

SHB 1329 - S COMM AMD

By Committee on Labor, Commerce & Consumer Protection

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that, as of 2010, the
4 challenges posed by low wages and lack of training that the legislature
5 identified in enacting the child care career and wage ladder persist,
6 and the availability of quality child care in the state continues to
7 suffer. The legislature intends to address these problems by creating
8 the possibility for a new relationship between child care center
9 directors and workers and the state. Child care center directors and
10 workers are to be given the opportunity to work collectively to improve
11 standards in their profession and to expand opportunities for
12 educational advancement to ensure continuous quality improvement in the
13 delivery of early learning services. Family child care providers in
14 the state have recently been given a similar opportunity, and the
15 results of their efforts have improved standards and quality for that
16 segment of the child care industry.

17 The legislature intends to create a new type of collective
18 bargaining for these directors and workers whereby they can come
19 together and bargain with the state over matters within the state's
20 purview to improve the quality of child care for the state's families.
21 Unlike traditional collective bargaining, this new approach will afford
22 these directors and workers the opportunity to bargain with the state
23 only over the state's support for child care centers, a matter of
24 common concern to both directors and workers. Specific terms and
25 conditions of employment at individual centers, which are the subjects
26 of traditional collective bargaining between employers and their
27 employees, fall outside the limited scope of bargaining defined by this
28 act. Accordingly, traditional policy concerns over supervisors and
29 employees being organized into a common bargaining unit are

1 inapplicable. Sharing a community of interest in the subjects of
2 bargaining enables directors and workers to work side by side in the
3 same bargaining unit for common goals.

4 This new approach to collective bargaining is available only to
5 center directors and workers who file a notice of intent to participate
6 in the initial opt in phase under section 4 of this act. This new
7 bargaining relationship does not intrude in any manner upon those
8 relationships governed by the national labor relations act (29 U.S.C.
9 Sec. 151 et seq.). Child care center directors and workers do not
10 forfeit their rights under the national labor relations act by becoming
11 members of an organization that represents them in their dealings with
12 the state. Under the national labor relations act, an organization
13 that represents child care center directors and workers in bargaining
14 with the state under this act is precluded from representing workers
15 seeking to engage in traditional collective bargaining with their
16 employer over specific terms and conditions of employment at individual
17 child care centers.

18 Nothing in this act is intended to create any unfunded mandates or
19 financial obligations on child care centers covered by this act.

20 **Sec. 2.** RCW 41.56.028 and 2007 c 278 s 2 are each amended to read
21 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 family child care
24 providers and to child care center directors and workers who choose to
25 opt in under section 4 of this act. Solely for the purposes of
26 collective bargaining and as expressly limited under subsections (2)
27 and (3) of this section, the governor is the public employer of family
28 child care providers and of child care center directors and workers
29 who, solely for the purposes of collective bargaining, are public
30 employees. The public employer shall be represented for bargaining
31 purposes by the governor or the governor's designee appointed under
32 chapter 41.80 RCW.

33 (2) This chapter governs the collective bargaining relationship
34 between the governor and family child care providers and between the
35 governor and child care center directors and workers, except as
36 follows:

1 (a) (~~(A statewide unit of all family child care providers is)~~) The
2 only units appropriate for purposes of collective bargaining under RCW
3 41.56.060 are:

4 (i) A statewide unit for family child care providers; and

5 (ii) A statewide unit for child care center directors and workers.

6 (b) The exclusive bargaining representative of family child care
7 providers or of child care center directors and workers in the units
8 specified in (a) of this subsection shall be the representative chosen
9 in an election conducted pursuant to RCW 41.56.070, except that:

10 (i) In the initial election conducted under chapter 54, Laws of
11 2006, or this act, if more than one labor organization is on the ballot
12 and none of the choices receives a majority of the votes cast, a
13 run-off election shall be held;

14 (ii) To show at least thirty percent representation within a unit
15 to accompany a request for an initial election under this act, the
16 written proof of representation is valid only if collected not more
17 than two years prior to the date the request is filed with the
18 commission; and

19 (iii) The initial election under this act may not occur before the
20 opt in period has concluded on November 1, 2012.

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

33 (~~(d)~~) (ii) Notwithstanding the definition of "collective
34 bargaining" in RCW 41.56.030(4), the matters subject to bargaining
35 under this section for child care center directors and workers shall be
36 within the purview of the state and within the community of interest of
37 child care center directors and workers. The public employer is: (A)
38 Required to bargain over: (I) The manner and rate of subsidy and

1 reimbursement, so long as any agreement is consistent with the
2 provisions of any quality rating and improvement system; (II) funding
3 for professional development and training; (III) mechanisms and funding
4 to improve the access of child care centers to health care insurance
5 and other benefit programs; and (IV) grievance procedures to resolve
6 disputes arising out of the interpretation or application of the
7 collective bargaining agreement; and (B) prohibited from bargaining
8 over retirement benefits. By such obligation neither party shall be
9 compelled to agree to a proposal or be required to make a concession
10 unless otherwise provided in this chapter.

11 (d) The mediation and interest arbitration provisions of RCW
12 41.56.430 through 41.56.470 and 41.56.480 only apply to family
13 childcare providers, except that:

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

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

25 (e) Nothing in chapter 54, Laws of 2006, or this act grants family
26 child care providers ((do not have)) and child care center directors
27 and workers the right to strike.

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

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

37 (a) The parents' or legal guardians' right to choose and terminate

1 the services of any family child care provider or any child care center
2 that provides care for their child or children;

3 (b) The child care centers' right to choose, direct, and terminate
4 the services of any child care worker who provides care in the center,
5 and unless otherwise provided in this chapter, to manage and operate
6 facilities and programs, including rights to plan, direct, and control
7 the use of resources;

8 (c) The rights of employers and employees under the national labor
9 relations act, 29 U.S.C. Sec. 151 et seq.;

10 (d) The ~~((secretary of the department of social and health~~
11 ~~services' right to adopt requirements under RCW 74.15.030))~~ director of
12 the department of early learning's right to adopt requirements under
13 chapter 43.215 RCW, except for requirements related to grievance
14 procedures and collective negotiations on personnel matters as
15 specified in subsection (2)(c) of this section;

16 ~~((e))~~ (e) Chapter 26.44 or 43.215 RCW~~((r))~~ or RCW 43.43.832~~((r))~~
17 or 43.20A.205~~((, and 74.15.130))~~; and

18 ~~((d))~~ (f) The legislature's right to make programmatic
19 modifications to the delivery of state services through child care
20 subsidy programs, including standards of eligibility of parents, legal
21 guardians, ~~((and))~~ family child care providers and child care centers
22 participating in child care subsidy programs, ~~((and))~~ the nature of
23 services provided, and the legislature's right to determine standards
24 for professional development and training, quality criteria, ratings
25 through programs such as a quality rating system, and incentives for
26 improving quality. The governor shall not enter into, extend, or renew
27 any agreement under this section that does not expressly reserve the
28 legislative rights described in this subsection (4)~~((d))~~ (f).

29 (5) Upon meeting the requirements of subsection (6) of this
30 section, the governor must submit, as a part of the proposed biennial
31 or supplemental operating budget submitted to the legislature under RCW
32 43.88.030, ~~((a))~~ requests for funds necessary to implement the
33 compensation and benefit provisions of a collective bargaining
34 agreement for family child care providers and a collective bargaining
35 agreement for child care center directors and workers entered into
36 under this section or for legislation necessary to implement such
37 agreements.

1 (6) ((A)) Requests for funds necessary to implement the
2 compensation and benefit provisions of a collective bargaining
3 agreement for family child care providers and a collective bargaining
4 agreement for child care center directors and workers entered into
5 under this section shall not be submitted by the governor to the
6 legislature unless such ((request has)) requests have been:

7 (a) Submitted to the director of financial management by October
8 1st before the legislative session at which the request is to be
9 considered, except that, for initial negotiations under this section
10 for family child care providers, the request must be submitted by
11 November 15, 2006, and for child care center directors and workers, the
12 request must be submitted by October 1, 2013; ((and))

13 (b) For family child care providers, certified by the director of
14 financial management as being feasible financially for the state or
15 reflects the binding decision of an arbitration panel reached under
16 this section; and

17 (c) For child care center directors and workers, certified by the
18 director of financial management as being financially feasible for the
19 state. If the director of financial management does not certify those
20 provisions of the agreement as being feasible financially for the
21 state, those provisions are not binding on the governor.

22 (7) The legislature must approve or reject the submission of the
23 requests for funds as a whole. If the legislature rejects or fails to
24 act on the submissions, any such agreements will be reopened solely for
25 the purpose of renegotiating the funds necessary to implement the
26 agreements.

27 (8) The governor shall periodically consult with the joint
28 committee on employment relations established by RCW 41.80.010
29 regarding appropriations necessary to implement the compensation and
30 benefit provisions of ((any)) a collective bargaining agreement for
31 family child care providers and a collective bargaining agreement for
32 child care center directors and workers and, upon completion of
33 negotiations, advise the committee on the elements of the agreements
34 and on any legislation necessary to implement such agreements.

35 (9) After the expiration date of any collective bargaining
36 agreement entered into under this section, all of the terms and
37 conditions specified in any such agreement remain in effect until the

1 effective date of a subsequent agreement, not to exceed one year from
2 the expiration date stated in the agreement, except as provided in
3 subsection (4)~~((d))~~ (f) of this section.

4 (10) If, after the compensation and benefit provisions of ~~((an))~~ a
5 collective bargaining agreement for family child care providers or for
6 a collective bargaining agreement for child care center directors and
7 workers are approved by the legislature, a significant revenue
8 shortfall occurs resulting in reduced appropriations, as declared by
9 proclamation of the governor or by resolution of the legislature, both
10 parties shall immediately enter into collective bargaining for a
11 mutually agreed upon modification of the agreement.

12 (11) In enacting this section, the legislature intends to provide
13 state action immunity under federal and state antitrust laws for the
14 joint activities of family child care providers and their exclusive
15 bargaining representative and of child care center directors and
16 workers and their exclusive bargaining representatives to the extent
17 such activities are authorized by this chapter.

18 **Sec. 3.** RCW 41.56.030 and 2007 c 184 s 2 are each amended to read
19 as follows:

20 As used in this chapter:

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

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

1 (ii) any person elected by popular vote, or (iii) any person appointed
2 to office pursuant to statute, ordinance or resolution for a specified
3 term of office as a member of a multimember board, commission, or
4 committee, whether appointed by the executive head or body of the
5 public employer, or (d) who is a court commissioner or a court
6 magistrate of superior court, district court, or a department of a
7 district court organized under chapter 3.46 RCW, or (e) who is a
8 personal assistant to a district court judge, superior court judge, or
9 court commissioner. For the purpose of (e) of this subsection, no more
10 than one assistant for each judge or commissioner may be excluded from
11 a bargaining unit.

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

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

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

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

28 (7) "Uniformed personnel" means: (a) Law enforcement officers as
29 defined in RCW 41.26.030 employed by the governing body of any city or
30 town with a population of two thousand five hundred or more and law
31 enforcement officers employed by the governing body of any county with
32 a population of ten thousand or more; (b) correctional employees who
33 are uniformed and nonuniformed, commissioned and noncommissioned
34 security personnel employed in a jail as defined in RCW
35 70.48.020(~~(+5)~~) (9), by a county with a population of seventy thousand
36 or more, and who are trained for and charged with the responsibility of
37 controlling and maintaining custody of inmates in the jail and
38 safeguarding inmates from other inmates; (c) general authority

1 Washington peace officers as defined in RCW 10.93.020 employed by a
2 port district in a county with a population of one million or more; (d)
3 security forces established under RCW 43.52.520; (e) firefighters as
4 that term is defined in RCW 41.26.030; (f) employees of a port district
5 in a county with a population of one million or more whose duties
6 include crash fire rescue or other fire fighting duties; (g) employees
7 of fire departments of public employers who dispatch exclusively either
8 fire or emergency medical services, or both; or (h) employees in the
9 several classes of advanced life support technicians, as defined in RCW
10 18.71.200, who are employed by a public employer.

11 (8) "Institution of higher education" means the University of
12 Washington, Washington State University, Central Washington University,
13 Eastern Washington University, Western Washington University, The
14 Evergreen State College, and the various state community colleges.

15 (9) "Home care quality authority" means the authority under chapter
16 74.39A RCW.

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

20 (11) "Child care subsidy" means a payment from the state through a
21 child care subsidy program established pursuant to RCW 74.12.340 or
22 74.08A.340, 45 C.F.R. Sec. 98.1 through 98.17, or any successor
23 program.

24 (12) "Family child care provider" means a person who: (a) Provides
25 regularly scheduled care for a child or children in the home of the
26 provider or in the home of the child or children for periods of less
27 than twenty-four hours or, if necessary due to the nature of the
28 parent's work, for periods equal to or greater than twenty-four hours;
29 (b) receives child care subsidies; and (c) is either licensed by the
30 state under ((~~RCW 74.15.030~~)) chapter 43.215 RCW or is exempt from
31 licensing under chapter ((~~74.15~~)) 43.215 RCW.

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

35 (14) "Child care center directors and workers" includes all
36 employees of child care centers who work on-site at the centers.
37 "Child care center directors and workers" also includes owners of child
38 care centers.

1 (15)(a) "Child care center" means a child care center licensed by
2 the state under RCW 43.215.500 and 43.215.545 that has at least one
3 child care slot filled by a child for whom it receives a child care
4 subsidy.

5 (b) "Child care center" does not include a child care center:

6 (i) Operated directly by another unit of government or a tribe;

7 (ii) Operated by an individual, partnership, profit or nonprofit
8 corporation, or other entity that operates ten or more child care
9 centers statewide; or

10 (iii) Operated by a local nonprofit organization whose primary
11 mission is to provide social services, including serving children and
12 families, and that pays membership dues or assessments to either: (A)
13 A national organization, exempt from income tax under section 501(c)(3)
14 of the internal revenue code, with more than three million dollars in
15 membership dues and assessments annually, as reported to the internal
16 revenue service; or (B) a regional council that is affiliated with a
17 national organization, exempt from income tax under section 501(c)(3)
18 of the internal revenue code, with more than two hundred affiliates.

19 NEW SECTION. Sec. 4. A new section is added to chapter 41.56 RCW
20 to read as follows:

21 (1) A child care center may participate in collective bargaining
22 under this act if the child care center owner or director files a
23 notice of intent to opt in with the commission. The notice of intent
24 must: Include the names and addresses of that child care center's
25 owners, directors, and workers; include written authorization cards
26 signed by a majority of owners, directors, and workers employed at the
27 center indicating their desire to opt in; and be filed after June 30,
28 2012, and before November 2, 2012.

29 (2) A child care center that does not file a notice of intent with
30 the commission may not be included in a bargaining unit under this act.

31 (3) The commission must, upon request, provide to a labor
32 organization seeking to organize child care center directors and
33 workers, a list, including names and addresses, of the child care
34 center owners, directors, and workers provided in notices of intent
35 submitted under subsection (1) of this section.

1 **Sec. 5.** RCW 41.56.113 and 2007 c 184 s 3 are each amended to read
2 as follows:

3 (1) Upon the written authorization of an individual provider, a
4 family child care provider, or an adult family home provider within the
5 bargaining unit and after the certification or recognition of the
6 bargaining unit's exclusive bargaining representative, the state as
7 payor, but not as the employer, shall, subject to subsection (~~((3))~~)
8 (4) of this section, deduct from the payments to an individual
9 provider, a family child care provider, or an adult family home
10 provider the monthly amount of dues as certified by the secretary of
11 the exclusive bargaining representative and shall transmit the same to
12 the treasurer of the exclusive bargaining representative.

13 (2) If the governor and the exclusive bargaining representative of
14 a bargaining unit of individual providers, family child care providers,
15 or adult family home providers enter into a collective bargaining
16 agreement that:

17 (a) Includes a union security provision authorized in RCW
18 41.56.122, the state as payor, but not as the employer, shall, subject
19 to subsection (~~((3))~~) (4) of this section, enforce the agreement by
20 deducting from the payments to bargaining unit members the dues
21 required for membership in the exclusive bargaining representative, or,
22 for nonmembers thereof, a fee equivalent to the dues; or

23 (b) Includes requirements for deductions of payments other than the
24 deduction under (a) of this subsection, the state, as payor, but not as
25 the employer, shall, subject to subsection (~~((3))~~) (4) of this section,
26 make such deductions upon written authorization of the individual
27 provider, family child care provider, or adult family home provider.

28 (3) If the governor and the exclusive bargaining representative of
29 child care center directors and workers enter into a collective
30 bargaining agreement that includes a union security provision, in lieu
31 of the union security provisions authorized under RCW 41.56.122, the
32 state shall deduct from the monthly amount of the child care subsidy
33 due to a child care center a monthly representation fee, as certified
34 by the secretary of the exclusive bargaining representative, for the
35 costs of representation of child care center directors and workers, and
36 transmit the representation fee to the secretary of the exclusive
37 bargaining representative. However:

1 (a) Any agreement to pay a representation fee must safeguard the
2 child care center owner's or director's rights of nonassociation based
3 on bona fide religious tenets or teachings of a church or other
4 religious body of which the owner or director is a member. The child
5 care center owner or director shall pay an amount equivalent to the
6 representation fee to a nonreligious charity or to another charitable
7 organization;

8 (b) The child care center shall furnish written proof that such
9 payment has been made; and

10 (c) The child care center may not require the child care center
11 workers to pay a proportionate share of the representation fee.
12 Individual membership and dues are on a voluntary basis.

13 (4)(a) The initial additional costs to the state in making
14 deductions (~~((from the payments to individual providers, family child~~
15 ~~care providers, and adult family home providers))~~) under this section
16 shall be negotiated, agreed upon in advance, and reimbursed to the
17 state by the exclusive bargaining representative.

18 (b) The allocation of ongoing additional costs to the state in
19 making deductions (~~((from the payments to individual providers, family~~
20 ~~child care providers, or adult family home providers))~~) under this
21 section shall be an appropriate subject of collective bargaining
22 between the exclusive bargaining representative and the governor unless
23 prohibited by another statute. If no collective bargaining agreement
24 containing a provision allocating the ongoing additional cost is
25 entered into between the exclusive bargaining representative and the
26 governor, or if the legislature does not approve funding for the
27 collective bargaining agreement as provided in RCW 74.39A.300,
28 41.56.028, or 41.56.029, as applicable, the ongoing additional costs to
29 the state in making deductions (~~((from the payments to individual~~
30 ~~providers, family child care providers, or adult family home~~
31 ~~providers))~~) under this section shall be negotiated, agreed upon in
32 advance, and reimbursed to the state by the exclusive bargaining
33 representative.

34 (~~(4)~~) (5) The governor and the exclusive bargaining
35 representative of a bargaining unit of family child care providers may
36 not enter into a collective bargaining agreement that contains a union
37 security provision unless the agreement contains a process, to be
38 administered by the exclusive bargaining representative of a bargaining

1 unit of family child care providers, for hardship dispensation for
2 license- exempt family child care providers who are also temporary
3 assistance for needy families recipients or WorkFirst participants.

4 **Sec. 6.** RCW 41.04.810 and 2007 c 184 s 4 are each amended to read
5 as follows:

6 Individual providers, as defined in RCW 74.39A.240, family child
7 care providers, as defined in RCW 41.56.030, child_care_center
8 directors and workers, as defined in RCW 41.56.030, and adult family
9 home providers, as defined in RCW 41.56.030, are not employees of the
10 state or any of its political subdivisions and are specifically and
11 entirely excluded from all provisions of this title, except as provided
12 in RCW 74.39A.270, 41.56.028, and 41.56.029.

13 **Sec. 7.** RCW 43.01.047 and 2007 c 184 s 5 are each amended to read
14 as follows:

15 RCW 43.01.040 through 43.01.044 do not apply to individual
16 providers under RCW 74.39A.220 through 74.39A.300, family child care
17 providers under RCW 41.56.028, child care center directors and workers
18 under RCW 41.56.028, or adult family home providers under RCW
19 41.56.029.

20 **Sec. 8.** RCW 43.215.010 and 2007 c 415 s 2 and 2007 c 394 s 2 are
21 each reenacted and amended to read as follows:

22 The definitions in this section apply throughout this chapter
23 unless the context clearly requires otherwise.

24 (1) "Agency" means any person, firm, partnership, association,
25 corporation, or facility that provides child care and early learning
26 services outside a child's own home and includes the following
27 irrespective of whether there is compensation to the agency:

28 (a) "Child day care center" means an agency that regularly provides
29 child day care and early learning services for a group of children for
30 periods of less than twenty-four hours;

31 (b) "Early learning" includes but is not limited to programs and
32 services for child care; state, federal, private, and nonprofit
33 preschool; child care subsidies; child care resource and referral;
34 parental education and support; and training and professional
35 development for early learning professionals;

1 (c) "Family day care provider" means a child day care provider who
2 regularly provides child day care and early learning services for not
3 more than twelve children in the provider's home in the family living
4 quarters;

5 (d) "Nongovernmental private-public partnership" means an entity
6 registered as a nonprofit corporation in Washington state with a
7 primary focus on early learning, school readiness, and parental
8 support, and an ability to raise a minimum of five million dollars in
9 contributions;

10 (e) "Service provider" means the entity that operates a community
11 facility.

12 (2) "Agency" does not include the following:

13 (a) Persons related to the child in the following ways:

14 (i) Any blood relative, including those of half-blood, and
15 including first cousins, nephews or nieces, and persons of preceding
16 generations as denoted by prefixes of grand, great, or great-great;

17 (ii) Stepfather, stepmother, stepbrother, and stepsister;

18 (iii) A person who legally adopts a child or the child's parent as
19 well as the natural and other legally adopted children of such persons,
20 and other relatives of the adoptive parents in accordance with state
21 law; or

22 (iv) Spouses of any persons named in (i), (ii), or (iii) of this
23 subsection (2)(a), even after the marriage is terminated;

24 (b) Persons who are legal guardians of the child;

25 (c) Persons who care for a neighbor's or friend's child or
26 children, with or without compensation, where the person providing care
27 for periods of less than twenty-four hours does not conduct such
28 activity on an ongoing, regularly scheduled basis for the purpose of
29 engaging in business, which includes, but is not limited to,
30 advertising such care;

31 (d) Parents on a mutually cooperative basis exchange care of one
32 another's children;

33 (e) Nursery schools or kindergartens that are engaged primarily in
34 educational work with preschool children and in which no child is
35 enrolled on a regular basis for more than four hours per day;

36 (f) Schools, including boarding schools, that are engaged primarily
37 in education, operate on a definite school year schedule, follow a

1 stated academic curriculum, accept only school-age children, and do not
2 accept custody of children;

3 (g) Seasonal camps of three months' or less duration engaged
4 primarily in recreational or educational activities;

5 (h) Facilities providing care to children for periods of less than
6 twenty-four hours whose parents remain on the premises to participate
7 in activities other than employment;

8 (i) Any agency having been in operation in this state ten years
9 before June 8, 1967, and not seeking or accepting moneys or assistance
10 from any state or federal agency, and is supported in part by an
11 endowment or trust fund;

12 (j) An agency operated by any unit of local, state, or federal
13 government or an agency, located within the boundaries of a federally
14 recognized Indian reservation, licensed by the Indian tribe;

15 (k) An agency located on a federal military reservation, except
16 where the military authorities request that such agency be subject to
17 the licensing requirements of this chapter;

18 (l) An agency that offers early learning and support services, such
19 as parent education, and does not provide child care services on a
20 regular basis.

21 (3) "Applicant" means a person who requests or seeks employment in
22 an agency.

23 (4) "Child care center directors and workers" means the same as in
24 RCW 41.56.030.

25 (5) "Department" means the department of early learning.

26 ((+5)) (6) "Director" means the director of the department.

27 ((+6)) (7) "Employer" means a person or business that engages the
28 services of one or more people, especially for wages or salary to work
29 in an agency.

30 ((+7)) (8) "Enforcement action" means denial, suspension,
31 revocation, modification, or nonrenewal of a license pursuant to RCW
32 43.215.300(1) or assessment of civil monetary penalties pursuant to RCW
33 43.215.300(3).

34 ((+8)) (9) "Family child care licensee" means a person who: (a)
35 Provides regularly scheduled care for a child or children in the home
36 of the provider for periods of less than twenty-four hours or, if
37 necessary due to the nature of the parent's work, for periods equal to

1 or greater than twenty-four hours; (b) does not receive child care
2 subsidies; and (c) is licensed by the state under RCW 43.215.200.

3 (10) "Probationary license" means a license issued as a
4 disciplinary measure to an agency that has previously been issued a
5 full license but is out of compliance with licensing standards.

6 ~~((+9))~~ (11) "Requirement" means any rule, regulation, or standard
7 of care to be maintained by an agency.

8 **Sec. 9.** RCW 43.215.350 and 2007 c 17 s 15 are each amended to read
9 as follows:

10 The director shall have the power and it shall be the director's
11 duty to engage in negotiated rule making pursuant to RCW
12 34.05.310(2)(a) with:

13 (1) The exclusive representative of the unit of family child care
14 licensees selected in accordance with RCW 43.215.355 and with other
15 affected interests before adopting requirements that affect family
16 child care licensees; and

17 (2) The exclusive representative or representatives of the unit or
18 units of child care center directors and workers selected in accordance
19 with RCW 41.56.028 and with other affected interests before adopting
20 requirements that affect child care center directors and workers. Rule
21 making under this subsection (2) may not commence until July 1, 2014.

22 NEW SECTION. **Sec. 10.** A new section is added to chapter 74.08A
23 RCW to read as follows:

24 The department shall adjust the rates of child care subsidies, as
25 defined in RCW 41.56.030, paid to all child care centers located in a
26 department of social and health services region to reflect the rate
27 provisions in a collective bargaining agreement for child care center
28 directors and workers employed at child care centers located in the
29 same region that was negotiated under RCW 41.56.028 and funded by the
30 legislature.

31 NEW SECTION. **Sec. 11.** A new section is added to chapter 74.12 RCW
32 to read as follows:

33 The department shall adjust the rates of child care subsidies, as
34 defined in RCW 41.56.030, paid to all child care centers located in a
35 department of social and health services region to reflect the rate

1 provisions in a collective bargaining agreement for child care center
2 directors and workers employed at child care centers located in the
3 same region that was negotiated under RCW 41.56.028 and funded by the
4 legislature.

5 NEW SECTION. **Sec. 12.** A new section is added to chapter 43.131
6 RCW to read as follows:

7 This act shall be terminated June 30, 2019, as provided in section
8 13 of this act.

9 NEW SECTION. **Sec. 13.** A new section is added to chapter 43.131
10 RCW to read as follows:

11 The following acts or parts of acts, as now existing or hereafter
12 amended, are each repealed, effective June 30, 2020:

- 13 (1) Section 1 of this act;
- 14 (2) Section 2 of this act;
- 15 (3) Section 3 of this act;
- 16 (4) Section 4 of this act;
- 17 (5) Section 5 of this act;
- 18 (6) Section 6 of this act;
- 19 (7) Section 7 of this act;
- 20 (8) Section 8 of this act;
- 21 (9) Section 9 of this act;
- 22 (10) Section 10 of this act; and
- 23 (11) Section 11 of this act.

24 NEW SECTION. **Sec. 14.** If any provision of this act or its
25 application to any person or circumstance is held invalid, the
26 remainder of the act or the application of the provision to other
27 persons or circumstances is not affected.

28 NEW SECTION. **Sec. 15.** If any part of this act is found to be in
29 conflict with federal requirements that are a prescribed condition to
30 the allocation of federal funds to the state, the conflicting part of
31 this act is inoperative solely to the extent of the conflict and with
32 respect to the agencies directly affected, and this finding does not
33 affect the operation of the remainder of this act in its application to

1 the agencies concerned. Rules adopted under this act must meet federal
2 requirements that are a necessary condition to the receipt of federal
3 funds by the state."

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By Committee on Labor, Commerce & Consumer Protection

4 On page 1, line 3 of the title, after "workers;" strike the
5 remainder of the title and insert "amending RCW 41.56.028, 41.56.030,
6 41.56.113, 41.04.810, 43.01.047, and 43.215.350; reenacting and
7 amending RCW 43.215.010; adding a new section to chapter 41.56 RCW;
8 adding a new section to chapter 74.08A RCW; adding a new section to
9 chapter 74.12 RCW; adding new sections to chapter 43.131 RCW; and
10 creating new sections."

EFFECT: (1) Child care centers that choose to opt-in and participate in collective bargaining under the act must file a notice of intent with the Public Employment Relations commission between July 1, 2012, and November 1, 2012.

(2) The notice of intent must include: The names and addresses of the child care center's owners, directors, and workers; and authorization cards signed by a majority of the center's owners, directors, and workers indicating their desire to opt-in.

(3) The requirement that child care centers provide the names and addresses of its employees to the Department of Early Learning is removed. Instead, labor organizations wishing to organize may request this information from the Public Employment Relations Commission.

(4) The requirement that the units for bargaining be based on DSHS regions is removed and replaced with a statewide unit.

(5) The initial election may not occur before November 1, 2012.

(6) The bargaining representative may not begin negotiations with the Governor before July 1, 2013, and must submit its request for funds necessary to implement the agreement by October 1, 2013.

(7) The definition of child care center is modified. A child care center includes those centers with one or more subsidized children. The exemptions to this definition are restored. Child care centers operated by a unit of government, operated by an entity that operates

ten or more child care centers, and operated by large nonprofit organizations are exempt from the bill.

(8) The subjects of bargaining are modified. The following are mandatory subjects of bargaining: Subsidy and reimbursement; funding for professional development and training; mechanisms and funding to improve access to health care; and grievance procedures. Other economic support is removed from the items that may be bargained.

(9) Negotiated rule making may not occur before July 1, 2014.

(10) Individual membership and dues are on a voluntary basis.

(11) The bill is subject to JLARC review.

(12) Provides for parity. The Department of Social and Health Services shall adjust the rates of child care subsidies paid to all child care centers to reflect the rate provisions in a collective bargaining agreement for child care center directors and workers.

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