments does not include court proceedings and Medicaid enrollee appointments does not include Medicaid Administrative Match Program appointments or services provided to that program. * Stipulates that any new bargaining units may not be certified by the Public employment Relations Commission before January 1, 2014. * Allows the Governor, under mutual agreement, to negotiate a single collective bargaining agreement with two or more units if a single employee organization is the exclusive bargaining representative. * Allows a state agency to contract with any spoken language interpreter provider in a language access provider cannot be procured through a bargaining unit. * Prohibits the DSHS, the HCA, the L&I, and the DES from imposing reimbursement rates or obligations established through collective bargaining in contracts with entities that do not provide interpreter services through language access providers as defined for purposes of collective bargaining. |

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