
SUBSTITUTE HOUSE BILL 1329

State of Washington

61st Legislature

2009 Regular Session

By House Ways & Means (originally sponsored by Representatives Pettigrew, Conway, Kagi, Hunt, Seaquist, Sells, Priest, Kenney, Ormsby, Wood, Haigh, White, Chase, Herrera, Morrell, Lias, Green, Cody, Appleton, Hasegawa, Carlyle, Simpson, McCoy, Sullivan, Orwall, Goodman, Campbell, Hudgins, Moeller, Nelson, and Santos)

READ FIRST TIME 03/03/09.

1 AN ACT Relating to improving quality, access, and stability of
2 child care through providing collective bargaining for child care
3 center directors and workers; amending RCW 41.56.028, 41.56.030,
4 41.56.113, 41.56.465, 41.04.810, 43.01.047, 43.215.350, and 74.15.020;
5 reenacting and amending RCW 43.215.010; adding a new section to chapter
6 43.215 RCW; adding a new section to chapter 74.08A RCW; adding a new
7 section to chapter 74.12 RCW; and creating new sections.

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

9 NEW SECTION. **Sec. 1.** The legislature finds that, as of 2009, the
10 challenges posed by low wages and lack of training that the legislature
11 identified in enacting the child care career and wage ladder persist,
12 and the availability of quality child care in the state continues to
13 suffer. The legislature intends to address these problems by creating
14 the possibility for a new relationship between child care center
15 directors and workers and the state. Child care center directors and
16 workers are to be given the opportunity to work collectively to improve
17 standards in their profession and to expand opportunities for
18 educational advancement to ensure continuous quality improvement in the
19 delivery of early learning services. Family child care providers in

1 the state have recently been given a similar opportunity, and the
2 results of their efforts have improved standards and quality for that
3 segment of the child care industry.

4 The legislature intends to create a new type of collective
5 bargaining for these directors and workers whereby they can come
6 together and bargain with the state over matters within the state's
7 purview to improve the quality of child care for the state's families.
8 Unlike traditional collective bargaining, this new approach will afford
9 these directors and workers the opportunity to bargain with the state
10 only over the state's support for child care centers, a matter of
11 common concern to both directors and workers. Specific terms and
12 conditions of employment at individual centers, which are the subjects
13 of traditional collective bargaining between employers and their
14 employees, fall outside the limited scope of bargaining defined by this
15 act. Accordingly, traditional policy concerns over supervisors and
16 employees being organized into a common bargaining unit are
17 inapplicable. Sharing a community of interest in the subjects of
18 bargaining enables directors and workers to work side by side in the
19 same bargaining unit for common goals.

20 All child care center directors and workers will equally be able to
21 maintain full membership in the organization that represents them in
22 their efforts to improve the quality of child care they provide to the
23 state's children. This new bargaining relationship does not intrude in
24 any manner upon those relationships governed by the national labor
25 relations act (29 U.S.C. Sec. 151 et seq). Child care center directors
26 and workers do not forfeit their rights under the national labor
27 relations act by becoming members of an organization that represents
28 them in their dealings with the state. Under the national labor
29 relations act, an organization that represents child care center
30 directors and workers in bargaining with the state under this act is
31 precluded from representing workers seeking to engage in traditional
32 collective bargaining with their employer over specific terms and
33 conditions of employment at individual child care centers.

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

36 **Sec. 2.** RCW 41.56.028 and 2007 c 278 s 2 are each amended to read
37 as follows:

1 (1) In addition to the entities listed in RCW 41.56.020, this
2 chapter applies to the governor with respect to family child care
3 providers and to child care center directors and workers. Solely for
4 the purposes of collective bargaining and as expressly limited under
5 subsections (2) and (3) of this section, the governor is the public
6 employer of family child care providers and of child care center
7 directors and workers who, solely for the purposes of collective
8 bargaining, are public employees. The public employer shall be
9 represented for bargaining purposes by the governor or the governor's
10 designee appointed under chapter 41.80 RCW.

11 (2) This chapter governs the collective bargaining relationship
12 between the governor and family child care providers and between the
13 governor and child care center directors and workers, except as
14 follows:

15 (a) (~~A statewide unit of all family child care providers is~~) The
16 only units appropriate for purposes of collective bargaining under RCW
17 41.56.060 are:

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

19 (ii) The units for child care center directors and workers
20 determined by the commission which shall conform to the unit requested
21 in the application for certification as the bargaining representative
22 if consistent with the terms of this act. In determining the units,
23 the commission shall include in the same unit all child care center
24 directors and workers employed at child care centers located in
25 department of social and health services regions existing on the
26 effective date of this section, and may group together regions to
27 minimize the number of units.

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

32 (i) In the initial election conducted under chapter 54, Laws of
33 2006, or this act, if more than one labor organization is on the ballot
34 and none of the choices receives a majority of the votes cast, a
35 run-off election shall be held; and

36 (ii) To show at least thirty percent representation within a unit
37 to accompany a request for an initial election under this act, the

1 written proof of representation is valid only if collected not more
2 than two years prior to the date the request is filed with the
3 commission.

4 (c) For the exclusive bargaining representatives certified by the
5 commission to represent units of child care center directors and
6 workers, negotiations of a collective bargaining agreement shall be
7 conducted jointly by all certified representatives. The
8 representatives shall bargain for one collective bargaining agreement
9 covering all of the represented child care center directors and
10 workers.

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

23 ((+d)) (ii) Notwithstanding the definition of "collective
24 bargaining" in RCW 41.56.030(4), the matters subject to bargaining
25 under this section shall be within the purview of the state and within
26 the community of interest of child care center directors and workers.
27 The public employer is: (A) Required to bargain over the manner and
28 rate of subsidy and reimbursement, so long as any agreement is
29 consistent with the provisions of any quality rating and improvement
30 system; (B) permitted, but not required, to bargain over: (I) Funding
31 for professional development and training; (II) mechanisms and funding
32 to improve the access of child care centers to health care insurance
33 and other benefit programs; (III) other economic support for child care
34 centers; and (IV) grievance procedures to resolve disputes arising out
35 of the interpretation or application of the collective bargaining
36 agreement; and (C) prohibited from bargaining over retirement benefits.
37 By such obligation neither party shall be compelled to agree to a

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

3 (e) 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 or the exclusive bargaining representative or
8 representatives of child care center directors and workers,
9 negotiations shall be commenced initially upon certification of an
10 exclusive bargaining representative under (a) of this subsection and,
11 thereafter, by February 1st of any even-numbered year; and

12 (ii) The decision of the arbitration panel is not binding on the
13 legislature and, if the legislature does not approve the request for
14 funds necessary to implement the compensation and benefit provisions of
15 ~~((the))~~ an arbitrated collective bargaining agreement for family child
16 care providers or the subsidy and reimbursement provisions of an
17 arbitrated collective bargaining agreement for child care center
18 directors and workers, is not binding on the state.

19 ~~((e))~~ (f) Nothing in chapter 54, Laws of 2006, or this act grants
20 family child care providers ~~((do not have))~~ and child care center
21 directors and workers the right to strike.

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

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

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

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

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

3 (d) The secretary of the department of social and health services'
4 right to adopt requirements under RCW 74.15.030, except for
5 requirements related to grievance procedures and collective
6 negotiations on personnel matters as specified in subsection (2)((+e))
7 (d) of this section;

8 ((+e)) (e) Chapter 26.44 RCW, RCW 43.43.832, 43.20A.205, and
9 74.15.130; and

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

21 (5) Upon meeting the requirements of subsection (6) of this
22 section, the governor must submit, as a part of the proposed biennial
23 or supplemental operating budget submitted to the legislature under RCW
24 43.88.030, ((a)) requests for funds necessary to implement the
25 compensation and benefit provisions of a collective bargaining
26 agreement for family child care providers and a collective bargaining
27 agreement for child care center directors and workers entered into
28 under this section or for legislation necessary to implement such
29 agreements.

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

36 (a) Submitted to the director of financial management by October
37 1st before the legislative session at which the request is to be
38 considered, except that, for initial negotiations under this section

1 for family child care providers, the request must be submitted by
2 November 15, 2006, and for child care center directors and workers, the
3 request may not be submitted before July 1, 2010; and

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

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

12 (8) The governor shall periodically consult with the joint
13 committee on employment relations established by RCW 41.80.010
14 regarding appropriations necessary to implement the compensation and
15 benefit provisions of ~~((any))~~ a collective bargaining agreement for
16 family child care providers and a collective bargaining agreement for
17 child care center directors and workers and, upon completion of
18 negotiations, advise the committee on the elements of the agreements
19 and on any legislation necessary to implement such agreements.

20 (9) After the expiration date of any collective bargaining
21 agreement entered into under this section, all of the terms and
22 conditions specified in any such agreement remain in effect until the
23 effective date of a subsequent agreement, not to exceed one year from
24 the expiration date stated in the agreement, except as provided in
25 subsection (4)~~((d))~~ (f) of this section.

26 (10) If, after the compensation and benefit provisions of ~~((an))~~ a
27 collective bargaining agreement for family child care providers or for
28 a collective bargaining agreement for child care center directors and
29 workers are approved by the legislature, a significant revenue
30 shortfall occurs resulting in reduced appropriations, as declared by
31 proclamation of the governor or by resolution of the legislature, both
32 parties shall immediately enter into collective bargaining for a
33 mutually agreed upon modification of the agreement.

34 (11) In enacting this section, the legislature intends to provide
35 state action immunity under federal and state antitrust laws for the
36 joint activities of family child care providers and their exclusive
37 bargaining representative and of child care center directors and

1 workers and their exclusive bargaining representatives to the extent
2 such activities are authorized by this chapter.

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

5 As used in this chapter:

6 (1) "Public employer" means any officer, board, commission,
7 council, or other person or body acting on behalf of any public body
8 governed by this chapter, or any subdivision of such public body. For
9 the purposes of this section, the public employer of district court or
10 superior court employees for wage-related matters is the respective
11 county legislative authority, or person or body acting on behalf of the
12 legislative authority, and the public employer for nonwage-related
13 matters is the judge or judge's designee of the respective district
14 court or superior court.

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

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

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

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

12 (6) "Executive director" means the executive director of the
13 commission.

14 (7) "Uniformed personnel" means: (a) Law enforcement officers as
15 defined in RCW 41.26.030 employed by the governing body of any city or
16 town with a population of two thousand five hundred or more and law
17 enforcement officers employed by the governing body of any county with
18 a population of ten thousand or more; (b) correctional employees who
19 are uniformed and nonuniformed, commissioned and noncommissioned
20 security personnel employed in a jail as defined in RCW 70.48.020(5),
21 by a county with a population of seventy thousand or more, and who are
22 trained for and charged with the responsibility of controlling and
23 maintaining custody of inmates in the jail and safeguarding inmates
24 from other inmates; (c) general authority Washington peace officers as
25 defined in RCW 10.93.020 employed by a port district in a county with
26 a population of one million or more; (d) security forces established
27 under RCW 43.52.520; (e) firefighters as that term is defined in RCW
28 41.26.030; (f) employees of a port district in a county with a
29 population of one million or more whose duties include crash fire
30 rescue or other fire fighting duties; (g) employees of fire departments
31 of public employers who dispatch exclusively either fire or emergency
32 medical services, or both; or (h) employees in the several classes of
33 advanced life support technicians, as defined in RCW 18.71.200, who are
34 employed by a public employer.

35 (8) "Institution of higher education" means the University of
36 Washington, Washington State University, Central Washington University,
37 Eastern Washington University, Western Washington University, The
38 Evergreen State College, and the various state community colleges.

1 (9) "Home care quality authority" means the authority under chapter
2 74.39A RCW.

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

6 (11) "Child care subsidy" means a payment from the state through a
7 child care subsidy program established pursuant to RCW 74.12.340 or
8 74.08A.340, 45 C.F.R. Sec. 98.1 through 98.17, or any successor
9 program.

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

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

21 (14) "Child care center directors and workers" includes all
22 employees of child care centers who work on-site at the centers.
23 "Child care center directors and workers" also includes owners of child
24 care centers who work on-site at the centers.

25 (15)(a) "Child care center" means a child care center licensed by
26 the state under RCW 74.15.030 that has at least one child care slot
27 filled by a child for whom it receives a child care subsidy.

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

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

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

33 (iii) Operated by a local nonprofit organization whose primary
34 mission is to provide social services, including serving children and
35 families, and that pays membership dues or assessments to either: (A)
36 A national organization, exempt from income tax under section 501(c)(3)
37 of the internal revenue code, with more than three million dollars in
38 membership dues and assessments annually, as reported to the internal

1 revenue service; or (B) a regional council that is affiliated with a
2 national organization, exempt from income tax under section 501(c)(3)
3 of the internal revenue code, with more than two hundred affiliates.

4 **Sec. 4.** RCW 41.56.113 and 2007 c 184 s 3 are each amended to read
5 as follows:

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

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

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

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

31 (3) In lieu of the deductions authorized under subsections (1) and
32 (2) of this section, and the union security provisions authorized under
33 RCW 41.56.122, the governor and the exclusive representative of a
34 bargaining unit of child care center directors and workers shall agree
35 to a representation fee to be paid to the exclusive representative for
36 the costs of representation of child care center directors and workers
37 as provided in this chapter. The state shall deduct the representation

1 fee from the monthly amount of the child care subsidy due to a child
2 care center and transmit the representation fee to the secretary of the
3 exclusive bargaining representative. Any child care center that is
4 operated by a church or other religious body for which payment of a
5 representative fee is contrary to bona fide religious tenets shall pay
6 an amount equivalent to the representation fee to a nonreligious
7 charity or to another charitable organization mutually agreed upon by
8 the child care center and the exclusive representative to which the
9 center would otherwise pay the representation fee. The child care
10 center shall furnish written proof that such payment has been made. If
11 the child care center and the exclusive representative do not reach
12 agreement on such matter, the commission shall designate the charitable
13 organization.

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

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

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

1 administered by the exclusive bargaining representative of a bargaining
2 unit of family child care providers, for hardship dispensation for
3 license- exempt family child care providers who are also temporary
4 assistance for needy families recipients or WorkFirst participants.

5 **Sec. 5.** RCW 41.56.465 and 2007 c 278 s 1 are each amended to read
6 as follows:

7 (1) In making its determination, the panel shall be mindful of the
8 legislative purpose enumerated in RCW 41.56.430 and, as additional
9 standards or guidelines to aid it in reaching a decision, the panel
10 shall consider:

11 (a) The constitutional and statutory authority of the employer;

12 (b) Stipulations of the parties;

13 (c) The average consumer prices for goods and services, commonly
14 known as the cost of living;

15 (d) Changes in any of the circumstances under (a) through (c) of
16 this subsection during the pendency of the proceedings; and

17 (e) Such other factors, not confined to the factors under (a)
18 through (d) of this subsection, that are normally or traditionally
19 taken into consideration in the determination of wages, hours, and
20 conditions of employment. For those employees listed in RCW
21 41.56.030(7)(a) who are employed by the governing body of a city or
22 town with a population of less than fifteen thousand, or a county with
23 a population of less than seventy thousand, consideration must also be
24 given to regional differences in the cost of living.

25 (2) For employees listed in RCW 41.56.030(7) (a) through (d), the
26 panel shall also consider a comparison of the wages, hours, and
27 conditions of employment of personnel involved in the proceedings with
28 the wages, hours, and conditions of employment of like personnel of
29 like employers of similar size on the west coast of the United States.

30 (3) For employees listed in RCW 41.56.030(7) (e) through (h), the
31 panel shall also consider a comparison of the wages, hours, and
32 conditions of employment of personnel involved in the proceedings with
33 the wages, hours, and conditions of employment of like personnel of
34 public fire departments of similar size on the west coast of the United
35 States. However, when an adequate number of comparable employers
36 exists within the state of Washington, other west coast employers may
37 not be considered.

1 (4) For (~~employees~~) family child care providers listed in RCW
2 41.56.028:

3 (a) The panel shall also consider:

4 (i) A comparison of child care provider subsidy rates and
5 reimbursement programs by public entities, including counties and
6 municipalities, along the west coast of the United States; and

7 (ii) The financial ability of the state to pay for the compensation
8 and benefit provisions of a collective bargaining agreement; and

9 (b) The panel may consider:

10 (i) The public's interest in reducing turnover and increasing
11 retention of child care providers;

12 (ii) The state's interest in promoting, through education and
13 training, a stable child care workforce to provide quality and reliable
14 child care from all providers throughout the state; and

15 (iii) In addition, for employees exempt from licensing under
16 chapter 74.15 RCW, the state's fiscal interest in reducing reliance
17 upon public benefit programs including but not limited to medical
18 coupons, food stamps, subsidized housing, and emergency medical
19 services.

20 (5) For child care center directors and workers listed in RCW
21 41.56.028, the panel shall also consider:

22 (a) A comparison of child care provider subsidy rates and
23 reimbursement programs by public entities, including counties and
24 municipalities, along the west coast of the United States; and

25 (b) The financial ability of the state to pay for a collective
26 bargaining agreement.

27 (6) For employees listed in RCW 74.39A.270:

28 (a) The panel shall consider:

29 (i) A comparison of wages, hours, and conditions of employment of
30 publicly reimbursed personnel providing similar services to similar
31 clients, including clients who are elderly, frail, or have
32 developmental disabilities, both in the state and across the United
33 States; and

34 (ii) The financial ability of the state to pay for the compensation
35 and fringe benefit provisions of a collective bargaining agreement; and

36 (b) The panel may consider:

37 (i) A comparison of wages, hours, and conditions of employment of
38 publicly employed personnel providing similar services to similar

1 clients, including clients who are elderly, frail, or have
2 developmental disabilities, both in the state and across the United
3 States;

4 (ii) The state's interest in promoting a stable long-term care
5 workforce to provide quality and reliable care to vulnerable elderly
6 and disabled recipients;

7 (iii) The state's interest in ensuring access to affordable,
8 quality health care for all state citizens; and

9 (iv) The state's fiscal interest in reducing reliance upon public
10 benefit programs including but not limited to medical coupons, food
11 stamps, subsidized housing, and emergency medical services.

12 ((+6+)) (7) Subsections (2) and (3) of this section may not be
13 construed to authorize the panel to require the employer to pay,
14 directly or indirectly, the increased employee contributions resulting
15 from chapter 502, Laws of 1993 or chapter 517, Laws of 1993 as required
16 under chapter 41.26 RCW.

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

19 Individual providers, as defined in RCW 74.39A.240, family child
20 care providers, as defined in RCW 41.56.030, child care center
21 directors and workers, as defined in RCW 41.56.030, and adult family
22 home providers, as defined in RCW 41.56.030, are not employees of the
23 state or any of its political subdivisions and are specifically and
24 entirely excluded from all provisions of this title, except as provided
25 in RCW 74.39A.270, 41.56.028, and 41.56.029.

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

28 RCW 43.01.040 through 43.01.044 do not apply to individual
29 providers under RCW 74.39A.220 through 74.39A.300, family child care
30 providers under RCW 41.56.028, child care center directors and workers
31 under RCW 41.56.028, or adult family home providers under RCW
32 41.56.029.

33 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.215 RCW
34 to read as follows:

35 (1) Every child care center shall provide to the department a list

1 of the names and addresses of all current child care center directors
2 and workers, as defined in RCW 41.56.030, annually by January 30th,
3 except that initially the lists shall be provided within thirty days of
4 the effective date of this section.

5 (2) The department shall, upon request, provide to a labor
6 organization seeking to organize child care center directors and
7 workers, a list of all directors and workers in the unit that the
8 organization seeks to organize. The list shall contain the information
9 collected with regard to the directors and workers pursuant to
10 subsection (1) of this section.

11 NEW SECTION. **Sec. 9.** A new section is added to chapter 74.08A RCW
12 to read as follows:

13 The department shall adjust the rates of child care subsidies, as
14 defined in RCW 41.56.030, paid to all child care centers located in a
15 department of social and health services region to reflect the rate
16 provisions in a collective bargaining agreement for child care center
17 directors and workers employed at child care centers located in the
18 same region that was negotiated under RCW 41.56.028 and funded by the
19 legislature.

20 NEW SECTION. **Sec. 10.** A new section is added to chapter 74.12 RCW
21 to read as follows:

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

29 **Sec. 11.** RCW 43.215.010 and 2007 c 415 s 2 and 2007 c 394 s 2 are
30 each reenacted and amended to read as follows:

31 The definitions in this section apply throughout this chapter
32 unless the context clearly requires otherwise.

33 (1) "Agency" means any person, firm, partnership, association,
34 corporation, or facility that provides child care and early learning

1 services outside a child's own home and includes the following
2 irrespective of whether there is compensation to the agency:

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

6 (b) "Early learning" includes but is not limited to programs and
7 services for child care; state, federal, private, and nonprofit
8 preschool; child care subsidies; child care resource and referral;
9 parental education and support; and training and professional
10 development for early learning professionals;

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

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

20 (e) "Service provider" means the entity that operates a community
21 facility.

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

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

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

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

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

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

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

35 (c) Persons who care for a neighbor's or friend's child or
36 children, with or without compensation, where the person providing care
37 for periods of less than twenty-four hours does not conduct such

1 activity on an ongoing, regularly scheduled basis for the purpose of
2 engaging in business, which includes, but is not limited to,
3 advertising such care;

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

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

9 (f) Schools, including boarding schools, that are engaged primarily
10 in education, operate on a definite school year schedule, follow a
11 stated academic curriculum, accept only school-age children, and do not
12 accept custody of children;

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

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

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

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

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

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

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

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

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

36 ~~((+5))~~ (6) "Director" means the director of the department.

37 ~~((+6))~~ (7) "Employer" means a person or business that engages the

1 services of one or more people, especially for wages or salary to work
2 in an agency.

3 ~~((+7))~~ (8) "Enforcement action" means denial, suspension,
4 revocation, modification, or nonrenewal of a license pursuant to RCW
5 43.215.300(1) or assessment of civil monetary penalties pursuant to RCW
6 43.215.300(3).

7 ~~((+8))~~ (9) "Family child care licensee" means a person who: (a)
8 Provides regularly scheduled care for a child or children in the home
9 of the provider for periods of less than twenty-four hours or, if
10 necessary due to the nature of the parent's work, for periods equal to
11 or greater than twenty-four hours; (b) does not receive child care
12 subsidies; and (c) is licensed by the state under RCW 43.215.200.

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

16 ~~((+9))~~ (11) "Requirement" means any rule, regulation, or standard
17 of care to be maintained by an agency.

18 **Sec. 12.** RCW 43.215.350 and 2007 c 17 s 15 are each amended to
19 read as follows:

20 The director shall have the power and it shall be the director's
21 duty to engage in negotiated rule making pursuant to RCW
22 34.05.310(2)(a) with:

23 (1) The exclusive representative of the unit of family child care
24 licensees selected in accordance with RCW 43.215.355 and with other
25 affected interests before adopting requirements that affect family
26 child care licensees; and

27 (2) The exclusive representative or representatives of the unit or
28 units of child care center directors and workers selected in accordance
29 with RCW 41.56.028 and with other affected interests before adopting
30 requirements that affect child care center directors and workers.

31 **Sec. 13.** RCW 74.15.020 and 2007 c 412 s 1 are each amended to read
32 as follows:

33 For the purpose of this chapter and RCW 74.13.031, and unless
34 otherwise clearly indicated by the context thereof, the following terms
35 shall mean:

1 (1) "Agency" means any person, firm, partnership, association,
2 corporation, or facility which receives children, expectant mothers, or
3 persons with developmental disabilities for control, care, or
4 maintenance outside their own homes, or which places, arranges the
5 placement of, or assists in the placement of children, expectant
6 mothers, or persons with developmental disabilities for foster care or
7 placement of children for adoption, and shall include the following
8 irrespective of whether there is compensation to the agency or to the
9 children, expectant mothers or persons with developmental disabilities
10 for services rendered:

11 (a) "Child-placing agency" means an agency which places a child or
12 children for temporary care, continued care, or for adoption;

13 (b) "Community facility" means a group care facility operated for
14 the care of juveniles committed to the department under RCW 13.40.185.
15 A county detention facility that houses juveniles committed to the
16 department under RCW 13.40.185 pursuant to a contract with the
17 department is not a community facility;

18 (c) "Crisis residential center" means an agency which is a
19 temporary protective residential facility operated to perform the
20 duties specified in chapter 13.32A RCW, in the manner provided in RCW
21 74.13.032 through 74.13.036;

22 (d) "Emergency respite center" is an agency that may be commonly
23 known as a crisis nursery, that provides emergency and crisis care for
24 up to seventy-two hours to children who have been admitted by their
25 parents or guardians to prevent abuse or neglect. Emergency respite
26 centers may operate for up to twenty-four hours a day, and for up to
27 seven days a week. Emergency respite centers may provide care for
28 children ages birth through seventeen, and for persons eighteen through
29 twenty with developmental disabilities who are admitted with a sibling
30 or siblings through age seventeen. Emergency respite centers may not
31 substitute for crisis residential centers or HOPE centers, or any other
32 services defined under this section, and may not substitute for
33 services which are required under chapter 13.32A or 13.34 RCW;

34 (e) "Foster-family home" means an agency which regularly provides
35 care on a twenty-four hour basis to one or more children, expectant
36 mothers, or persons with developmental disabilities in the family abode
37 of the person or persons under whose direct care and supervision the

1 child, expectant mother, or person with a developmental disability is
2 placed;

3 (f) "Group-care facility" means an agency, other than a foster-
4 family home, which is maintained and operated for the care of a group
5 of children on a twenty-four hour basis;

6 (g) "HOPE center" means an agency licensed by the secretary to
7 provide temporary residential placement and other services to street
8 youth. A street youth may remain in a HOPE center for thirty days
9 while services are arranged and permanent placement is coordinated. No
10 street youth may stay longer than thirty days unless approved by the
11 department and any additional days approved by the department must be
12 based on the unavailability of a long-term placement option. A street
13 youth whose parent wants him or her returned to home may remain in a
14 HOPE center until his or her parent arranges return of the youth, not
15 longer. All other street youth must have court approval under chapter
16 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

17 (h) "Maternity service" means an agency which provides or arranges
18 for care or services to expectant mothers, before or during
19 confinement, or which provides care as needed to mothers and their
20 infants after confinement;

21 (i) "Responsible living skills program" means an agency licensed by
22 the secretary that provides residential and transitional living
23 services to persons ages sixteen to eighteen who are dependent under
24 chapter 13.34 RCW and who have been unable to live in his or her
25 legally authorized residence and, as a result, the minor lived outdoors
26 or in another unsafe location not intended for occupancy by the minor.
27 Dependent minors ages fourteen and fifteen may be eligible if no other
28 placement alternative is available and the department approves the
29 placement;

30 (j) "Service provider" means the entity that operates a community
31 facility.

32 (2) "Agency" shall not include the following:

33 (a) Persons related to the child, expectant mother, or person with
34 developmental disability in the following ways:

35 (i) Any blood relative, including those of half-blood, and
36 including first cousins, second cousins, nephews or nieces, and persons
37 of preceding generations as denoted by prefixes of grand, great, or
38 great-great;

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

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

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

8 (v) Relatives, as named in (i), (ii), (iii), or (iv) of this
9 subsection (2)(a), of any half sibling of the child; or

10 (vi) Extended family members, as defined by the law or custom of
11 the Indian child's tribe or, in the absence of such law or custom, a
12 person who has reached the age of eighteen and who is the Indian
13 child's grandparent, aunt or uncle, brother or sister, brother-in-law
14 or sister-in-law, niece or nephew, first or second cousin, or
15 stepparent who provides care in the family abode on a twenty-four-hour
16 basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

17 (b) Persons who are legal guardians of the child, expectant mother,
18 or persons with developmental disabilities;

19 (c) Persons who care for a neighbor's or friend's child or
20 children, with or without compensation, where the parent and person
21 providing care on a twenty-four-hour basis have agreed to the placement
22 in writing and the state is not providing any payment for the care;

23 (d) A person, partnership, corporation, or other entity that
24 provides placement or similar services to exchange students or
25 international student exchange visitors or persons who have the care of
26 an exchange student in their home;

27 (e) A person, partnership, corporation, or other entity that
28 provides placement or similar services to international children who
29 have entered the country by obtaining visas that meet the criteria for
30 medical care as established by the United States immigration and
31 naturalization service, or persons who have the care of such an
32 international child in their home;

33 (f) Schools, including boarding schools, which are engaged
34 primarily in education, operate on a definite school year schedule,
35 follow a stated academic curriculum, accept only school-age children
36 and do not accept custody of children;

37 (g) Hospitals licensed pursuant to chapter 70.41 RCW when

1 performing functions defined in chapter 70.41 RCW, nursing homes
2 licensed under chapter 18.51 RCW and boarding homes licensed under
3 chapter 18.20 RCW;

4 (h) Licensed physicians or lawyers;

5 (i) Facilities approved and certified under chapter 71A.22 RCW;

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

10 (k) Persons who have a child in their home for purposes of
11 adoption, if the child was placed in such home by a licensed child-
12 placing agency, an authorized public or tribal agency or court or if a
13 replacement report has been filed under chapter 26.33 RCW and the
14 placement has been approved by the court;

15 (l) An agency operated by any unit of local, state, or federal
16 government or an agency licensed by an Indian tribe pursuant to RCW
17 74.15.190;

18 (m) A maximum or medium security program for juvenile offenders
19 operated by or under contract with the department;

20 (n) An agency located on a federal military reservation, except
21 where the military authorities request that such agency be subject to
22 the licensing requirements of this chapter.

23 (3) "Department" means the state department of social and health
24 services.

25 ~~(4) ("Family child care licensee" means a person who: (a)~~
26 ~~Provides regularly scheduled care for a child or children in the home~~
27 ~~of the provider for periods of less than twenty four hours or, if~~
28 ~~necessary due to the nature of the parent's work, for periods equal to~~
29 ~~or greater than twenty four hours; (b) does not receive child care~~
30 ~~subsidies; and (c) is licensed by the state under RCW 74.15.030.~~

31 ~~(5))~~ "Juvenile" means a person under the age of twenty-one who has
32 been sentenced to a term of confinement under the supervision of the
33 department under RCW 13.40.185.

34 ~~((6))~~ (5) "Probationary license" means a license issued as a
35 disciplinary measure to an agency that has previously been issued a
36 full license but is out of compliance with licensing standards.

37 ~~((7))~~ (6) "Requirement" means any rule, regulation, or standard
38 of care to be maintained by an agency.

1 ~~((+8))~~ (7) "Secretary" means the secretary of social and health
2 services.

3 ~~((+9))~~ (8) "Street youth" means a person under the age of eighteen
4 who lives outdoors or in another unsafe location not intended for
5 occupancy by the minor and who is not residing with his or her parent
6 or at his or her legally authorized residence.

7 ~~((+10))~~ (9) "Transitional living services" means at a minimum, to
8 the extent funds are available, the following:

9 (a) Educational services, including basic literacy and
10 computational skills training, either in local alternative or public
11 high schools or in a high school equivalency program that leads to
12 obtaining a high school equivalency degree;

13 (b) Assistance and counseling related to obtaining vocational
14 training or higher education, job readiness, job search assistance, and
15 placement programs;

16 (c) Counseling and instruction in life skills such as money
17 management, home management, consumer skills, parenting, health care,
18 access to community resources, and transportation and housing options;

19 (d) Individual and group counseling; and

20 (e) Establishing networks with federal agencies and state and local
21 organizations such as the United States department of labor, employment
22 and training administration programs including the job training
23 partnership act which administers private industry councils and the job
24 corps; vocational rehabilitation; and volunteer programs.

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

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

1 requirements that are a necessary condition to the receipt of federal
2 funds by the state.

3 NEW SECTION. **Sec. 16.** This act may be known and cited as the
4 access to quality child care workforce act.

--- END ---