
SUBSTITUTE SENATE BILL 6126

State of Washington 64th Legislature 2015 1st Special Session

By Senate Ways & Means (originally sponsored by Senator Braun)

READ FIRST TIME 05/27/15.

1 AN ACT Relating to collective bargaining; amending RCW 42.30.140,
2 28B.52.060, 41.76.030, 41.80.090, 41.40.023, 74.39A.270, 41.80.005,
3 41.80.010, 41.56.028, 41.56.029, 41.56.510, 74.39A.240, and
4 74.39A.300; reenacting and amending RCW 41.80.020; adding a new
5 section to chapter 42.30 RCW; adding new sections to chapter 41.56
6 RCW; adding a new section to chapter 28B.52 RCW; adding a new section
7 to chapter 41.59 RCW; adding a new section to chapter 41.76 RCW;
8 adding new sections to chapter 41.80 RCW; adding a new section to
9 chapter 47.64 RCW; adding a new section to chapter 49.39 RCW; adding
10 a new section to chapter 74.39A RCW; adding a new section to chapter
11 43.88 RCW; providing an expiration date; and declaring an emergency.

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

13 **PART I - TRANSPARENT NEGOTIATIONS**

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

16 If any provision of this chapter conflicts with the provisions of
17 any other statute, the provisions of this chapter shall control:
18 PROVIDED, That this chapter shall not apply to:

19 (1) The proceedings concerned with the formal issuance of an
20 order granting, suspending, revoking, or denying any license, permit,

1 or certificate to engage in any business, occupation, or profession
2 or to any disciplinary proceedings involving a member of such
3 business, occupation, or profession, or to receive a license for a
4 sports activity or to operate any mechanical device or motor vehicle
5 where a license or registration is necessary; or

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

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

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

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

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

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

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

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

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

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 41.59
2 RCW to read as follows:
3 Collective bargaining sessions between employee organizations, or
4 their representatives, and public employers, or their
5 representatives, involving contract negotiations under this chapter
6 must be open to the public.

7 NEW SECTION. **Sec. 6.** A new section is added to chapter 41.76
8 RCW to read as follows:
9 Collective bargaining sessions between employee organizations, or
10 their representatives, and public employers, or their
11 representatives, involving contract negotiations under this chapter
12 must be open to the public.

13 NEW SECTION. **Sec. 7.** A new section is added to chapter 41.80
14 RCW to read as follows:
15 Collective bargaining sessions between employee organizations, or
16 their representatives, and public employers, or their
17 representatives, involving contract negotiations under this chapter
18 must be open to the public.

19 NEW SECTION. **Sec. 8.** A new section is added to chapter 47.64
20 RCW to read as follows:
21 Collective bargaining sessions between ferry employee
22 organizations, or their representatives, and public employers, or
23 their representatives, involving contract negotiations under this
24 chapter must be open to the public.

25 NEW SECTION. **Sec. 9.** A new section is added to chapter 49.39
26 RCW to read as follows:
27 Collective bargaining sessions between bargaining representatives
28 and public employers, or their representatives, involving contract
29 negotiations under this chapter must be open to the public.

30 NEW SECTION. **Sec. 10.** A new section is added to chapter 74.39A
31 RCW to read as follows:
32 Collective bargaining sessions between bargaining representatives
33 and public employers, or their representatives, involving contract
34 negotiations under this chapter must be open to the public.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 41.80
2 RCW to read as follows:

3 (1) The joint committee on employment relations created in RCW
4 41.80.010(5) must meet six times each year, generally every two
5 months, for the purpose of consulting with the governor or the
6 governor's designee and institutions of higher education on matters
7 related to collective bargaining conducted under the authority of
8 chapters 41.80, 41.56, 47.64, and 74.39A RCW. Meetings must be
9 scheduled to provide the joint committee with the opportunity to
10 review the collective bargaining agreements submitted to the office
11 of financial management by October 1st and to review information to
12 be used by the office of financial management to determine the
13 financial feasibility of submitted collective bargaining agreements.

14 (2) The purpose of the meetings shall include, but not be limited
15 to:

16 (a) Seeking the advice of the joint committee on the elements of
17 master collective bargaining agreements under negotiation and any
18 supplemental bargaining of agency-specific issues;

19 (b) Informing and reviewing elements of collective bargaining
20 agreements that have reached impasse and have been certified for
21 resolution by interest arbitration;

22 (c) Informing the joint committee of the elements of master,
23 supplemental, or modified collective bargaining agreements reached
24 with the governor and institutions of higher education;

25 (d) Informing the joint committee of the appropriations necessary
26 to implement the compensation and fringe benefit provisions of
27 collective bargaining agreements and on any legislation necessary to
28 implement the agreement;

29 (e) Informing and seeking the advice of the joint committee on
30 modifications to bargaining agreements that do not require a request
31 for funds, but will have an impact on agency budgets in excess of one
32 hundred thousand dollars; and

33 (f) Reviewing issues affecting collective bargaining with state
34 and local governments.

35 (3) The joint committee, upon majority vote of its members
36 present, may meet more or less frequently. A quorum of the joint
37 committee is not required for the meeting to take place. Meetings may
38 take place by conference telephone or similar communications
39 equipment so that all persons participating in the meeting can hear

1 each other at the same time. Participation by that method constitutes
2 presence in person at a meeting.

3 (4) A meeting must be held within ten working days of a
4 determination of the director of the office of financial management
5 that a collective bargaining agreement cannot be certified as
6 financially feasible.

7 (5) Staff of the appropriate labor and fiscal committees of the
8 house and senate must schedule and staff the meetings. The governor
9 or the governor's designee, and institutions of higher education who
10 negotiate collective bargaining agreements, must attend, participate,
11 and provide information as directed by the joint committee.

12 NEW SECTION. **Sec. 12.** A new section is added to chapter 43.88
13 RCW to read as follows:

14 (1) In order to facilitate public inspection of state collective
15 bargaining agreements, the office of financial management must
16 maintain a web site that is accessible to the public of all
17 agreements collectively bargained under the authority of chapters
18 41.80 and 47.64 RCW and RCW 41.56.026, 41.56.028, 41.56.029,
19 41.56.473, 41.56.510, and 74.39A.270.

20 (2) In order to facilitate public understanding of state
21 collective bargaining agreements, the office of financial management
22 must prepare a summary of each agreement subject to subsection (1) of
23 this section for posting on the web site. The summary must identify
24 the following information for each agreement:

- 25 (a) The term of agreement;
- 26 (b) The bargaining units covered by the agreement by state
27 agency;
- 28 (c) Base compensation;
- 29 (d) Eligibility for and rate of overtime pay;
- 30 (e) Eligibility for and rate of compensatory time;
- 31 (f) Eligibility for and rate of any other compensation, including
32 but not limited to shift premium pay, on-call pay, stand-by pay,
33 assignment pay, special pay, or employer provided housing or meals;
- 34 (g) Eligibility for and rate of pay for each paid leave
35 provision;
- 36 (h) Eligibility for and rate of pay for any cash out provisions
37 for compensatory time or paid leave;
- 38 (i) Temporary layoff provision;
- 39 (j) Any impasse procedure subject to bargaining;

1 (k) Employer and employee health care benefits expressed as a
2 percentage of cost or as a dollar amount;

3 (l) Any retirement benefit subject to bargaining;

4 (m) A brief description of each component and its cost that
5 comprise the amount funded by the legislature to implement the
6 compensation and fringe benefits of the agreement;

7 (n) Number of bargaining unit members covered by the agreement as
8 of the date the agreement is implemented; and

9 (o) Content of any agency specific supplemental agreements
10 affecting (a) through (m) of this subsection.

11 (3) Information may include links to salary schedules, pay
12 ranges, and other information on state or federal agency web sites to
13 summarize information. Information may include links to specific
14 language within an agreement to summarize information.

15 (4) The web site must be updated within sixty days of
16 implementation of any agreement or revisions to an agreement.

17 (5) No later than January 1, 2016, the information under this
18 section must be incorporated into the state expenditure information
19 web site maintained by the legislative evaluation and accountability
20 program committee under RCW 44.48.150.

21 (6) The summaries of collective bargaining agreements must not
22 disclose personally identifiable information of any bargaining unit
23 member.

24 **PART II - BINDING INTEREST ARBITRATION**

25 NEW SECTION. **Sec. 13.** A new section is added to chapter 41.56
26 RCW to read as follows:

27 Except as explicitly permitted in RCW 41.56.450, 41.56.475, and
28 41.56.492, no public employer may enter into an agreement pursuant to
29 this chapter that permits the use of interest arbitration as a means
30 of resolving issues arising in collective bargaining. Any such
31 provision in an agreement with an exclusive bargaining representative
32 is void and unenforceable.

33 **Sec. 14.** RCW 28B.52.060 and 1991 c 238 s 150 are each amended to
34 read as follows:

35 The commission shall conduct mediation activities upon the
36 request of either party as a means of assisting in the settlement of
37 unresolved matters considered under this chapter.

1 In the event that any matter being jointly considered by the
2 employee organization and the board of trustees of the college
3 district is not settled by the means provided in this chapter, either
4 party, twenty-four hours after serving written notice of its intended
5 action to the other party, may, request the assistance and advice of
6 the commission. Nothing in this section prohibits an employer and an
7 employee organization from agreeing to substitute, at their own
8 expense, some other impasse procedure or other means of resolving
9 matters considered under this chapter. However, the board of trustees
10 of the college district may not enter into an agreement under this
11 chapter that permits the use of interest arbitration as a means of
12 resolving issues arising in collective bargaining. Any such provision
13 in an agreement with an exclusive bargaining representative is void
14 and unenforceable.

15 **Sec. 15.** RCW 41.76.030 and 2002 c 356 s 9 are each amended to
16 read as follows:

17 (1) The commission shall conduct mediation activities upon the
18 request of either party as a means of assisting in the settlement of
19 unresolved matters considered under this chapter.

20 (2) If any matter being jointly considered by the exclusive
21 bargaining representative and the board of regents or trustees is not
22 settled by the means provided in this chapter, either party may
23 request the assistance and advice of the commission. Except as
24 provided in subsection (3) of this section, nothing in this section
25 prohibits an employer and an employee organization from agreeing to
26 substitute, at their own expense, some other impasse procedure or
27 other means of resolving matters considered under this chapter.

28 (3) The board of regents or trustees may not enter into an
29 agreement pursuant to this chapter that permits the use of interest
30 arbitration as a means of resolving issues arising in collective
31 bargaining. Any such provision in an agreement with an exclusive
32 bargaining representative is void and unenforceable.

33 **Sec. 16.** RCW 41.80.090 and 2002 c 354 s 310 are each amended to
34 read as follows:

35 Should the parties fail to reach agreement in negotiating a
36 collective bargaining agreement, either party may request of the
37 commission the assistance of an impartial third party to mediate the
38 negotiations.

1 If a collective bargaining agreement previously negotiated under
2 this chapter should expire while negotiations are underway, the terms
3 and conditions specified in the collective bargaining agreement shall
4 remain in effect for a period not to exceed one year from the
5 expiration date stated in the agreement. Thereafter, the employer may
6 unilaterally implement according to law.

7 If resolution is not reached through mediation by one hundred
8 days beyond the expiration date of a contract previously negotiated
9 under this chapter, or one hundred days from the initiation of
10 mediated negotiations if no such contract exists, an independent fact
11 finder shall be appointed by the commission.

12 The fact finder shall meet with the parties or their
13 representatives, or both, and make inquiries and investigations, hold
14 hearings, and take such other steps as may be appropriate. If the
15 dispute is not settled, the fact finder shall make findings of fact
16 and recommend terms of settlement within thirty days.

17 Such recommendations, together with the findings of fact, shall
18 be submitted in writing to the parties and the commission privately
19 before they are made public. The commission, the fact finder, the
20 employer, or the exclusive bargaining representative may make such
21 findings and recommendations public if the dispute is not settled
22 within ten working days after their receipt from the fact finder.

23 Nothing in this section shall be construed to prohibit an
24 employer and an exclusive bargaining representative from agreeing to
25 substitute, at their own expense, their own procedure for resolving
26 impasses in collective bargaining for that provided in this section
27 or from agreeing to utilize for the purposes of this section any
28 other governmental or other agency or person in lieu of the
29 commission. However, the employer may not enter into an agreement
30 under this chapter that permits the use of interest arbitration as a
31 means of resolving issues arising in collective bargaining. Any such
32 provision in an agreement with an exclusive bargaining representative
33 is void and unenforceable.

34 Costs for mediator services shall be borne by the commission, and
35 costs for fact-finding shall be borne equally by the negotiating
36 parties.

37 NEW SECTION. **Sec. 17.** A new section is added to chapter 41.56
38 RCW to read as follows:

1 (1) In addition to the entities listed in RCW 41.56.020, this
2 chapter applies to the state with respect to employees covered by
3 chapter 41.06 RCW working for the department of corrections, except
4 confidential employees as defined in RCW 41.80.005, members of the
5 Washington management service, and internal auditors.

6 (2) This chapter governs the collective bargaining relationship
7 between the state and employees working for the department of
8 corrections, as described in subsection (1) of this section, except
9 as follows:

10 (a) The state shall be represented by the governor or the
11 governor's designee who is appointed under chapter 41.80 RCW.

12 (b) A bargaining unit of employees within the department of
13 corrections existing on the effective date of this section is an
14 appropriate unit unless the unit does not meet the requirements of
15 RCW 41.56.060.

16 (c) The exclusive bargaining representative or representatives
17 certified to represent the bargaining units existing at the
18 department of corrections on the effective date of this section shall
19 continue as the exclusive bargaining representative without the
20 necessity of an election.

21 (d) If an exclusive bargaining representative represents more
22 than one bargaining unit within the department of corrections, the
23 exclusive bargaining representative shall negotiate with the governor
24 or the governor's designee one master collective bargaining agreement
25 on behalf of all the employees in bargaining units that the exclusive
26 bargaining representative represents within the department of
27 corrections.

28 (e) Notwithstanding the definition of collective bargaining in
29 RCW 41.56.030, the scope of collective bargaining between the
30 representatives of the employer and the exclusive bargaining
31 representative is the same as the scope of collective bargaining
32 described in RCW 41.80.020. The employer and the exclusive bargaining
33 representative shall not bargain over matters pertaining to
34 management rights established in RCW 41.80.040.

35 (f) The governor or the governor's designee and one coalition of
36 all the exclusive bargaining representatives subject to this section
37 and chapter 41.80 RCW shall conduct negotiations regarding the number
38 of names to be certified for vacancies, promotional preferences, and
39 the dollar amount expended on behalf of each employee for health care
40 benefits as described in RCW 41.80.020.

1 (3) The governor or the governor's designee shall periodically
2 consult with the joint committee on employment relations created in
3 RCW 41.80.010(5) regarding appropriations necessary to implement the
4 compensation and fringe benefit provisions in a collective bargaining
5 agreement and, upon completion of negotiations, advise the committee
6 on the elements of the agreement and on any legislation necessary to
7 implement the agreement.

8 (4) The governor shall submit a request for funds necessary to
9 implement the compensation and fringe benefit provisions in the
10 collective bargaining agreement or interest arbitration award, or for
11 legislation necessary to implement the agreement or award. Requests
12 for funds necessary to implement the compensation and fringe benefit
13 provisions of bargaining agreements or interest arbitration awards
14 shall not be submitted to the legislature by the governor unless such
15 requests:

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

19 (b) Have been certified by the director of financial management
20 as being feasible financially for the state.

21 (5) The legislature shall approve or reject the submission of the
22 request for funds as a whole. The legislature shall not consider a
23 request for funds to implement a collective bargaining agreement or
24 interest arbitration award unless the request is transmitted to the
25 legislature as part of the governor's budget document submitted under
26 RCW 43.88.030 and 43.88.060. If the legislature rejects or fails to
27 act on the submission, the agreement or award may be reopened for the
28 sole purpose of renegotiating the funds necessary to implement the
29 agreement.

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

36 (7) After the expiration date of a collective bargaining
37 agreement negotiated under this chapter, all of the terms and
38 conditions specified in the collective bargaining agreement remain in
39 effect until the effective date of a subsequently negotiated
40 agreement, not to exceed one year from the expiration date stated in

1 the agreement. Thereafter, the employer may unilaterally implement
2 according to law.

3 (8) For any collective bargaining agreement for the 2023-2025
4 fiscal biennium and thereafter, negotiations between the state and
5 employees working for the department of corrections, as described in
6 subsection (1) of this section, shall be conducted under chapter
7 41.80 RCW.

8 NEW SECTION. **Sec. 18.** A new section is added to chapter 41.56
9 RCW to read as follows:

10 In addition to the classes of employees listed in RCW
11 41.56.030(13), the provisions of RCW 41.56.430 through 41.56.452 and
12 41.56.470, 41.56.480, and 41.56.490 also apply to the employees of
13 the state working for the department of corrections as described in
14 section 17(1) of this act until July 1, 2023, subject to the
15 following:

16 (1) Within ten working days after the first Monday in September
17 of every odd-numbered year, the governor or the governor's designee
18 and the bargaining representative for the appropriate bargaining unit
19 shall attempt to agree on an interest arbitration panel consisting of
20 three members to be used if the parties are not successful in
21 negotiating a comprehensive collective bargaining agreement. Each
22 party shall name one person to serve as its arbitrator on the
23 arbitration panel. The two members so appointed shall meet within
24 seven days following the appointment of the later appointed member to
25 attempt to choose a third member to act as the neutral chair of the
26 arbitration panel. Upon the failure of the arbitrators to select a
27 neutral chair within seven days, the two appointed members shall use
28 one of the two following options in the appointment of the third
29 member, who shall act as chair of the panel: (a) By mutual consent,
30 the two appointed members may jointly request the commission to, and
31 the commission shall, appoint a third member within two days of such
32 a request. Costs of each party's appointee shall be borne by each
33 party respectively; other costs of the arbitration proceedings shall
34 be borne by the commission; or (b) either party may apply to the
35 commission, the federal mediation and conciliation service, or the
36 American arbitration association to provide a list of five qualified
37 arbitrators from which the neutral chair shall be chosen. Each party
38 shall pay the fees and expenses of its arbitrator, and the fees and
39 expenses of the neutral chair shall be shared equally between the

1 parties. Immediately upon selecting an interest arbitration panel,
2 the parties shall cooperate to reserve dates with the arbitration
3 panel for potential arbitration between August 1st and September 15th
4 of the following even-numbered year. The parties shall also prepare a
5 schedule of at least five negotiation dates for the following year,
6 absent an agreement to the contrary. The parties shall execute a
7 written agreement before November 1st of each odd-numbered year
8 setting forth the names of the members of the arbitration panel and
9 the dates reserved for bargaining and arbitration. This subsection
10 imposes minimum obligations only and is not intended to define or
11 limit a party's full, good faith bargaining obligation under other
12 sections of this chapter.

13 (2) The mediator or arbitration panel may consider only matters
14 that are subject to bargaining under section 17 of this act, and may
15 not consider the number of names to be certified for vacancies,
16 promotional preferences, and the dollar amount expended on behalf of
17 each employee for health care benefits.

18 (3) In making its determination, the arbitration panel shall be
19 mindful of the legislative purpose enumerated in RCW 41.56.430 and,
20 as additional standards or guidelines to aid it in reaching a
21 decision, shall take into consideration the following factors:

22 (a) The financial ability of the department of corrections to pay
23 for the compensation and benefit provisions of a collective
24 bargaining agreement;

25 (b) The constitutional and statutory authority of the employer;

26 (c) Stipulations of the parties;

27 (d) Comparison of the wages, hours, and working conditions of
28 employment of personnel involved in the proceedings with the hours
29 and conditions of employment of like personnel of like state
30 government employers of comparable population, revenues, and rates of
31 incarceration in the United States;

32 (e) The ability of the state to retain employees working for the
33 department of corrections;

34 (f) The overall compensation presently received by employees of
35 the department of corrections, including direct wage compensation,
36 vacations, holidays and other paid excused time, pensions, insurance
37 benefits, and all other direct or indirect monetary benefits
38 received;

39 (g) Changes in any of the factors listed in this subsection
40 during the pendency of the proceedings; and

1 (h) Such other factors, not confined to those listed in this
2 subsection, which are normally or traditionally taken into
3 consideration in the determination of matters that are subject to
4 bargaining under section 17 of this act and mediation or arbitration
5 under this section.

6 (4) The decision of an arbitration panel is not binding on the
7 legislature and, if the legislature does not approve the funds
8 necessary to implement the compensation and fringe benefit provisions
9 of the arbitrated collective bargaining agreement, is not binding on
10 the state or the department of corrections.

11 (5) Subsections (1) through (4) of this section apply to
12 collective bargaining agreements through the 2021-2023 fiscal
13 biennium. For any collective bargaining agreement for the 2023-2025
14 fiscal biennium and thereafter, any impasse or disputes between the
15 state and employees working for the department of corrections, as
16 described in section 17(1) of this act, shall be resolved under the
17 procedures contained in chapter 41.80 RCW.

18 **Sec. 19.** RCW 41.80.020 and 2011 1st sp.s. c 50 s 939 and 2011
19 1st sp.s. c 43 s 445 are each reenacted and amended to read as
20 follows:

21 (1) Except as otherwise provided in this chapter, the matters
22 subject to bargaining include wages, hours, and other terms and
23 conditions of employment, and the negotiation of any question arising
24 under a collective bargaining agreement.

25 (2) The employer is not required to bargain over matters
26 pertaining to:

27 (a) Health care benefits or other employee insurance benefits,
28 except as required in subsection (3) of this section;

29 (b) Any retirement system or retirement benefit; or

30 (c) Rules of the human resources director, the director of
31 enterprise services, or the Washington personnel resources board
32 adopted under RCW 41.06.157.

33 (3) Matters subject to bargaining include the number of names to
34 be certified for vacancies, promotional preferences, and the dollar
35 amount expended on behalf of each employee for health care benefits.
36 However, except as provided otherwise in this subsection for
37 institutions of higher education, negotiations regarding the number
38 of names to be certified for vacancies, promotional preferences, and
39 the dollar amount expended on behalf of each employee for health care

1 benefits shall be conducted between the employer and one coalition of
2 all the exclusive bargaining representatives subject to this chapter
3 and all the exclusive bargaining representatives subject to section
4 17 of this act. The exclusive bargaining representatives for
5 employees that are subject to chapter 47.64 RCW shall bargain the
6 dollar amount expended on behalf of each employee for health care
7 benefits with the employer as part of the coalition under this
8 subsection. Any such provision agreed to by the employer and the
9 coalition shall be included in all master collective bargaining
10 agreements negotiated by the parties. For institutions of higher
11 education, promotional preferences and the number of names to be
12 certified for vacancies shall be bargained under the provisions of
13 RCW 41.80.010(4). For agreements covering the 2011-2013 fiscal
14 biennium, any agreement between the employer and the coalition
15 regarding the dollar amount expended on behalf of each employee for
16 health care benefits is a separate agreement and shall not be
17 included in the master collective bargaining agreements negotiated by
18 the parties.

19 (4) The employer and the exclusive bargaining representative
20 shall not agree to any proposal that would prevent the implementation
21 of approved affirmative action plans or that would be inconsistent
22 with the comparable worth agreement that provided the basis for the
23 salary changes implemented beginning with the 1983-1985 biennium to
24 achieve comparable worth.

25 (5) The employer and the exclusive bargaining representative
26 shall not bargain over matters pertaining to management rights
27 established in RCW 41.80.040.

28 (6) Except as otherwise provided in this chapter, if a conflict
29 exists between an executive order, administrative rule, or agency
30 policy relating to wages, hours, and terms and conditions of
31 employment and a collective bargaining agreement negotiated under
32 this chapter, the collective bargaining agreement shall prevail. A
33 provision of a collective bargaining agreement that conflicts with
34 the terms of a statute is invalid and unenforceable.

35 (7) This section does not prohibit bargaining that affects
36 contracts authorized by RCW 41.06.142.

37 NEW SECTION. **Sec. 20.** A new section is added to chapter 41.56
38 RCW to read as follows:

1 (1) Collective bargaining negotiations between the state and
2 bargaining units of employees working for the department of
3 corrections under this chapter shall commence no later than July 1,
4 2016. A collective bargaining agreement between the state and any
5 bargaining unit of employees working for the department of
6 corrections entered into under this chapter shall not be effective
7 prior to July 1, 2017.

8 (2) Any collective bargaining agreement between the state and any
9 bargaining unit of employees working for the department of
10 corrections entered into under chapter 41.80 RCW before July 1, 2016,
11 that expires after July 1, 2016, shall, unless a superseding
12 agreement complying with this chapter is negotiated by the parties,
13 remain in full force during its duration, but the agreement may not
14 be renewed or extended beyond July 1, 2017. If an agreement under
15 this chapter cannot be reached by July 1, 2017, the terms and
16 conditions of any collective bargaining agreement negotiated under
17 chapter 41.80 RCW shall remain in effect until the effective date of
18 an agreement under this chapter, not to exceed one year from the
19 expiration date stated in the agreement. Thereafter, the employer may
20 unilaterally implement according to law.

21 (3) The duration of any collective bargaining agreement between
22 the state and bargaining units of employees working for the
23 department of corrections under this chapter shall not exceed one
24 fiscal biennium.

25 NEW SECTION. **Sec. 21.** A new section is added to chapter 41.56
26 RCW to read as follows:

27 (1) The joint legislative audit and review committee shall review
28 and study the effect of section 17 of this act, which provides
29 binding interest arbitration to classified staff at the department of
30 corrections. The study must consider the impact interest arbitration
31 has had on:

- 32 (a) Recruitment, hiring, and retention of classified staff;
- 33 (b) Staffing levels;
- 34 (c) Training;
- 35 (d) Total compensation rates;
- 36 (e) Employee safety and injury rates;
- 37 (f) The number and subjects brought to interest arbitration; and
- 38 (g) Costs and saving to the state.

1 (2) The review committee also shall study the interest
2 arbitration process and make recommendations concerning its continued
3 use in connection with contracts disputes with the exclusive
4 bargaining representatives of the department of corrections
5 workforce. The office of financial management must collect and
6 provide data to the committee as directed. The report is due no later
7 than January 1, 2021.

8 **PART III - RETIREMENT BENEFIT**

9 **Sec. 22.** RCW 41.40.023 and 2010 c 80 s 1 are each amended to
10 read as follows:

11 Membership in the retirement system shall consist of all
12 regularly compensated employees and appointive and elective officials
13 of employers, as defined in this chapter, with the following
14 exceptions:

15 (1) Persons in ineligible positions;

16 (2) Employees of the legislature except the officers thereof
17 elected by the members of the senate and the house and legislative
18 committees, unless membership of such employees be authorized by the
19 said committee;

20 (3)(a) Persons holding elective offices or persons appointed
21 directly by the governor: PROVIDED, That such persons shall have the
22 option of applying for membership during such periods of employment:
23 AND PROVIDED FURTHER, That any persons holding or who have held
24 elective offices or persons appointed by the governor who are members
25 in the retirement system and who have, prior to becoming such
26 members, previously held an elective office, and did not at the start
27 of such initial or successive terms of office exercise their option
28 to become members, may apply for membership to be effective during
29 such term or terms of office, and shall be allowed to establish the
30 service credit applicable to such term or terms of office upon
31 payment of the employee contributions therefor by the employee with
32 interest as determined by the director and employer contributions
33 therefor by the employer or employee with interest as determined by
34 the director: AND PROVIDED FURTHER, That all contributions with
35 interest submitted by the employee under this subsection shall be
36 placed in the employee's individual account in the employee's savings
37 fund and be treated as any other contribution made by the employee,
38 with the exception that any contributions submitted by the employee

1 in payment of the employer's obligation, together with the interest
2 the director may apply to the employer's contribution, shall not be
3 considered part of the member's annuity for any purpose except
4 withdrawal of contributions;

5 (b) A member holding elective office who has elected to apply for
6 membership pursuant to (a) of this subsection and who later wishes to
7 be eligible for a retirement allowance shall have the option of
8 ending his or her membership in the retirement system. A member
9 wishing to end his or her membership under this subsection must file,
10 on a form supplied by the department, a statement indicating that the
11 member agrees to irrevocably abandon any claim for service for future
12 periods served as an elected official. A member who receives more
13 than fifteen thousand dollars per year in compensation for his or her
14 elective service, adjusted annually for inflation by the director, is
15 not eligible for the option provided by this subsection (3)(b);

16 (4) Employees holding membership in, or receiving pension
17 benefits under, any retirement plan operated wholly or in part by an
18 agency of the state or political subdivision thereof, or who are by
19 reason of their current employment contributing to or otherwise
20 establishing the right to receive benefits from any such retirement
21 plan except as follows:

22 (a) In any case where the retirement system has in existence an
23 agreement with another retirement system in connection with exchange
24 of service credit or an agreement whereby members can retain service
25 credit in more than one system, such an employee shall be allowed
26 membership rights should the agreement so provide;

27 (b) An employee shall be allowed membership if otherwise eligible
28 while receiving survivor's benefits;

29 (c) An employee shall not either before or after June 7, 1984, be
30 excluded from membership or denied service credit pursuant to this
31 subsection solely on account of: (i) Membership in the plan created
32 under chapter 2.14 RCW; or (ii) enrollment under the relief and
33 compensation provisions or the pension provisions of the volunteer
34 firefighters' relief and pension fund under chapter 41.24 RCW;

35 (d) Except as provided in RCW 41.40.109, on or after July 25,
36 1999, an employee shall not be excluded from membership or denied
37 service credit pursuant to this subsection solely on account of
38 participation in a defined contribution pension plan qualified under
39 section 401 of the internal revenue code;

1 (e) Employees who have been reported in the retirement system
2 prior to July 25, 1999, and who participated during the same period
3 of time in a defined contribution pension plan qualified under
4 section 401 of the internal revenue code and operated wholly or in
5 part by the employer, shall not be excluded from previous retirement
6 system membership and service credit on account of such
7 participation;

8 (5) Patient and inmate help in state charitable, penal, and
9 correctional institutions;

10 (6) "Members" of a state veterans' home or state soldiers' home;

11 (7) Persons employed by an institution of higher learning or
12 community college, primarily as an incident to and in furtherance of
13 their education or training, or the education or training of a
14 spouse;

15 (8) Employees of an institution of higher learning or community
16 college during the period of service necessary to establish
17 eligibility for membership in the retirement plans operated by such
18 institutions;

19 (9) Persons rendering professional services to an employer on a
20 fee, retainer, or contract basis or when the income from these
21 services is less than fifty percent of the gross income received from
22 the person's practice of a profession;

23 (10) Persons appointed after April 1, 1963, by the liquor control
24 board as contract liquor store managers;

25 (11) Employees of a labor guild, association, or organization:
26 PROVIDED, That elective officials and employees of a labor guild,
27 association, or organization which qualifies as an employer within
28 this chapter shall have the option of applying for membership;

29 (12) Retirement system retirees: PROVIDED, That following
30 reemployment in an eligible position, a retiree may elect to
31 prospectively become a member of the retirement system if otherwise
32 eligible;

33 (13) Persons employed by or appointed or elected as an official
34 of a first class city that has its own retirement system: PROVIDED,
35 That any member elected or appointed to an elective office on or
36 after April 1, 1971, shall have the option of continuing as a member
37 of this system in lieu of becoming a member of the city system. A
38 member who elects to continue as a member of this system shall pay
39 the appropriate member contributions and the city shall pay the
40 employer contributions at the rates prescribed by this chapter. The

1 city shall also transfer to this system all of such member's
2 accumulated contributions together with such further amounts as
3 necessary to equal all employee and employer contributions which
4 would have been paid into this system on account of such service with
5 the city and thereupon the member shall be granted credit for all
6 such service. Any city that becomes an employer as defined in RCW
7 41.40.010(13) as the result of an individual's election under this
8 subsection shall not be required to have all employees covered for
9 retirement under the provisions of this chapter. Nothing in this
10 subsection shall prohibit a city of the first class with its own
11 retirement system from: (a) Transferring all of its current employees
12 to the retirement system established under this chapter, or (b)
13 allowing newly hired employees the option of continuing coverage
14 under the retirement system established by this chapter.

15 Notwithstanding any other provision of this chapter, persons
16 transferring from employment with a first class city of over four
17 hundred thousand population that has its own retirement system to
18 employment with the state department of agriculture may elect to
19 remain within the retirement system of such city and the state shall
20 pay the employer contributions for such persons at like rates as
21 prescribed for employers of other members of such system;

22 (14) Employees who (a) are not citizens of the United States, (b)
23 do not reside in the United States, and (c) perform duties outside of
24 the United States;

25 (15) Employees who (a) are not citizens of the United States, (b)
26 are not covered by chapter 41.48 RCW, (c) are not excluded from
27 membership under this chapter or chapter 41.04 RCW, (d) are residents
28 of this state, and (e) make an irrevocable election to be excluded
29 from membership, in writing, which is submitted to the director
30 within thirty days after employment in an eligible position;

31 (16) Employees who are citizens of the United States and who
32 reside and perform duties for an employer outside of the United
33 States: PROVIDED, That unless otherwise excluded under this chapter
34 or chapter 41.04 RCW, the employee may apply for membership (a)
35 within thirty days after employment in an eligible position and
36 membership service credit shall be granted from the first day of
37 membership service, and (b) after this thirty-day period, but
38 membership service credit shall be granted only if payment is made
39 for the noncredited membership service under RCW 41.50.165(2),
40 otherwise service shall be from the date of application;

1 (17) The city manager or chief administrative officer of a city
2 or town, other than a retiree, who serves at the pleasure of an
3 appointing authority: PROVIDED, That such persons shall have the
4 option of applying for membership within thirty days from date of
5 their appointment to such positions. Persons serving in such
6 positions as of April 4, 1986, shall continue to be members in the
7 retirement system unless they notify the director in writing prior to
8 December 31, 1986, of their desire to withdraw from membership in the
9 retirement system. A member who withdraws from membership in the
10 system under this section shall receive a refund of the member's
11 accumulated contributions.

12 Persons serving in such positions who have not opted for
13 membership within the specified thirty days, may do so by paying the
14 amount required under RCW 41.50.165(2) for the period from the date
15 of their appointment to the date of acceptance into membership;

16 (18) Persons serving as: (a) The chief administrative officer of
17 a public utility district as defined in RCW 54.16.100; (b) the chief
18 administrative officer of a port district formed under chapter 53.04
19 RCW; or (c) the chief administrative officer of a county who serves
20 at the pleasure of an appointing authority: PROVIDED, That such
21 persons shall have the option of applying for membership within
22 thirty days from the date of their appointment to such positions.
23 Persons serving in such positions as of July 25, 1999, shall continue
24 to be members in the retirement system unless they notify the
25 director in writing prior to December 31, 1999, of their desire to
26 withdraw from membership in the retirement system. A member who
27 withdraws from membership in the system under this section shall
28 receive a refund of the member's accumulated contributions upon
29 termination of employment or as otherwise consistent with the plan's
30 tax qualification status as defined in internal revenue code section
31 401.

32 Persons serving in such positions who have not opted for
33 membership within the specified thirty days, may do so at a later
34 date by paying the amount required under RCW 41.50.165(2) for the
35 period from the date of their appointment to the date of acceptance
36 into membership;

37 (19) Persons enrolled in state-approved apprenticeship programs,
38 authorized under chapter 49.04 RCW, and who are employed by local
39 governments to earn hours to complete such apprenticeship programs,
40 if the employee is a member of a union-sponsored retirement plan and

1 is making contributions to such a retirement plan or if the employee
2 is a member of a Taft-Hartley retirement plan;

3 (20) Beginning on July 22, 2001, persons employed exclusively as
4 trainers or trainees in resident apprentice training programs
5 operated by housing authorities authorized under chapter 35.82 RCW,
6 (a) if the trainer or trainee is a member of a union-sponsored
7 retirement plan and is making contributions to such a retirement plan
8 or (b) if the employee is a member of a Taft-Hartley retirement plan;

9 (21) Employees who are removed from membership under RCW
10 41.40.823 or 41.40.633; (~~and~~)

11 (22) Persons employed as the state director of fire protection
12 under RCW 43.43.938 who were previously members of the law
13 enforcement officers' and firefighters' retirement system plan 2
14 under chapter 41.26 RCW may continue as a member of the law
15 enforcement officers' and firefighters' retirement system in lieu of
16 becoming a member of this system; and

17 (23) Persons employed as individual providers under chapter
18 74.39A RCW and any other persons who are public employees solely for
19 the purposes of collective bargaining are not eligible for coverage
20 in the retirement plans provided pursuant to this chapter.

21 **Sec. 23.** RCW 74.39A.270 and 2011 1st sp.s. c 21 s 10 are each
22 amended to read as follows:

23 (1) Solely for the purposes of collective bargaining and as
24 expressly limited under subsections (2) and (3) of this section, the
25 governor is the public employer, as defined in chapter 41.56 RCW, of
26 individual providers, who, solely for the purposes of collective
27 bargaining, are public employees as defined in chapter 41.56 RCW. To
28 accommodate the role of the state as payor for the community-based
29 services provided under this chapter and to ensure coordination with
30 state employee collective bargaining under chapter 41.80 RCW and the
31 coordination necessary to implement RCW 74.39A.300, the public
32 employer shall be represented for bargaining purposes by the governor
33 or the governor's designee appointed under chapter 41.80 RCW. The
34 governor or governor's designee shall periodically consult with the
35 authority during the collective bargaining process to allow the
36 authority to communicate issues relating to the long-term in-home
37 care services received by consumers. The department shall solicit
38 input from the developmental disabilities council, the governor's
39 committee on disability issues and employment, the state council on

1 aging, and other consumer advocacy organizations to obtain informed
2 input from consumers on their interests, including impacts on
3 consumer choice, for all issues proposed for collective bargaining
4 under subsections (5) and (6) of this section.

5 (2) Chapter 41.56 RCW governs the collective bargaining
6 relationship between the governor and individual providers, except as
7 otherwise expressly provided in this chapter and except as follows:

8 (a) The only unit appropriate for the purpose of collective
9 bargaining under RCW 41.56.060 is a statewide unit of all individual
10 providers;

11 (b) The showing of interest required to request an election under
12 RCW 41.56.060 is ten percent of the unit, and any intervener seeking
13 to appear on the ballot must make the same showing of interest;

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

16 (i) With respect to commencement of negotiations between the
17 governor and the bargaining representative of individual providers,
18 negotiations shall be commenced by May 1st of any year prior to the
19 year in which an existing collective bargaining agreement expires;
20 and

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

26 (d) Individual providers do not have the right to strike; and

27 (e) Individual providers who are related to, or family members
28 of, consumers or prospective consumers are not, for that reason,
29 exempt from this chapter or chapter 41.56 RCW.

30 (3) Individual providers who are public employees solely for the
31 purposes of collective bargaining under subsection (1) of this
32 section are not, for that reason, employees of the state, its
33 political subdivisions, or an area agency on aging for any purpose.
34 Chapter 41.56 RCW applies only to the governance of the collective
35 bargaining relationship between the employer and individual providers
36 as provided in subsections (1) and (2) of this section.

37 (4) Consumers and prospective consumers retain the right to
38 select, hire, supervise the work of, and terminate any individual
39 provider providing services to them. Consumers may elect to receive

1 long-term in-home care services from individual providers who are not
2 referred to them by the authority.

3 (5) Except as expressly limited in this section and RCW
4 74.39A.300, the wages, hours, and working conditions of individual
5 providers are determined solely through collective bargaining as
6 provided in this chapter. No agency or department of the state may
7 establish policies or rules governing the wages or hours of
8 individual providers. However, this subsection does not modify:

9 (a) The department's authority to establish a plan of care for
10 each consumer or its core responsibility to manage long-term in-home
11 care services under this chapter, including determination of the
12 level of care that each consumer is eligible to receive. However, at
13 the request of the exclusive bargaining representative, the governor
14 or the governor's designee appointed under chapter 41.80 RCW shall
15 engage in collective bargaining, as defined in RCW 41.56.030(4), with
16 the exclusive bargaining representative over how the department's
17 core responsibility affects hours of work for individual providers.
18 This subsection shall not be interpreted to require collective
19 bargaining over an individual consumer's plan of care;

20 (b) The department's authority to terminate its contracts with
21 individual providers who are not adequately meeting the needs of a
22 particular consumer, or to deny a contract under RCW 74.39A.095(8);

23 (c) The consumer's right to assign hours to one or more
24 individual providers selected by the consumer within the maximum
25 hours determined by his or her plan of care;

26 (d) The consumer's right to select, hire, terminate, supervise
27 the work of, and determine the conditions of employment for each
28 individual provider providing services to the consumer under this
29 chapter;

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

35 (f) The legislature's right to make programmatic modifications to
36 the delivery of state services under this title, including standards
37 of eligibility of consumers and individual providers participating in
38 the programs under this title, and the nature of services provided.
39 The governor shall not enter into, extend, or renew any agreement

1 under this chapter that does not expressly reserve the legislative
2 rights described in this subsection (5)(f).

3 (6) At the request of the exclusive bargaining representative,
4 the governor or the governor's designee appointed under chapter 41.80
5 RCW shall engage in collective bargaining, as defined in RCW
6 41.56.030(4), with the exclusive bargaining representative over
7 employer contributions to the training partnership for the costs of:
8 (a) Meeting all training and peer mentoring required under this
9 chapter; and (b) other training intended to promote the career
10 development of individual providers.

11 (7) The state, the department, the area agencies on aging, or
12 their contractors under this chapter may not be held vicariously or
13 jointly liable for the action or inaction of any individual provider
14 or prospective individual provider, whether or not that individual
15 provider or prospective individual provider was included on the
16 referral registry or referred to a consumer or prospective consumer.
17 The existence of a collective bargaining agreement, the placement of
18 an individual provider on the referral registry, or the development
19 or approval of a plan of care for a consumer who chooses to use the
20 services of an individual provider and the provision of case
21 management services to that consumer, by the department or an area
22 agency on aging, does not constitute a special relationship with the
23 consumer.

24 (8) Nothing in this section affects the state's responsibility
25 with respect to unemployment insurance for individual providers.
26 However, individual providers are not to be considered, as a result
27 of the state assuming this responsibility, employees of the state.

28 (9) Collective bargaining agreements, including agreements
29 reached by interest arbitration, may not include a provision for any
30 type of defined benefit retirement plan or require the state to
31 contribute to a defined contribution retirement plan at a level that
32 exceeds three percent of individual provider wages.

33 PART IV - FINANCIAL FEASIBILITY

34 **Sec. 24.** RCW 41.80.005 and 2011 1st sp.s. c 43 s 444 are each
35 amended to read as follows:

36 Unless the context clearly requires otherwise, the definitions in
37 this section apply throughout this chapter.

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

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

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

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

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

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

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

30 (b) Confidential employees;

31 (c) Members of the Washington management service;

32 (d) Internal auditors in any agency; or

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

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

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

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

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

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

10 (i) The sum of the general fund and related funds cost of the
11 requests for funds for all bargaining agreements negotiated or
12 awarded under the authority of this chapter, section 17 of this act,
13 RCW 41.56.026, 41.56.028, 41.56.029, 41.56.510, and 74.39A.270 does
14 not exceed the most current estimate of state financial resources for
15 the term of the agreement and for the ensuing biennium; or

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

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

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

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

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

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

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

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

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

15 **Sec. 25.** RCW 41.80.010 and 2013 2nd sp.s. c 4 s 971 are each
16 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (9) If the director of the office of financial management does
36 not certify a request for funds as being feasible financially for the
37 state, the parties shall immediately enter into collective bargaining
38 solely for the purpose of reaching a mutually agreed upon
39 modification of the agreement. The legislature may act upon the
40 compensation and fringe benefits provisions of the modified

1 collective bargaining agreement if those provisions are agreed upon,
2 have been certified by the director of the office of financial
3 management as being feasible financially for the state, and submitted
4 to legislative fiscal committees before final legislative action on
5 the biennial or supplemental operating budget by the sitting
6 legislature.

7 **Sec. 26.** RCW 41.56.028 and 2007 c 278 s 2 are each amended to
8 read as follows:

9 (1) In addition to the entities listed in RCW 41.56.020, this
10 chapter applies to the governor with respect to family child care
11 providers. Solely for the purposes of collective bargaining and as
12 expressly limited under subsections (2) and (3) of this section, the
13 governor is the public employer of family child care providers who,
14 solely for the purposes of collective bargaining, are public
15 employees. The public employer shall be represented for bargaining
16 purposes by the governor or the governor's designee appointed under
17 chapter 41.80 RCW.

18 (2) This chapter governs the collective bargaining relationship
19 between the governor and family child care providers, except as
20 follows:

21 (a) A statewide unit of all family child care providers is the
22 only unit appropriate for purposes of collective bargaining under RCW
23 41.56.060.

24 (b) The exclusive bargaining representative of family child care
25 providers in the unit specified in (a) of this subsection shall be
26 the representative chosen in an election conducted pursuant to RCW
27 41.56.070, except that in the initial election conducted under
28 chapter 54, Laws of 2006, if more than one labor organization is on
29 the ballot and none of the choices receives a majority of the votes
30 cast, a run-off election shall be held.

31 (c) Notwithstanding the definition of "collective bargaining" in
32 RCW 41.56.030(4), the scope of collective bargaining for child care
33 providers under this section shall be limited solely to: (i) Economic
34 compensation, such as manner and rate of subsidy and reimbursement,
35 including tiered reimbursements; (ii) health and welfare benefits;
36 (iii) professional development and training; (iv) labor-management
37 committees; (v) grievance procedures; and (vi) other economic
38 matters. Retirement benefits shall not be subject to collective
39 bargaining. By such obligation neither party shall be compelled to

1 agree to a proposal or be required to make a concession unless
2 otherwise provided in this chapter.

3 (d) The mediation and interest arbitration provisions of RCW
4 41.56.430 through 41.56.470 and 41.56.480 apply, except that:

5 (i) With respect to commencement of negotiations between the
6 governor and the exclusive bargaining representative of family child
7 care providers, negotiations shall be commenced initially upon
8 certification of an exclusive bargaining representative under (a) of
9 this subsection and, thereafter, by February 1st of any even-numbered
10 year; and

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

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

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

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

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

28 (b) The secretary of the department of social and health
29 services' right to adopt requirements under RCW 74.15.030, except for
30 requirements related to grievance procedures and collective
31 negotiations on personnel matters as specified in subsection (2)(c)
32 of this section;

33 (c) Chapter 26.44 RCW, RCW 43.43.832, 43.20A.205, and 74.15.130;
34 and

35 (d) The legislature's right to make programmatic modifications to
36 the delivery of state services through child care subsidy programs,
37 including standards of eligibility of parents, legal guardians, and
38 family child care providers participating in child care subsidy
39 programs, and the nature of services provided. The governor shall not
40 enter into, extend, or renew any agreement under this section that

1 does not expressly reserve the legislative rights described in this
2 subsection (4)(d).

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

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

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

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

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

26 (8) The governor shall periodically consult with the joint
27 committee on employment relations established by RCW 41.80.010
28 regarding appropriations necessary to implement the compensation and
29 benefit provisions of any collective bargaining agreement and, upon
30 completion of negotiations, advise the committee on the elements of
31 the agreement and on any legislation necessary to implement such
32 agreement.

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

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

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

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

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

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

25 **Sec. 27.** RCW 41.56.029 and 2007 c 184 s 1 are each amended to
26 read 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 adult family home
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 adult family home providers who,
32 solely for the purposes of collective bargaining, are public
33 employees. The public employer shall be represented for bargaining
34 purposes by the governor or the governor's designee.

35 (2) There shall be collective bargaining, as defined in RCW
36 41.56.030, between the governor and adult family home providers,
37 except as follows:

1 (a) A statewide unit of all adult family home providers is the
2 only unit appropriate for purposes of collective bargaining under RCW
3 41.56.060.

4 (b) The exclusive bargaining representative of adult family home
5 providers in the unit specified in (a) of this subsection shall be
6 the representative chosen in an election conducted pursuant to RCW
7 41.56.070.

8 Bargaining authorization cards furnished as the showing of
9 interest in support of any representation petition or motion for
10 intervention filed under this section shall be exempt from disclosure
11 under chapter 42.56 RCW.

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

23 (d) In addition to the entities listed in the mediation and
24 interest arbitration provisions of RCW 41.56.430 through 41.56.470
25 and 41.56.480, the provisions apply to the governor or the governor's
26 designee and the exclusive bargaining representative of adult family
27 home providers, except that:

28 (i) In addition to the factors to be taken into consideration by
29 an interest arbitration panel under RCW 41.56.465, the panel shall
30 consider the financial ability of the state to pay for the
31 compensation and benefit provisions of a collective bargaining
32 agreement.

33 (ii) The decision of the arbitration panel is not binding on the
34 legislature and, if the legislature does not approve the request for
35 funds necessary to implement the compensation and benefit provisions
36 of the arbitrated collective bargaining agreement, the decision is
37 not binding on the state.

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

39 (3) Adult family home providers who are public employees solely
40 for the purposes of collective bargaining under subsection (1) of

1 this section are not, for that reason, employees of the state for any
2 other purpose. This section applies only to the governance of the
3 collective bargaining relationship between the employer and adult
4 family home providers as provided in subsections (1) and (2) of this
5 section.

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

7 (a) The department's authority to establish a plan of care for
8 each consumer or its core responsibility to manage long-term care
9 services under chapter 70.128 RCW, including determination of the
10 level of care that each consumer is eligible to receive. However, at
11 the request of the exclusive bargaining representative, the governor
12 or the governor's designee appointed under chapter 41.80 RCW shall
13 engage in collective bargaining, as defined in RCW 41.56.030(4), with
14 the exclusive bargaining representative over how the department's
15 core responsibility affects hours of work for adult family home
16 providers. This subsection shall not be interpreted to require
17 collective bargaining over an individual consumer's plan of care;

18 (b) The department's obligation to comply with the federal
19 medicaid statute and regulations and the terms of any community-based
20 waiver granted by the federal department of health and human services
21 and to ensure federal financial participation in the provision of the
22 services;

23 (c) The legislature's right to make programmatic modifications to
24 the delivery of state services under chapter 70.128 RCW, including
25 standards of eligibility of consumers and adult family home providers
26 participating in the programs under chapter 70.128 RCW, and the
27 nature of services provided. The governor shall not enter into,
28 extend, or renew any agreement under this chapter that does not
29 expressly reserve the legislative rights described in this subsection
30 (4)(c);

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

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

35 (5) Upon meeting the requirements of subsection (6) of this
36 section, the governor must submit, as a part of the proposed biennial
37 or supplemental operating budget submitted to the legislature under
38 RCW 43.88.030, a request for funds necessary to implement the
39 compensation and benefit provisions of a collective bargaining

1 agreement entered into under this section or for legislation
2 necessary to implement the agreement.

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

7 (a) Submitted to the director of financial management by October
8 1st prior to the legislative session at which the requests are to be
9 considered; and

10 (b) Certified by the director of financial management as
11 financially feasible for the state or reflective of a binding
12 decision of an arbitration panel reached under subsection (2)(d) of
13 this section.

14 (7) The legislature must approve or reject the submission of the
15 request for funds as a whole. If the legislature rejects or fails to
16 act on the submission, any collective bargaining agreement must be
17 reopened for the sole purpose of renegotiating the funds necessary to
18 implement the agreement.

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

25 (9) After the expiration date of any collective bargaining
26 agreement entered into under this section, all of the terms and
27 conditions specified in the agreement remain in effect until the
28 effective date of a subsequent agreement, not to exceed one year from
29 the expiration date stated in the agreement.

30 (10) In enacting this section, the legislature intends to provide
31 state action immunity under federal and state antitrust laws for the
32 joint activities of adult family home providers and their exclusive
33 bargaining representative to the extent the activities are authorized
34 by this chapter.

35 (11) If the director of the office of financial management does
36 not certify a request for funds as being feasible financially for the
37 state, the parties shall immediately enter into collective bargaining
38 solely for the purpose of reaching a mutually agreed upon
39 modification of the agreement. The legislature may act upon the
40 compensation and fringe benefits provisions of the modified

1 collective bargaining agreement if those provisions are agreed upon,
2 have been certified by the director of the office of financial
3 management as being feasible financially for the state, and submitted
4 to legislative fiscal committees before final legislative action on
5 the biennial or supplemental operating budget by the sitting
6 legislature.

7 (12) For purposes of this section:

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

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

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

13 (1) In addition to the entities listed in RCW 41.56.020, this
14 chapter applies to the governor with respect to language access
15 providers. Solely for the purposes of collective bargaining and as
16 expressly limited under subsections (2) and (3) of this section, the
17 governor is the public employer of language access providers who,
18 solely for the purposes of collective bargaining, are public
19 employees. The governor or the governor's designee shall represent
20 the public employer for bargaining purposes.

21 (2) There shall be collective bargaining, as defined in RCW
22 41.56.030, between the governor and language access providers, except
23 as follows:

24 (a) A statewide unit of all language access providers is the only
25 unit appropriate for purposes of collective bargaining under RCW
26 41.56.060;

27 (b) The exclusive bargaining representative of language access
28 providers in the unit specified in (a) of this subsection shall be
29 the representative chosen in an election conducted pursuant to RCW
30 41.56.070.

31 Bargaining authorization cards furnished as the showing of
32 interest in support of any representation petition or motion for
33 intervention filed under this section are exempt from disclosure
34 under chapter 42.56 RCW;

35 (c) Notwithstanding the definition of "collective bargaining" in
36 RCW 41.56.030(4), the scope of collective bargaining for language
37 access providers under this section is limited solely to: (i)
38 Economic compensation, such as the manner and rate of payments; (ii)
39 professional development and training; (iii) labor-management

1 committees; and (iv) grievance procedures. Retirement benefits are
2 not subject to collective bargaining. By such obligation neither
3 party may be compelled to agree to a proposal or be required to make
4 a concession unless otherwise provided in this chapter;

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

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

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

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

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

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

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

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

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

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

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

17 (a) Submitted to the director of financial management by October
18 1st prior to the legislative session at which the requests are to be
19 considered, except that, for initial negotiations under this section,
20 the request may not be submitted before July 1, 2011; and

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

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

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

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

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

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

18 (13) For purposes of this section:

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

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

22 **Sec. 29.** RCW 74.39A.240 and 2011 1st sp.s. c 21 s 7 are each
23 amended to read as follows:

24 The definitions in this section apply throughout RCW 74.39A.030
25 (~~and~~), 74.39A.095 (~~and~~), 74.39A.220 through 74.39A.300, and
26 41.56.026 unless the context clearly requires otherwise.

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

29 (2) "Department" means the department of social and health
30 services.

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

33 (4) "Individual provider" means a person, including a personal
34 aide, who has contracted with the department to provide personal care
35 or respite care services to functionally disabled persons under the
36 medicaid personal care, community options program entry system, chore
37 services program, or respite care program, or to provide respite care
38 or residential services and support to persons with developmental

1 disabilities under chapter 71A.12 RCW, or to provide respite care as
2 defined in RCW 74.13.270.

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

4 **Sec. 30.** RCW 74.39A.300 and 2004 c 3 s 2 are each amended to
5 read as follows:

6 (1) Upon meeting the requirements of subsection (2) of this
7 section, the governor must submit, as a part of the proposed biennial
8 or supplemental operating budget submitted to the legislature under
9 RCW 43.88.030, a request for funds necessary to administer chapter 3,
10 Laws of 2002 and to implement the compensation and fringe benefits
11 provisions of a collective bargaining agreement entered into under
12 RCW 74.39A.270 or for legislation necessary to implement such
13 agreement.

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

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

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

24 (3) The legislature must approve or reject the submission of the
25 request for funds as a whole. If the legislature rejects or fails to
26 act on the submission, any such agreement will be reopened solely for
27 the purpose of renegotiating the funds necessary to implement the
28 agreement.

29 (4) When any increase in individual provider wages or benefits is
30 negotiated or agreed to, no increase in wages or benefits negotiated
31 or agreed to under this chapter will take effect unless and until,
32 before its implementation, the department has determined that the
33 increase is consistent with federal law and federal financial
34 participation in the provision of services under Title XIX of the
35 federal social security act.

36 (5) The governor shall periodically consult with the joint
37 committee on employment relations established by RCW 41.80.010
38 regarding appropriations necessary to implement the compensation and
39 fringe benefits provisions of any collective bargaining agreement

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

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

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

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

28 **PART V - MISCELLANEOUS PROVISIONS**

29 NEW SECTION. **Sec. 31.** Sections 17 through 21 of this act expire
30 July 1, 2023.

31 NEW SECTION. **Sec. 32.** This act is necessary for the immediate
32 preservation of the public peace, health, or safety, or support of
33 the state government and its existing public institutions, and takes
34 effect immediately.

--- END ---