

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2691

Chapter 289, Laws of 2020

66th Legislature
2020 Regular Session

LANGUAGE ACCESS PROVIDERS--COLLECTIVE BARGAINING--SCOPE

EFFECTIVE DATE: June 11, 2020

Passed by the House March 9, 2020
Yeas 61 Nays 35

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate March 4, 2020
Yeas 32 Nays 15

CYRUS HABIB

President of the Senate

Approved April 2, 2020 2:36 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2691** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

April 3, 2020

**Secretary of State
State of Washington**

HOUSE BILL 2691

AS AMENDED BY THE SENATE

Passed Legislature - 2020 Regular Session

State of Washington 66th Legislature 2020 Regular Session

By Representatives Valdez, Ryu, Frame, Doglio, Dolan, Slatter, Lovick, Ortiz-Self, Fitzgibbon, Davis, Pollet, and Macri

Read first time 01/17/20. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to the scope of collective bargaining for
2 language access providers; and amending RCW 41.56.030 and 41.56.510.

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

4 **Sec. 1.** RCW 41.56.030 and 2019 c 280 s 1 are each amended to
5 read as follows:

6 As used in this chapter:

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

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

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

16 (4) "Collective bargaining" means the performance of the mutual
17 obligations of the public employer and the exclusive bargaining
18 representative to meet at reasonable times, to confer and negotiate
19 in good faith, and to execute a written agreement with respect to
20 grievance procedures and collective negotiations on personnel
21 matters, including wages, hours and working conditions, which may be

1 peculiar to an appropriate bargaining unit of such public employer,
2 except that by such obligation neither party shall be compelled to
3 agree to a proposal or be required to make a concession unless
4 otherwise provided in this chapter.

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

7 (6) "Executive director" means the executive director of the
8 commission.

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

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

20 (9) "Institution of higher education" means the University of
21 Washington, Washington State University, Central Washington
22 University, Eastern Washington University, Western Washington
23 University, The Evergreen State College, and the various state
24 community colleges.

25 (10)(a) "Language access provider" means any independent
26 contractor who provides spoken language interpreter services, whether
27 paid by a broker, language access agency, or the respective
28 department:

29 (i) For department of social and health services appointments,
30 department of children, youth, and families appointments, medicaid
31 enrollee appointments, or who provided these services on or after
32 January 1, 2011, and before June 10, 2012;

33 (ii) For department of labor and industries authorized medical
34 and vocational providers(~~(, or)~~) who provided these services on or
35 after January 1, (~~(2016, and before July 1, 2018)~~) 2019; or

36 (iii) For state agencies(~~(, or)~~) who provided these services on
37 or after January 1, (~~(2016, and before July 1, 2018)~~) 2019.

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

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

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

29 (13) "Uniformed personnel" means: (a) Law enforcement officers as
30 defined in RCW 41.26.030 employed by the governing body of any city
31 or town with a population of two thousand five hundred or more and
32 law enforcement officers employed by the governing body of any county
33 with a population of ten thousand or more; (b) correctional employees
34 who are uniformed and nonuniformed, commissioned and noncommissioned
35 security personnel employed in a jail as defined in RCW 70.48.020(9),
36 by a county with a population of seventy thousand or more, in a
37 correctional facility created under RCW 70.48.095, or in a detention
38 facility created under chapter 13.40 RCW that is located in a county
39 with a population over one million five hundred thousand, and who are
40 trained for and charged with the responsibility of controlling and

1 maintaining custody of inmates in the jail and safeguarding inmates
2 from other inmates; (c) general authority Washington peace officers
3 as defined in RCW 10.93.020 employed by a port district in a county
4 with a population of one million or more; (d) security forces
5 established under RCW 43.52.520; (e) firefighters as that term is
6 defined in RCW 41.26.030; (f) employees of a port district in a
7 county with a population of one million or more whose duties include
8 crash fire rescue or other firefighting duties; (g) employees of fire
9 departments of public employers who dispatch exclusively either fire
10 or emergency medical services, or both; (h) employees in the several
11 classes of advanced life support technicians, as defined in RCW
12 18.71.200, who are employed by a public employer; or (i) court
13 marshals of any county who are employed by, trained for, and
14 commissioned by the county sheriff and charged with the
15 responsibility of enforcing laws, protecting and maintaining security
16 in all county-owned or contracted property, and performing any other
17 duties assigned to them by the county sheriff or mandated by judicial
18 order.

19 **Sec. 2.** RCW 41.56.510 and 2018 c 253 s 8 are each amended to
20 read as follows:

21 (1) In addition to the entities listed in RCW 41.56.020, this
22 chapter applies to the governor with respect to language access
23 providers. 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 of language access providers who,
26 solely for the purposes of collective bargaining, are public
27 employees. The governor or the governor's designee shall represent
28 the public employer for bargaining purposes.

29 (2) There shall be collective bargaining, as defined in RCW
30 41.56.030, between the governor and language access providers, except
31 as follows:

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

34 (i) A statewide unit for language access providers who provide
35 spoken language interpreter services for department of social and
36 health services appointments, department of children, youth, and
37 families appointments, or medicaid enrollee appointments;

38 (ii) A statewide unit for language access providers who provide
39 spoken language interpreter services for injured workers or crime

1 victims receiving benefits from the department of labor and
2 industries; and

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

7 (b) The exclusive bargaining representative of language access
8 providers in the unit specified in (a) of this subsection shall be
9 the representative chosen in an election conducted pursuant to RCW
10 41.56.070.

11 Bargaining authorization cards furnished as the showing of
12 interest in support of any representation petition or motion for
13 intervention filed under this section are exempt from disclosure
14 under chapter 42.56 RCW;

15 (c) Notwithstanding the definition of "collective bargaining" in
16 RCW 41.56.030(4), the scope of collective bargaining for language
17 access providers under this section is limited solely to: (i)
18 Economic compensation, such as the manner and rate of
19 payments ,including tiered payments; (ii) professional development
20 and training; (iii) labor-management committees; ~~((and))~~ (iv)
21 grievance procedures; (v) health and welfare benefits; and (vii)
22 other economic matters. Retirement benefits are not subject to
23 collective bargaining. By such obligation neither party may be
24 compelled to agree to a proposal or be required to make a concession
25 unless otherwise provided in this chapter;

26 (d) In addition to the entities listed in the mediation and
27 interest arbitration provisions of RCW 41.56.430 through 41.56.470
28 and 41.56.480, the provisions apply to the governor or the governor's
29 designee and the exclusive bargaining representative of language
30 access providers, except that:

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

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

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

2 (f) If a single employee organization is the exclusive bargaining
3 representative for two or more units, upon petition by the employee
4 organization, the units may be consolidated into a single larger unit
5 if the commission considers the larger unit to be appropriate. If
6 consolidation is appropriate, the commission shall certify the
7 employee organization as the exclusive bargaining representative of
8 the new unit;

9 (g) If a single employee organization is the exclusive bargaining
10 representative for two or more bargaining units, the governor and the
11 employee organization may agree to negotiate a single collective
12 bargaining agreement for all of the bargaining units that the
13 employee organization represents.

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

21 (4) Each party with whom the department of social and health
22 services, the department of children, youth, and families, the
23 department of labor and industries, and the department of enterprise
24 services contracts for language access services and each of their
25 subcontractors shall provide to the respective department an accurate
26 list of language access providers, as defined in RCW 41.56.030,
27 including their names, addresses, and other contact information,
28 annually by January 30th, except that initially the lists must be
29 provided within thirty days of July 1, 2018. The department shall,
30 upon request, provide a list of all language access providers,
31 including their names, addresses, and other contact information, to a
32 labor union seeking to represent language access providers.

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

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

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

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

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

12 (a) Submitted to the director of financial management by October
13 1st prior to the legislative session at which the requests are to be
14 considered, except that, for initial negotiations under this section,
15 the request may not be submitted before July 1, 2011; and

16 (b) Certified by the director of financial management as
17 financially feasible for the state or reflective of a binding
18 decision of an arbitration panel reached under subsection (2)(d) of
19 this section.

20 (8) The legislature must approve or reject the submission of the
21 request for funds as a whole. If the legislature rejects or fails to
22 act on the submission, any collective bargaining agreement must be
23 reopened for the sole purpose of renegotiating the funds necessary to
24 implement the agreement.

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

31 (10) After the expiration date of any collective bargaining
32 agreement entered into under this section, all of the terms and
33 conditions specified in the agreement remain in effect until the
34 effective date of a subsequent agreement, not to exceed one year from
35 the expiration date stated in the agreement.

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

1 (12) By December 1, 2020, the department of social and health
2 services, the department of children, youth, and families, the
3 department of labor and industries, the health care authority, and
4 the department of enterprise services must report to the legislature
5 on the following:

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

9 (b) If chapter 253, Laws of 2018 has not been fully implemented
10 by an agency, the barriers to implementation the agency has
11 encountered and recommendations for removing the barriers to
12 implementation;

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

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

Passed by the House March 9, 2020.

Passed by the Senate March 4, 2020.

Approved by the Governor April 2, 2020.

Filed in Office of Secretary of State April 3, 2020.

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