

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

By Representative Jenkins

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

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

3  
4 "NEW SECTION. **Sec. 1.** It is the intent of the legislature to  
5 procure spoken language interpreter services directly from language  
6 access providers through the use of scheduling and billing software or  
7 through contracts with scheduling and coordinating organizations,  
8 thereby reducing administrative costs while protecting consumers. The  
9 legislature further intends to institute quality controls by  
10 establishing an advisory group to advise state agencies on the  
11 qualifications, training, and education of spoken language  
12 interpreters for state certification. The legislature further intends  
13 to exclude interpreter services for sensory impaired persons from the  
14 provisions of this act.

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

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

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

26 (3) No later than September 1, 2015, the department of social and  
27 health services, the health care authority, and the department of

1 labor and industries must each purchase spoken language interpreter  
2 services directly from language access providers through no more than  
3 three contracts with scheduling and coordinating organizations. Each  
4 of the departments must be able to provide spoken language interpreter  
5 services through telephonic and video remote technologies.

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

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

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

34

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

3 (7) For purposes of this section, "state agency" means any state  
4 office or activity of the executive branch of state government,  
5 including state agencies, departments, offices, divisions, boards,  
6 commissions, and correctional and other types of institutions, but  
7 excludes institutions of higher education as defined in RCW  
8 28B.10.016, the school for the blind, and the center for childhood  
9 deafness and hearing loss.

10 (8) The department of social and health services, the health care  
11 authority, the department of labor and industries, and the department  
12 of enterprise services may not impose reimbursement rates or  
13 obligations established through collective bargaining under RCW  
14 41.56.510 in contracts with entities that do not provide interpreter  
15 services through language access providers as defined in RCW 41.56.030  
16 (10).

17

18 NEW SECTION. **Sec. 3.** A new section is added to chapter 39.26 RCW  
19 to read as follows:

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

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

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

1 (c) One physician licensed by the state under chapter 18.57 or  
2 18.71 RCW, who shall serve an initial three-year term;

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

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

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

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

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

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

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

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

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

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

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

27  
28 NEW SECTION. **Sec. 4.** A new section is added to chapter 39.26 RCW  
29 to read as follows:

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

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

34

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

5 (3) Other duties as requested.

6

7 **Sec. 5.** RCW 41.56.030 and 2011 1st sp.s. c 21 s 11 are each  
8 amended to read as follows:

9 As used in this chapter:

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

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

16 (3) "Child care subsidy" means a payment from the state through a  
17 child care subsidy program established pursuant to RCW 74.12.340 (~~or~~  
18 ~~74.08A.340~~), 45 C.F.R. Sec. 98.1 through 98.17, or any successor  
19 program.

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

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

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

33 (7) "Family child care provider" means a person who: (a) Provides  
34 regularly scheduled care for a child or children in the home of the

1 provider or in the home of the child or children for periods of less  
2 than twenty-four hours or, if necessary due to the nature of the  
3 parent's work, for periods equal to or greater than twenty-four hours;  
4 (b) receives child care subsidies; and (c) is either licensed by the  
5 state under RCW 74.15.030 or is exempt from licensing under chapter  
6 74.15 RCW.

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

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

15 (10)(a) "Language access provider" means any independent  
16 contractor who provides spoken language interpreter services (~~for~~  
17 ~~department of social and health services appointments or medicaid~~  
18 ~~enrollee appointments, or provided these services on or after January~~  
19 ~~1, 2009, and before June 10, 2010, whether paid by a broker, language~~  
20 ~~access agency, or the department)), whether paid by a language access  
21 agency, broker, or the respective department: (i) For department of  
22 social and health services appointments or medicaid enrollee  
23 appointments, or who provided these services on or after January 1,  
24 2009, and before June 10, 2010; (ii) for department of labor and  
25 industries authorized medical and vocational providers, or who  
26 provided these services on or after January 1, 2012, and before the  
27 effective date of this section; or (iii) for state agencies, or who  
28 provided these services on or after January 1, 2012, and before the  
29 effective date of this section.~~

30 (b) "Language access provider" does not mean an owner, manager, or  
31 employee of a broker or a language access agency, an interpreter who  
32 provides services through telephonic or video remote technologies from  
33 outside the state of Washington, an interpreter under the medicaid  
34 administrative match program, or an interpreter appointed or required

1 in a court proceeding pursuant to RCW 2.43.030 or when required by a  
2 federal consent decree or settlement agreement.

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

5 (d) "Medicaid enrollee appointments" does not include medicaid  
6 administrative match program appointments or any other service  
7 provided pursuant to that program.

8 (11) "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 a  
18 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 of  
22 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, or  
24 court commissioner. For the purpose of (e) of this subsection, no  
25 more than one assistant for each judge or commissioner may be excluded  
26 from a bargaining unit.

27 (12) "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 or  
31 superior court employees for wage-related matters is the respective  
32 county legislative authority, or person or body acting on behalf of  
33 the legislative authority, and the public employer for nonwage-related  
34

1 matters is the judge or judge's designee of the respective district  
2 court or superior court.

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

24

25 **Sec. 6.** RCW 41.56.510 and 2010 c 296 s 2 are each amended to read  
26 as follows:

27 (1) In addition to the entities listed in RCW 41.56.020, this  
28 chapter applies to the governor with respect to language access  
29 providers. Solely for the purposes of collective bargaining and as  
30 expressly limited under subsections (2) and (3) of this section, the  
31 governor is the public employer of language access providers who,  
32 solely for the purposes of collective bargaining, are public  
33 employees. The governor or the governor's designee shall represent  
34 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) (~~A statewide unit of all language access providers is~~) The  
5 only language access provider units appropriate for purposes of  
6 collective bargaining under RCW 41.56.060 are:

7 (i) A statewide unit for language access providers who provide  
8 spoken language interpreter services for department of social and  
9 health services appointments, or medicaid enrollee appointments;

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

14 (iii) A statewide unit for language access providers who provide  
15 spoken language interpreter services for any state agency, as defined  
16 in section 2 of this act, through the department of enterprise  
17 services, excluding language access providers included in (a)(i) and  
18 (ii) of this subsection;

19 (b) The exclusive bargaining representatives of language access  
20 providers in the units specified in (a) of this subsection shall be  
21 the representatives chosen in ((an)) elections conducted pursuant to  
22 RCW 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 under  
26 chapter 42.56 RCW. The public employment relations commission may not  
27 certify any bargaining unit under subsection (2)(a)(ii) and (iii) of  
28 this section before January 1, 2014;

29 (c) Notwithstanding the definition of "collective bargaining" in  
30 RCW 41.56.030(4), the scope of collective bargaining for language  
31 access providers under this section is limited solely to: (i)  
32 Economic compensation, such as the manner and rate of payments; (ii)  
33 professional development and training; (iii) labor-management  
34 committees; and (iv) grievance procedures. Retirement benefits are

1 not subject to collective bargaining. By such obligation neither  
2 party may be compelled to agree to a proposal or be required to make a  
3 concession unless otherwise provided in this chapter;

4 (d) In addition to the entities listed in the mediation and  
5 interest arbitration provisions of RCW 41.56.430 through 41.56.470 and  
6 41.56.480, the provisions apply to the governor or the governor's  
7 designee and the exclusive bargaining representative of language  
8 access providers, except that:

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

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

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

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

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

32 (4) Each party with whom the department of social and health  
33 services, the department of labor and industries, and the department  
34 of enterprise services contracts for language access services and each

1 of their subcontractors shall provide to the respective department an  
2 accurate list of language access providers, as defined in RCW  
3 41.56.030, including their names, addresses, and other contact  
4 information, annually by January 30th, except that initially the lists  
5 must be provided within thirty days of (~~June 10, 2010~~) the effective  
6 date of this section. The departments shall, upon request, provide a  
7 list of all language access providers, including their names,  
8 addresses, and other contact information, to a labor union seeking to  
9 represent language access providers.

10 (5) If a language access provider cannot be procured through a  
11 bargaining unit, a state agency is authorized to contract with any  
12 spoken language interpreter provider.

13 (6) This section does not create or modify:

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

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

21 (~~(6)~~) (7) Upon meeting the requirements of subsection (~~(7)~~)  
22 (8) of this section, the governor must submit, as a part of the  
23 proposed biennial or supplemental operating budget submitted to the  
24 legislature under RCW 43.88.030, a request for funds necessary to  
25 implement the compensation and benefit provisions of a collective  
26 bargaining agreement entered into under this section or for  
27 legislation necessary to implement the agreement.

28 (~~(7)~~) (8) A request for funds necessary to implement the  
29 compensation and benefit provisions of a collective bargaining  
30 agreement entered into under this section may not be submitted by the  
31 governor to the legislature unless the request has been:

32 (a) Submitted to the director of financial management by October  
33 1st prior to the legislative session at which the requests are to be  
34

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

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

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

12 ~~((+9))~~ (10) If, after the compensation and benefit provisions of  
13 an agreement are approved by the legislature, a significant revenue  
14 shortfall occurs resulting in reduced appropriations, as declared by  
15 proclamation of the governor or by resolution of the legislature, both  
16 parties shall immediately enter into collective bargaining for a  
17 mutually agreed upon modification of the agreement.

18 ~~((+10))~~ (11) After the expiration date of any collective  
19 bargaining agreement entered into under this section, all of the terms  
20 and conditions specified in the agreement remain in effect until the  
21 effective date of a subsequent agreement, not to exceed one year from  
22 the expiration date stated in the agreement.

23 ~~((+11))~~ (12) In enacting this section, the legislature intends to  
24 provide state action immunity under federal and state antitrust laws  
25 for the joint activities of language access providers and their  
26 exclusive bargaining representative to the extent the activities are  
27 authorized by this chapter.

28  
29 NEW SECTION. **Sec. 7.** If any part of this act is found to be in  
30 conflict with federal requirements that are a prescribed condition to  
31 the allocation of federal funds to the state, the conflicting part of  
32 this act is inoperative solely to the extent of the conflict and with  
33 respect to the agencies directly affected, and this finding does not  
34 affect the operation of the remainder of this act in its application

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

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5  
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EFFECT: Strikes the underlying bill and provides for procurement of spoken language services as follows:

- Authorizes the Department of Labor and Industries (L&I) to purchase interpreter services for medical and vocational providers authorized to provide services to limited-English speaking injured workers or crime victims.
- Requires, by September 1, 2015, the Department of Social and Health Services (DSHS), the Health Care Authority (HCA), the Department of Enterprise Services (DES), and the L&I to purchase spoken language interpreter services directly from language access providers through no more than three contracts with scheduling and coordinating organizations. Each agency must be able to provide spoken language interpreter services through telephonic and video remote technologies.
- Allows the DSHS, the HCA, and the L&I to integrate procurement of spoken language interpreter services through a single centralized system.
- Allows the DSHS, the HCA, and the L&I to procure interpreters through the DES contracts if the demand cannot be met through their respective contracts.
- Allows the DES to jointly purchase interpreter services with the DSHS, the HCA, and the L&I.
- Requires language access providers procured under the act to be certified or authorized by the state, or nationally certified by the Certification Commission for Health Care Interpreters; however, allows contracts with other spoken language interpreters with other certifications or qualifications deemed to meet state standards.
- States that nothing precludes providing interpretive services through state employees or employees of medical or vocational providers.
- Requires the DSHS to establish the Spoken Language Interpreter Advisory Group (Advisory Group) to advise the DSHS, the L&I, the DES, and the HCA on the policies, rules, and regulations governing certification and authorization of spoken language interpreters.
- Provides a definition for "state agency" for the purposes of the act which excludes institutions of higher education, the School for the Blind, and the Center for Childhood Deafness and Hearing Loss.

- Expands collective bargaining rights under the PECBA to language access providers who provide spoken language interpreter services for L&I appointments and for state agencies through contracts with the DES.
- Provides that, for purposes of collective bargaining, that a language access provider does not include an interpreter who provides services through telephonic or video remote technologies from outside the state of Washington, an interpreter under the Medicaid Administrative Match program, or interpreters for a court proceeding under RCW 2.43.030.
- Clarifies that DSHS appointments does not include court proceedings and Medicaid enrollee appointments does not include Medicaid Administrative Match Program appointments or services provided to that program.
- Stipulates that any new bargaining units may not be certified by the Public employment Relations Commission before January 1, 2014.
- Allows the Governor, under mutual agreement, to negotiate a single collective bargaining agreement with two or more units if a single employee organization is the exclusive bargaining representative.
- Allows a state agency to contract with any spoken language interpreter provider in a language access provider cannot be procured through a bargaining unit.
- Prohibits the DSHS, the HCA, the L&I, and the DES from imposing reimbursement rates or obligations established through collective bargaining in contracts with entities that do not provide interpreter services through language access providers as defined for purposes of collective bargaining.

--- END ---