
SUBSTITUTE SENATE BILL 5810

State of Washington

68th Legislature

2024 Regular Session

By Senate Labor & Commerce (originally sponsored by Senators Saldaña, Valdez, Lovick, Dhingra, Holy, Robinson, Conway, Hasegawa, Hunt, Keiser, Nguyen, Nobles, Salomon, Trudeau, and C. Wilson)

READ FIRST TIME 01/24/24.

1 AN ACT Relating to clarifying the collective bargaining unit for
2 interpreters providing language access services to certain state
3 agencies; and amending RCW 41.56.030 and 41.56.510.

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

5 **Sec. 1.** RCW 41.56.030 and 2022 c 71 s 9 are each amended to read
6 as follows:

7 As used in this chapter:

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

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

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

17 (4) "Collective bargaining" means the performance of the mutual
18 obligations of the public employer and the exclusive bargaining
19 representative to meet at reasonable times, to confer and negotiate
20 in good faith, and to execute a written agreement with respect to
21 grievance procedures, subject to RCW 41.58.070, and collective

1 negotiations on personnel matters, including wages, hours, and
2 working conditions, which may be peculiar to an appropriate
3 bargaining unit of such public employer, except that by such
4 obligation neither party shall be compelled to agree to a proposal or
5 be required to make a concession unless otherwise provided in this
6 chapter.

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

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

11 (7) "Family child care provider" means a person who: (a) Provides
12 regularly scheduled care for a child or children in the home of the
13 provider or in the home of the child or children for periods of less
14 than twenty-four hours or, if necessary due to the nature of the
15 parent's work, for periods equal to or greater than twenty-four
16 hours; (b) receives child care subsidies; and (c) under chapter
17 43.216 RCW, is either licensed by the state or is exempt from
18 licensing.

19 (8) "Fish and wildlife officer" means a fish and wildlife officer
20 as defined in RCW 77.08.010 who ranks below lieutenant and includes
21 officers, detectives, and sergeants of the department of fish and
22 wildlife.

23 (9) "Individual provider" means an individual provider as defined
24 in RCW 74.39A.240(3) who, solely for the purposes of collective
25 bargaining, is a public employee as provided in RCW 74.39A.270.

26 (10) "Institution of higher education" means the University of
27 Washington, Washington State University, Central Washington
28 University, Eastern Washington University, Western Washington
29 University, The Evergreen State College, and the various state
30 community colleges.

31 (11)(a) "Language access provider" means any independent
32 contractor who provides spoken language interpreter services, whether
33 paid by a broker, language access agency, or the respective
34 department:

35 (i) For the department of social and health services
36 (~~appointments~~), the department of children, youth, and families
37 (~~appointments~~), or medicaid (~~enrollee appointments, or~~) enrollees
38 who provided these services on or after January 1, 2011 (~~, and before~~
39 ~~June 10, 2012~~);

1 (ii) For department of labor and industries authorized medical
2 and vocational providers who provided these services on or after
3 January 1, 2019; or

4 (iii) For state agencies who provided these services on or after
5 January 1, (~~2019~~) 2023.

6 (b) "Language access provider" does not mean a manager or
7 employee of a broker or a language access agency.

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

27 (13) "Public employer" means any officer, board, commission,
28 council, or other person or body acting on behalf of any public body
29 governed by this chapter, or any subdivision of such public body. For
30 the purposes of this section, the public employer of district court
31 or superior court employees for wage-related matters is the
32 respective county legislative authority, or person or body acting on
33 behalf of the legislative authority, and the public employer for
34 nonwage-related matters is the judge or judge's designee of the
35 respective district court or superior court. For the purposes of this
36 chapter, public employer does not include a comprehensive cancer
37 center participating in a collaborative arrangement as defined in RCW
38 28B.10.930 that is operated in conformance with RCW 28B.10.930.

39 (14) "Uniformed personnel" means: (a) Law enforcement officers as
40 defined in RCW 41.26.030 employed by the governing body of any city

1 or town with a population of two thousand five hundred or more and
2 law enforcement officers employed by the governing body of any county
3 with a population of ten thousand or more; (b) correctional employees
4 who are uniformed and nonuniformed, commissioned and noncommissioned
5 security personnel employed in a jail as defined in RCW 70.48.020(9),
6 by a county with a population of seventy thousand or more, in a
7 correctional facility created under RCW 70.48.095, or in a detention
8 facility created under chapter 13.40 RCW that is located in a county
9 with a population over one million five hundred thousand, and who are
10 trained for and charged with the responsibility of controlling and
11 maintaining custody of inmates in the jail and safeguarding inmates
12 from other inmates; (c) general authority Washington peace officers
13 as defined in RCW 10.93.020 employed by a port district in a county
14 with a population of one million or more; (d) security forces
15 established under RCW 43.52.520; (e) firefighters as that term is
16 defined in RCW 41.26.030; (f) employees of a port district in a
17 county with a population of one million or more whose duties include
18 crash fire rescue or other firefighting duties; (g) employees of fire
19 departments of public employers who dispatch exclusively either fire
20 or emergency medical services, or both; (h) employees in the several
21 classes of advanced life support technicians, as defined in RCW
22 18.71.200, who are employed by a public employer; or (i) court
23 marshals of any county who are employed by, trained for, and
24 commissioned by the county sheriff and charged with the
25 responsibility of enforcing laws, protecting and maintaining security
26 in all county-owned or contracted property, and performing any other
27 duties assigned to them by the county sheriff or mandated by judicial
28 order.

29 **Sec. 2.** RCW 41.56.510 and 2020 c 289 s 2 are each amended to
30 read as follows:

31 (1) In addition to the entities listed in RCW 41.56.020, this
32 chapter applies to the governor with respect to language access
33 providers. Solely for the purposes of collective bargaining and as
34 expressly limited under subsections (2) and (3) of this section, the
35 governor is the public employer of language access providers who,
36 solely for the purposes of collective bargaining, are public
37 employees. The governor or the governor's designee shall represent
38 the public employer for bargaining purposes.

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

4 (a) The only units appropriate for purposes of collective
5 bargaining under RCW 41.56.060 are:

6 (i) A statewide unit for language access providers who provide
7 spoken language interpreter services for the department of social and
8 health services (~~(appointments)~~), the department of children, youth,
9 and families (~~(appointments)~~), or medicaid enrollees
10 (~~(appointments)~~);

11 (ii) A statewide unit for language access providers who provide
12 spoken language interpreter services for injured workers or crime
13 victims receiving benefits from the department of labor and
14 industries; and

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

19 (b) The exclusive bargaining representative of language access
20 providers in the unit specified in (a) of this subsection shall be
21 the representative chosen in an election conducted pursuant to RCW
22 41.56.070.

23 Bargaining authorization cards furnished as the showing of
24 interest in support of any representation petition or motion for
25 intervention filed under this section are exempt from disclosure
26 under chapter 42.56 RCW;

27 (c) Notwithstanding the definition of "collective bargaining" in
28 RCW 41.56.030(4), the scope of collective bargaining for language
29 access providers under this section is limited solely to: (i)
30 Economic compensation, such as the manner and rate of payments,
31 including tiered payments; (ii) professional development and
32 training; (iii) labor-management committees; (iv) grievance
33 procedures; (v) health and welfare benefits; and (~~(vii)~~—~~[(vi)]~~)
34 (vi) other economic matters. Retirement benefits are not subject to
35 collective bargaining. By such obligation neither party may be
36 compelled to agree to a proposal or be required to make a concession
37 unless otherwise provided in this chapter;

38 (d) In addition to the entities listed in the mediation and
39 interest arbitration provisions of RCW 41.56.430 through 41.56.470
40 and 41.56.480, the provisions apply to the governor or the governor's

1 designee and the exclusive bargaining representative of language
2 access providers, except that:

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

8 (ii) The decision of the arbitration panel is not binding on the
9 legislature and, if the legislature does not approve the request for
10 funds necessary to implement the compensation and benefit provisions
11 of the arbitrated collective bargaining agreement, the decision is
12 not binding on the state;

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

14 (f) If a single employee organization is the exclusive bargaining
15 representative for two or more units, upon petition by the employee
16 organization, the units may be consolidated into a single larger unit
17 if the commission considers the larger unit to be appropriate. If
18 consolidation is appropriate, the commission shall certify the
19 employee organization as the exclusive bargaining representative of
20 the new unit;

21 (g) If a single employee organization is the exclusive bargaining
22 representative for two or more bargaining units, the governor and the
23 employee organization may agree to negotiate a single collective
24 bargaining agreement for all of the bargaining units that the
25 employee organization represents.

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

33 (4) Each party with whom the department of social and health
34 services, the department of children, youth, and families, the
35 department of labor and industries, and the department of enterprise
36 services contracts for language access services and each of their
37 subcontractors shall provide to the respective department an accurate
38 list of language access providers, as defined in RCW 41.56.030,
39 including their names, addresses, and other contact information,
40 annually by January 30th, except that initially the lists must be

1 provided within thirty days of July 1, 2018. The department shall,
2 upon request, provide a list of all language access providers,
3 including their names, addresses, and other contact information, to a
4 labor union seeking to represent language access providers.

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

6 (a) The obligation of any state agency to comply with federal
7 statute and regulations; and

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

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

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

24 (a) Submitted to the director of financial management by October
25 1st prior to the legislative session at which the requests are to be
26 considered, except that, for initial negotiations under this section,
27 the request may not be submitted before July 1, 2011; and

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

32 (8) 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 collective bargaining agreement must be
35 reopened for the sole purpose of renegotiating the funds necessary to
36 implement the agreement.

37 (9) If, after the compensation and benefit provisions of an
38 agreement are approved by the legislature, a significant revenue
39 shortfall occurs resulting in reduced appropriations, as declared by
40 proclamation of the governor or by resolution of the legislature,

1 both parties shall immediately enter into collective bargaining for a
2 mutually agreed upon modification of the agreement.

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

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

13 (12) By December 1, 2020, the department of social and health
14 services, the department of children, youth, and families, the
15 department of labor and industries, the health care authority, and
16 the department of enterprise services must report to the legislature
17 on the following:

18 (a) Each agency's current process for procuring spoken language
19 interpreters and whether the changes in chapter 253, Laws of 2018
20 have been implemented;

21 (b) If chapter 253, Laws of 2018 has not been fully implemented
22 by an agency, the barriers to implementation the agency has
23 encountered and recommendations for removing the barriers to
24 implementation;

25 (c) The impacts of the changes to the bargaining units for
26 language access providers in chapter 253, Laws of 2018; and

27 (d) Recommendations on how to improve the procurement and
28 accessibility of language access providers.

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