
SECOND SUBSTITUTE HOUSE BILL 1753

State of Washington

63rd Legislature

2013 Regular Session

By House Appropriations (originally sponsored by Representatives Jinkins, Hunt, Cody, Goodman, Freeman, Stanford, Fitzgibbon, Bergquist, Sawyer, Green, Ryu, Hope, Moscoso, Lias, Haler, Hudgins, Sullivan, Appleton, and Pollet)

READ FIRST TIME 03/01/13.

1 AN ACT Relating to interpreter services; amending RCW 41.56.030 and
2 41.56.510; adding new sections to chapter 39.26 RCW; and creating new
3 sections.

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

5 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
6 centralize and consolidate the procurement of spoken language
7 interpreter services and expand the use of language access providers,
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 state certified spoken
12 language interpreters through the department of social and health
13 services. The legislature further intends to exclude interpreter
14 services for sensory impaired persons from the provisions of this act.

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

17 (1) The department of social and health services and the health

1 care authority are each authorized to purchase interpreter services on
2 behalf of limited-English speaking applicants and recipients of public
3 assistance.

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

8 (3) No later than September 1, 2015, the department of social and
9 health services, the health care authority, and the department of labor
10 and industries must purchase spoken language interpreter services
11 directly from language access providers, or through contracts with
12 scheduling and coordinating delivery organizations, or both. Each
13 department must have at least one contract with an entity that provides
14 interpreter services exclusively through telephonic and video remote
15 technologies.

16 (4) By September 1, 2015, the department of enterprise services
17 shall develop and implement a model that all state agencies must use to
18 procure spoken language interpreter services by purchasing directly
19 from language access providers or through contracts with scheduling and
20 coordinating entities, or both. The department must have at least one
21 contract with an entity that provides interpreter services exclusively
22 through telephonic and video remote technologies. If the department of
23 enterprise services determines it is more cost effective or efficient,
24 it may jointly purchase these services with the department of social
25 and health services, the health care authority, and the department of
26 labor and industries as provided in subsection (3) of this section.
27 The department of social and health services, the health care
28 authority, and the department of labor and industries have the
29 authority to procure interpreters through the department of enterprise
30 services if the demand for spoken language interpreters cannot be met
31 through their respective contracts.

32 (5) All language access providers procured under this section must
33 be certified or authorized by the state. When a state-certified or
34 authorized language access provider is not available, a state agency is
35 authorized to contract with a spoken language interpreter with other
36 certifications or qualifications deemed to meet state standards.
37 Nothing in this subsection shall preclude providing interpretive

1 services through state employees or employees of medical or vocational
2 providers.

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

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

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

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

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

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

28 (c) One physician licensed by the state under chapter 18.57 or
29 18.71 RCW, who shall serve an initial three-year term;

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

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

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

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

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

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

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

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

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

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

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

16 NEW SECTION. **Sec. 4.** A new section is added to chapter 39.26 RCW
17 to read as follows:

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

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

22 (2) Evaluate the certification standards used by the state,
23 including the code of ethics, and make recommendations; and

24 (3) Other duties as requested.

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

27 As used in this chapter:

28 (1) "Adult family home provider" means a provider as defined in RCW
29 70.128.010 who receives payments from the medicaid and state-funded
30 long-term care programs.

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

34 (3) "Child care subsidy" means a payment from the state through a
35 child care subsidy program established pursuant to RCW 74.12.340 (~~or~~

1 ~~74.08A.340~~)), 45 C.F.R. Sec. 98.1 through 98.17, or any successor
2 program.

3 (4) "Collective bargaining" means the performance of the mutual
4 obligations of the public employer and the exclusive bargaining
5 representative to meet at reasonable times, to confer and negotiate in
6 good faith, and to execute a written agreement with respect to
7 grievance procedures and collective negotiations on personnel matters,
8 including wages, hours and working conditions, which may be peculiar to
9 an appropriate bargaining unit of such public employer, except that by
10 such obligation neither party shall be compelled to agree to a proposal
11 or be required to make a concession unless otherwise provided in this
12 chapter.

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

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

16 (7) "Family child care provider" means a person who: (a) Provides
17 regularly scheduled care for a child or children in the home of the
18 provider or in the home of the child or children for periods of less
19 than twenty-four hours or, if necessary due to the nature of the
20 parent's work, for periods equal to or greater than twenty-four hours;
21 (b) receives child care subsidies; and (c) is either licensed by the
22 state under RCW 74.15.030 or is exempt from licensing under chapter
23 74.15 RCW.

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

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

31 (10)(a) "Language access provider" means any independent contractor
32 who provides spoken language interpreter services (~~(for department of~~
33 ~~social and health services appointments or medicaid enrollee~~
34 ~~appointments, or provided these services on or after January 1, 2009,~~
35 ~~and before June 10, 2010, whether paid by a broker, language access~~
36 ~~agency, or the department)), whether paid by a language access agency,
37 broker, or the respective department: (i) For department of social and
38 health services appointments or medicaid enrollee appointments, or who~~

1 provided these services on or after January 1, 2009, and before June
2 10, 2010; (ii) for department of labor and industries authorized
3 medical and vocational providers, or who provided these services on or
4 after January 1, 2012, and before the effective date of this section;
5 or (iii) for state agencies, or who provided these services on or after
6 January 1, 2012, and before the effective date of this section.

7 (b) "Language access provider" does not mean an owner, manager, or
8 employee of a broker or a language access agency, an interpreter under
9 the medicaid administrative match program, or an interpreter appointed
10 or required in a court proceeding pursuant to RCW 2.43.030 or when
11 required by a federal consent decree or settlement agreement.

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

14 (d) "Medicaid enrollee appointments" does not include medicaid
15 administrative match program appointments or any other service provided
16 pursuant to that program.

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

36 (12) "Public employer" means any officer, board, commission,
37 council, or other person or body acting on behalf of any public body
38 governed by this chapter, or any subdivision of such public body. For

1 the purposes of this section, the public employer of district court or
2 superior court employees for wage-related matters is the respective
3 county legislative authority, or person or body acting on behalf of the
4 legislative authority, and the public employer for nonwage-related
5 matters is the judge or judge's designee of the respective district
6 court or superior court.

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

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

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

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

18 (b) The exclusive bargaining representatives of language access
19 providers in the units specified in (a) of this subsection shall be the
20 representatives chosen in (~~an~~) elections conducted pursuant to RCW
21 41.56.070.

22 Bargaining authorization cards furnished as the showing of interest
23 in support of any representation petition or motion for intervention
24 filed under this section are exempt from disclosure under chapter 42.56
25 RCW. The public employment relations commission may not certify any
26 bargaining unit under subsection (2)(a)(ii) and (iii) of this section
27 before January 1, 2014;

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

37 (d) In addition to the entities listed in the mediation and
38 interest arbitration provisions of RCW 41.56.430 through 41.56.470 and

1 41.56.480, the provisions apply to the governor or the governor's
2 designee and the exclusive bargaining representative of language access
3 providers, except that:

4 (i) In addition to the factors to be taken into consideration by an
5 interest arbitration panel under RCW 41.56.465, the panel shall
6 consider the financial ability of the state to pay for the compensation
7 and benefit provisions of a collective bargaining 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 of
11 the arbitrated collective bargaining agreement, the decision is not
12 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 bargaining units, the governor and the
16 employee organization may agree to negotiate a single collective
17 bargaining agreement for all of the bargaining units that the employee
18 organization represents.

19 (3) Language access providers who are public employees solely for
20 the purposes of collective bargaining under subsection (1) of this
21 section are not, for that reason, employees of the state for any other
22 purpose. This section applies only to the governance of the collective
23 bargaining relationship between the employer and language access
24 providers as provided in subsections (1) and (2) of this section.

25 (4) Each party with whom the department of social and health
26 services, the department of labor and industries, and the department of
27 enterprise services contracts for language access services and each of
28 their subcontractors shall provide to the respective department an
29 accurate list of language access providers, as defined in RCW
30 41.56.030, including their names, addresses, and other contact
31 information, annually by January 30th, except that initially the lists
32 must be provided within thirty days of (~~June 10, 2010~~) the effective
33 date of this section. The departments shall, upon request, provide a
34 list of all language access providers, including their names,
35 addresses, and other contact information, to a labor union seeking to
36 represent language access providers.

37 (5) If a language access provider cannot be procured through a

1 bargaining unit, a state agency is authorized to contract with any
2 spoken language interpreter provider.

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

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

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

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

18 (~~(7)~~) (8) A request for funds necessary to implement the
19 compensation and benefit provisions of a collective bargaining
20 agreement entered into under this section may not be submitted by the
21 governor to the legislature unless the request has been:

22 (a) Submitted to the director of financial management by October
23 1st prior to the legislative session at which the requests are to be
24 considered, except that, for initial negotiations under this section,
25 the request may not be submitted before July 1, 2011; and

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

30 (~~(8)~~) (9) The legislature must approve or reject the submission
31 of the request for funds as a whole. If the legislature rejects or
32 fails to act on the submission, any collective bargaining agreement
33 must be reopened for the sole purpose of renegotiating the funds
34 necessary to implement the agreement.

35 (~~(9)~~) (10) If, after the compensation and benefit provisions of
36 an agreement are approved by the legislature, a significant revenue
37 shortfall occurs resulting in reduced appropriations, as declared by

1 proclamation of the governor or by resolution of the legislature, both
2 parties shall immediately enter into collective bargaining for a
3 mutually agreed upon modification of the agreement.

4 ~~((+10+))~~ (11) After the expiration date of any collective
5 bargaining agreement entered into under this section, all of the terms
6 and conditions specified in the 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.

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

14 NEW SECTION. **Sec. 7.** If any part of this act is found to be in
15 conflict with federal requirements that are a prescribed condition to
16 the allocation of federal funds to the state, the conflicting part of
17 this act is inoperative solely to the extent of the conflict and with
18 respect to the agencies directly affected, and this finding does not
19 affect the operation of the remainder of this act in its application to
20 the agencies concerned. Rules adopted under this act must meet federal
21 requirements that are a necessary condition to the receipt of federal
22 funds by the state.

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