
HOUSE BILL 1287

State of Washington

65th Legislature

2017 Regular Session

By Representatives Chandler and Manweller

Read first time 01/16/17. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to collective bargaining; amending RCW 42.30.140,
2 41.80.005, 41.80.010, 41.56.028, 41.56.029, 41.56.510, 74.39A.240,
3 and 74.39A.300; adding a new section to chapter 42.30 RCW; adding a
4 new section to chapter 41.56 RCW; adding a new section to chapter
5 28B.52 RCW; adding a new section to chapter 41.59 RCW; adding a new
6 section to chapter 41.76 RCW; adding a new section to chapter 41.80
7 RCW; adding a new section to chapter 47.64 RCW; adding a new section
8 to chapter 49.39 RCW; adding a new section to chapter 74.39A RCW; and
9 declaring an emergency.

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

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

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

16 (1) The proceedings concerned with the formal issuance of an
17 order granting, suspending, revoking, or denying any license, permit,
18 or certificate to engage in any business, occupation, or profession
19 or to any disciplinary proceedings involving a member of such
20 business, occupation, or profession, or to receive a license for a

1 sports activity or to operate any mechanical device or motor vehicle
2 where a license or registration is necessary; or

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

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

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

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 42.30
19 RCW to read as follows:

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

22 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.56
23 RCW to read as follows:

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

27 NEW SECTION. **Sec. 4.** A new section is added to chapter 28B.52
28 RCW to read as follows:

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

33 NEW SECTION. **Sec. 5.** A new section is added to chapter 41.59
34 RCW to read as follows:

35 Collective bargaining sessions between employee organizations, or
36 their representatives, and public employers, or their

1 representatives, involving contract negotiations under this chapter
2 must be open to the public.

3 NEW SECTION. **Sec. 6.** A new section is added to chapter 41.76
4 RCW to read as follows:

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

9 NEW SECTION. **Sec. 7.** A new section is added to chapter 41.80
10 RCW to read as follows:

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

15 NEW SECTION. **Sec. 8.** A new section is added to chapter 47.64
16 RCW to read as follows:

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

21 NEW SECTION. **Sec. 9.** A new section is added to chapter 49.39
22 RCW to read as follows:

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

26 NEW SECTION. **Sec. 10.** A new section is added to chapter 74.39A
27 RCW to read as follows:

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

31 **Sec. 11.** RCW 41.80.005 and 2011 1st sp.s. c 43 s 444 are each
32 amended to read as follows:

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

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

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

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

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

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

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

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

30 (b) Confidential employees;

31 (c) Members of the Washington management service;

32 (d) Internal auditors in any agency; or

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

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

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

1 (9) "Estimate of state financial resources" means the amount of
2 available fiscal resources that exceed projected maintenance level as
3 those terms are defined in RCW 43.88.055 and as adopted by the
4 economic and revenue forecast council in November as directed in RCW
5 82.33.060.

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

9 ~~((10))~~ (11)(a) "Feasible financially for the state" means:

10 (i) The sum of the general fund and related funds cost of the
11 requests for funds for all bargaining agreements negotiated or
12 awarded under the authority of this chapter, RCW 41.56.026,
13 41.56.028, 41.56.029, 41.56.510, and 74.39A.270 does not exceed the
14 most current estimate of state financial resources for the term of
15 the agreement and for the ensuing biennium; or

16 (ii) For each bargaining agreement negotiated or awarded under
17 the authority of this chapter, RCW 41.56.026, 41.56.028, 41.56.029,
18 41.56.510, and 74.39A.270, the request for funds does not exceed a
19 three percent biennial increase in general fund and related funds
20 costs from the current bargaining agreement for the term of the
21 agreement and for the ensuing biennium.

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

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

29 ~~((11))~~ (13) "Labor dispute" means any controversy concerning
30 terms, tenure, or conditions of employment, or concerning the
31 association or representation of persons in negotiating, fixing,
32 maintaining, changing, or seeking to arrange terms or conditions of
33 employment with respect to the subjects of bargaining provided in
34 this chapter, regardless of whether the disputants stand in the
35 proximate relation of employer and employee.

36 ~~((12))~~ (14) "Manager" means "manager" as defined in RCW
37 41.06.022.

38 ~~((13))~~ (15) "Request for funds" means the incremental increased
39 cost of the compensation and fringe benefits provisions of a
40 bargaining agreement or interest arbitration award. A request for

1 funds does not include appropriations necessary to maintain and
2 continue the compensation and fringe benefits provisions of a current
3 bargaining agreement into ensuing biennia.

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

13 ~~((14))~~ (17) "Unfair labor practice" means any unfair labor
14 practice listed in RCW 41.80.110.

15 **Sec. 12.** RCW 41.80.010 and 2016 1st sp.s. c 36 s 923 are each
16 amended to read as follows:

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

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

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

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

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

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

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

26 The legislature shall approve or reject the submission of the
27 request for funds as a whole. The legislature shall not consider a
28 request for funds to implement a collective bargaining agreement
29 unless the request is transmitted to the legislature as part of the
30 governor's budget document submitted under RCW 43.88.030 and
31 43.88.060. If the legislature rejects or fails to act on the
32 submission, either party may reopen all or part of the agreement or
33 the exclusive bargaining representative may seek to implement the
34 procedures provided for in RCW 41.80.090.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (5) There is hereby created a joint committee on employment
37 relations, which consists of two members with leadership positions in
38 the house of representatives, representing each of the two largest
39 caucuses; the chair and ranking minority member of the house
40 appropriations committee, or its successor, representing each of the

1 two largest caucuses; two members with leadership positions in the
2 senate, representing each of the two largest caucuses; and the chair
3 and ranking minority member of the senate ways and means committee,
4 or its successor, representing each of the two largest caucuses. The
5 governor shall periodically consult with the committee regarding
6 appropriations necessary to implement the compensation and fringe
7 benefit provisions in the master collective bargaining agreements,
8 and upon completion of negotiations, advise the committee on the
9 elements of the agreements and on any legislation necessary to
10 implement the agreements.

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

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

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

35 (9)(a) For the 2015-2017 fiscal biennium, the governor may
36 request funds to implement:

37 (i) Modifications to collective bargaining agreements as set
38 forth in a memorandum of understanding negotiated between the
39 employer and the service employees international union healthcare
40 1199nw, an exclusive bargaining representative, that was necessitated

1 by an emergency situation or an imminent jeopardy determination by
2 the center for medicare and medicaid services that relates to the
3 safety or health of the clients, employees, or both the clients and
4 employees.

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

12 (iii) Modifications to collective bargaining agreements as set
13 forth in a memorandum of understanding negotiated between the
14 employer and the union of physicians of Washington, an exclusive
15 bargaining representative, that was necessitated by an emergency
16 situation or an imminent jeopardy determination by the center for
17 medicare and medicaid services that relates to the safety or health
18 of the clients, employees, or both the clients and employees. If the
19 memorandum of understanding submitted to the legislature as part of
20 the governor's budget document is rejected by the legislature, and
21 the parties reach a new memorandum of understanding by June 30, 2016,
22 within the funds, conditions, and limitations provided in section
23 204, chapter 36, Laws of 2016 1st sp. sess., the new memorandum of
24 understanding shall be considered approved by the legislature and may
25 be retroactive to December 1, 2015.

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

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

38 (c) The request for funding made under this subsection and any
39 action by the legislature taken pursuant to this subsection is
40 limited to the modifications described in this subsection and may not

1 otherwise affect the original terms of the 2015-2017 collective
2 bargaining agreement.

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

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

18 **Sec. 13.** RCW 41.56.028 and 2007 c 278 s 2 are each amended to
19 read as follows:

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

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

32 (a) A statewide unit of all family child care providers is the
33 only unit appropriate for purposes of collective bargaining under RCW
34 41.56.060.

35 (b) The exclusive bargaining representative of family child care
36 providers in the unit specified in (a) of this subsection shall be
37 the representative chosen in an election conducted pursuant to RCW
38 41.56.070, except that in the initial election conducted under
39 chapter 54, Laws of 2006, if more than one labor organization is on

1 the ballot and none of the choices receives a majority of the votes
2 cast, a run-off election shall be held.

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

14 (d) The mediation and interest arbitration provisions of RCW
15 41.56.430 through 41.56.470 and 41.56.480 apply, except that:

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

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

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

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

35 (4) This section does not create or modify:

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

39 (b) The secretary of the department of social and health
40 services' right to adopt requirements under RCW 74.15.030, except for

1 requirements related to grievance procedures and collective
2 negotiations on personnel matters as specified in subsection (2)(c)
3 of this section;

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

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

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

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

25 (a) Submitted to the director of financial management by October
26 1st before the legislative session at which the request is to be
27 considered, except that, for initial negotiations under this section,
28 the request must be submitted by November 15, 2006; and

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

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

37 (8) The governor shall periodically consult with the joint
38 committee on employment relations established by RCW 41.80.010
39 regarding appropriations necessary to implement the compensation and
40 benefit provisions of any collective bargaining agreement and, upon

1 completion of negotiations, advise the committee on the elements of
2 the agreement and on any legislation necessary to implement such
3 agreement.

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

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

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

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

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

36 **Sec. 14.** RCW 41.56.029 and 2007 c 184 s 1 are each amended to
37 read as follows:

38 (1) In addition to the entities listed in RCW 41.56.020, this
39 chapter applies to the governor with respect to adult family home

1 providers. Solely for the purposes of collective bargaining and as
2 expressly limited under subsections (2) and (3) of this section, the
3 governor is the public employer of adult family home providers who,
4 solely for the purposes of collective bargaining, are public
5 employees. The public employer shall be represented for bargaining
6 purposes by the governor or the governor's designee.

7 (2) There shall be collective bargaining, as defined in RCW
8 41.56.030, between the governor and adult family home providers,
9 except as follows:

10 (a) A statewide unit of all adult family home providers is the
11 only unit appropriate for purposes of collective bargaining under RCW
12 41.56.060.

13 (b) The exclusive bargaining representative of adult family home
14 providers in the unit specified in (a) of this subsection shall be
15 the representative chosen in an election conducted pursuant to RCW
16 41.56.070.

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

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

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

37 (i) In addition to the factors to be taken into consideration by
38 an interest arbitration panel under RCW 41.56.465, the panel shall
39 consider the financial ability of the state to pay for the

1 compensation and benefit provisions of a collective bargaining
2 agreement.

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

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

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

16 (4) This section does not create or modify:

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

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

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

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

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

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

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

16 (a) Submitted to the director of financial management by October
17 1st prior to the legislative session at which the requests are to be
18 considered; and

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

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

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

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

39 (10) In enacting this section, the legislature intends to provide
40 state action immunity under federal and state antitrust laws for the

1 joint activities of adult family home providers and their exclusive
2 bargaining representative to the extent the activities are authorized
3 by this chapter.

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

16 (12) For purposes of this section:

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

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

20 **Sec. 15.** RCW 41.56.510 and 2010 c 296 s 2 are each amended to
21 read as follows:

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

30 (2) There shall be collective bargaining, as defined in RCW
31 41.56.030, between the governor and language access providers, except
32 as follows:

33 (a) A statewide unit of all language access providers is the only
34 unit appropriate for purposes of collective bargaining under RCW
35 41.56.060;

36 (b) The exclusive bargaining representative of language access
37 providers in the unit specified in (a) of this subsection shall be
38 the representative chosen in an election conducted pursuant to RCW
39 41.56.070.

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

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

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

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

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

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

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

37 (4) Each party with whom the department of social and health
38 services contracts for language access services and each of their
39 subcontractors shall provide to the department an accurate list of
40 language access providers, as defined in RCW 41.56.030, including

1 their names, addresses, and other contact information, annually by
2 January 30th, except that initially the lists must be provided within
3 thirty days of June 10, 2010. The department shall, upon request,
4 provide a list of all language access providers, including their
5 names, addresses, and other contact information, to a labor union
6 seeking to represent language access providers.

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

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

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

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

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

26 (a) Submitted to the director of financial management by October
27 1st prior to the legislative session at which the requests are to be
28 considered, except that, for initial negotiations under this section,
29 the request may not be submitted before July 1, 2011; and

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

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

39 (9) If, after the compensation and benefit provisions of an
40 agreement are approved by the legislature, a significant revenue

1 shortfall occurs resulting in reduced appropriations, as declared by
2 proclamation of the governor or by resolution of the legislature,
3 both parties shall immediately enter into collective bargaining for a
4 mutually agreed upon modification of the agreement.

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

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

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

27 (13) For purposes of this section:

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

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

31 **Sec. 16.** RCW 74.39A.240 and 2011 1st sp.s. c 21 s 7 are each
32 amended to read as follows:

33 The definitions in this section apply throughout RCW 74.39A.030
34 ~~((and))~~, 74.39A.095 ~~((and))~~, 74.39A.220 through 74.39A.300, and
35 41.56.026 unless the context clearly requires otherwise.

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

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

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

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

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

12 **Sec. 17.** RCW 74.39A.300 and 2004 c 3 s 2 are each amended to
13 read as follows:

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

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

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

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

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

37 (4) When any increase in individual provider wages or benefits is
38 negotiated or agreed to, no increase in wages or benefits negotiated
39 or agreed to under this chapter will take effect unless and until,

1 before its implementation, the department has determined that the
2 increase is consistent with federal law and federal financial
3 participation in the provision of services under Title XIX of the
4 federal social security act.

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

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

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

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

36 NEW SECTION. Sec. 18. This act is necessary for the immediate
37 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes
2 effect immediately.

--- END ---