
SENATE BILL 5671

State of Washington 64th Legislature 2015 Regular Session

By Senators Baumgartner, O'Ban, Braun, and Angel

Read first time 01/28/15. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to the payment of union dues by partial public
2 employees; amending RCW 41.56.122, 41.56.113, 74.39A.270, 41.56.028,
3 41.56.029, and 41.56.510; and declaring an emergency.

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

5 **Sec. 1.** RCW 41.56.122 and 1975 1st ex.s. c 296 s 22 are each
6 amended to read as follows:

7 A collective bargaining agreement may:

8 (1) Contain union security provisions, except as prohibited by
9 subsection (3) of this section: PROVIDED, That nothing in this
10 section shall authorize a closed shop provision: PROVIDED FURTHER,
11 That agreements involving union security provisions must safeguard
12 the right of nonassociation of public employees based on bona fide
13 religious tenets or teachings of a church or religious body of which
14 such public employee is a member. Such public employee shall pay an
15 amount of money equivalent to regular union dues and initiation fee
16 to a nonreligious charity or to another charitable organization
17 mutually agreed upon by the public employee affected and the
18 bargaining representative to which such public employee would
19 otherwise pay the dues and initiation fee. The public employee shall
20 furnish written proof that such payment has been made. If the public
21 employee and the bargaining representative do not reach agreement on

1 such matter, the commission shall designate the charitable
2 organization. When there is a conflict between any collective
3 bargaining agreement reached by a public employer and a bargaining
4 representative on a union security provision and any charter,
5 ordinance, rule, or regulation adopted by the public employer or its
6 agents, including but not limited to, a civil service commission, the
7 terms of the collective bargaining agreement shall prevail.

8 (2) Provide for binding arbitration of a labor dispute arising
9 from the application or the interpretation of the matters contained
10 in a collective bargaining agreement.

11 (3) A collective bargaining agreement involving workers who are
12 considered public employees solely for the purposes of collective
13 bargaining may not require membership in a bargaining representative,
14 contain a union security clause, or require payment of any fees to a
15 bargaining representative as a condition of employment or payment.

16 **Sec. 2.** RCW 41.56.113 and 2010 c 296 s 4 are each amended to
17 read as follows:

18 (1) This subsection (1) applies only if the state makes the
19 payments directly to a provider.

20 (a) Upon the voluntary written authorization of an individual
21 provider, a family child care provider, an adult family home
22 provider, or a language access provider within the bargaining unit
23 and after the certification or recognition of the bargaining unit's
24 exclusive bargaining representative, the state as payor, but not as
25 the employer, shall, subject to ~~((e))~~ (b) of this subsection,
26 deduct from the payments to an individual provider, a family child
27 care provider, an adult family home provider, or a language access
28 provider who is a member of the exclusive bargaining representative
29 the monthly amount of dues as certified by the secretary of the
30 exclusive bargaining representative and shall transmit the same to
31 the treasurer of the exclusive bargaining representative.

32 ~~(b) ((If the governor and the exclusive bargaining representative~~
33 ~~of a bargaining unit of individual providers, family child care~~
34 ~~providers, adult family home providers, or language access providers~~
35 ~~enter into a collective bargaining agreement that:~~

36 ~~(i) Includes a union security provision authorized in RCW~~
37 ~~41.56.122, the state as payor, but not as the employer, shall,~~
38 ~~subject to (c) of this subsection, enforce the agreement by deducting~~
39 ~~from the payments to bargaining unit members the dues required for~~

1 membership in the exclusive bargaining representative, or, for
2 nonmembers thereof, a fee equivalent to the dues; or

3 ~~(ii) Includes requirements for deductions of payments other than~~
4 ~~the deduction under (a)(i) of this subsection, the state, as payor,~~
5 ~~but not as the employer, shall, subject to (c) of this subsection,~~
6 ~~make such deductions upon written authorization of the individual~~
7 ~~provider, family child care provider, adult family home provider, or~~
8 ~~language access provider.~~

9 ~~(e))~~(i) The initial additional costs to the state in making
10 deductions from the payments to individual providers, family child
11 care providers, adult family home providers, and language access
12 providers under this section shall be negotiated, agreed upon in
13 advance, and reimbursed to the state by the exclusive bargaining
14 representative.

15 (ii) The allocation of ongoing additional costs to the state in
16 making deductions from the payments to individual providers, family
17 child care providers, adult family home providers, or language access
18 providers under this section shall be an appropriate subject of
19 collective bargaining between the exclusive bargaining representative
20 and the governor unless prohibited by another statute. If no
21 collective bargaining agreement containing a provision allocating the
22 ongoing additional cost is entered into between the exclusive
23 bargaining representative and the governor, or if the legislature
24 does not approve funding for the collective bargaining agreement as
25 provided in RCW 74.39A.300, 41.56.028, 41.56.029, or 41.56.510, as
26 applicable, the ongoing additional costs to the state in making
27 deductions from the payments to individual providers, family child
28 care providers, adult family home providers, or language access
29 providers under this section shall be negotiated, agreed upon in
30 advance, and reimbursed to the state by the exclusive bargaining
31 representative.

32 ~~((d))~~ (c) The governor and the exclusive bargaining
33 representative of a bargaining unit of family child care providers
34 may not enter into a collective bargaining agreement that contains a
35 union security provision ~~((unless the agreement contains a process,~~
36 ~~to be administered by the exclusive bargaining representative of a~~
37 ~~bargaining unit of family child care providers, for hardship~~
38 ~~dispensation for license-exempt family child care providers who are~~
39 ~~also temporary assistance for needy families recipients or WorkFirst~~
40 ~~participants)).~~

1 (2) This subsection (2) applies only if the state does not make
2 the payments directly to a provider.

3 ((+a)) Upon the voluntary written authorization of a language
4 access provider within the bargaining unit and after the
5 certification or recognition of the bargaining unit's exclusive
6 bargaining representative, the state shall require through its
7 contracts with third parties that:

8 ((+i)) (a) The monthly amount of dues as certified by the
9 secretary of the exclusive bargaining representative be deducted from
10 the payments to ((the)) language access providers who are members of
11 the exclusive bargaining representative and transmitted to the
12 treasurer of the exclusive bargaining representative; and

13 ((+ii)) (b) A record showing that dues have been deducted as
14 specified in (a)((+i)) of this subsection be provided to the state.

15 ~~((b) If the governor and the exclusive bargaining representative~~
16 ~~of the bargaining unit of language access providers enter into a~~
17 ~~collective bargaining agreement that includes a union security~~
18 ~~provision authorized in RCW 41.56.122, the state shall enforce the~~
19 ~~agreement by requiring through its contracts with third parties that:~~

20 ~~(i) The monthly amount of dues required for membership in the~~
21 ~~exclusive bargaining representative as certified by the secretary of~~
22 ~~the exclusive bargaining representative, or, for nonmembers thereof,~~
23 ~~a fee equivalent to the dues, be deducted from the payments to the~~
24 ~~language access provider and transmitted to the treasurer of the~~
25 ~~exclusive bargaining representative; and~~

26 ~~(ii) A record showing that dues or fees have been deducted as~~
27 ~~specified in (a)(i) of this subsection be provided to the state.)~~

28 **Sec. 3.** RCW 74.39A.270 and 2011 1st sp.s. c 21 s 10 are each
29 amended to read as follows:

30 (1) Solely for the purposes of collective bargaining and as
31 expressly limited under subsections (2) and (3) of this section, the
32 governor is the public employer, as defined in chapter 41.56 RCW, of
33 individual providers, who, solely for the purposes of collective
34 bargaining, are public employees as defined in chapter 41.56 RCW. To
35 accommodate the role of the state as payor for the community-based
36 services provided under this chapter and to ensure coordination with
37 state employee collective bargaining under chapter 41.80 RCW and the
38 coordination necessary to implement RCW 74.39A.300, the public
39 employer shall be represented for bargaining purposes by the governor

1 or the governor's designee appointed under chapter 41.80 RCW. The
2 governor or governor's designee shall periodically consult with the
3 authority during the collective bargaining process to allow the
4 authority to communicate issues relating to the long-term in-home
5 care services received by consumers. The department shall solicit
6 input from the developmental disabilities council, the governor's
7 committee on disability issues and employment, the state council on
8 aging, and other consumer advocacy organizations to obtain informed
9 input from consumers on their interests, including impacts on
10 consumer choice, for all issues proposed for collective bargaining
11 under subsections (5) and (6) of this section.

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

15 (a) The only unit appropriate for the purpose of collective
16 bargaining under RCW 41.56.060 is a statewide unit of all individual
17 providers;

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

21 (c) The mediation and interest arbitration provisions of RCW
22 41.56.430 through 41.56.470 and 41.56.480 apply, except that:

23 (i) With respect to commencement of negotiations between the
24 governor and the bargaining representative of individual providers,
25 negotiations shall be commenced by May 1st of any year prior to the
26 year in which an existing collective bargaining agreement expires;
27 and

28 (ii) The decision of the arbitration panel is not binding on the
29 legislature and, if the legislature does not approve the request for
30 funds necessary to implement the compensation and fringe benefit
31 provisions of the arbitrated collective bargaining agreement, is not
32 binding on the authority or the state;

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

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

37 (3) Individual providers who are public employees solely for the
38 purposes of collective bargaining under subsection (1) of this
39 section are not, for that reason, employees of the state, its
40 political subdivisions, or an area agency on aging for any purpose.

1 Chapter 41.56 RCW applies only to the governance of the collective
2 bargaining relationship between the employer and individual providers
3 as provided in subsections (1) and (2) of this section.

4 (4) Consumers and prospective consumers retain the right to
5 select, hire, supervise the work of, and terminate any individual
6 provider providing services to them. Consumers may elect to receive
7 long-term in-home care services from individual providers who are not
8 referred to them by the authority.

9 (5) Except as expressly limited in this section and RCW
10 74.39A.300, the wages, hours, and working conditions of individual
11 providers are determined solely through collective bargaining as
12 provided in this chapter. No agency or department of the state may
13 establish policies or rules governing the wages or hours of
14 individual providers. However, this subsection does not modify:

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

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

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

32 (d) The consumer's right to select, hire, terminate, supervise
33 the work of, and determine the conditions of employment for each
34 individual provider providing services to the consumer under this
35 chapter;

36 (e) The department's obligation to comply with the federal
37 medicaid statute and regulations and the terms of any community-based
38 waiver granted by the federal department of health and human services
39 and to ensure federal financial participation in the provision of the
40 services; and

1 (f) The legislature's right to make programmatic modifications to
2 the delivery of state services under this title, including standards
3 of eligibility of consumers and individual providers participating in
4 the programs under this title, and the nature of services provided.
5 The governor shall not enter into, extend, or renew any agreement
6 under this chapter that does not expressly reserve the legislative
7 rights described in this subsection (5)(f).

8 (6) At the request of the exclusive bargaining representative,
9 the governor or the governor's designee appointed under chapter 41.80
10 RCW shall engage in collective bargaining, as defined in RCW
11 41.56.030(4), with the exclusive bargaining representative over
12 employer contributions to the training partnership for the costs of:
13 (a) Meeting all training and peer mentoring required under this
14 chapter; and (b) other training intended to promote the career
15 development of individual providers.

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

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

33 (9) Individual providers are not required to pay any dues or fees
34 to a bargaining representative as a condition of receiving any state
35 funds or serving consumers receiving state funds.

36 (10) Individual providers are permitted to freely choose to join
37 or resign membership in a bargaining representative at any time.

38 (11) The state may not deduct dues from individual providers on
39 behalf of a bargaining representative unless the individual provider
40 has voluntarily provided signed, written authorization to do so.

1 **Sec. 4.** RCW 41.56.028 and 2007 c 278 s 2 are each amended to
2 read as follows:

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

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

15 (a) A statewide unit of all family child care providers is the
16 only unit appropriate for purposes of collective bargaining under RCW
17 41.56.060.

18 (b) The exclusive bargaining representative of family child care
19 providers in the unit specified in (a) of this subsection shall be
20 the representative chosen in an election conducted pursuant to RCW
21 41.56.070, except that in the initial election conducted under
22 chapter 54, Laws of 2006, if more than one labor organization is on
23 the ballot and none of the choices receives a majority of the votes
24 cast, a run-off election shall be held.

25 (c) Notwithstanding the definition of "collective bargaining" in
26 RCW 41.56.030(4), the scope of collective bargaining for child care
27 providers under this section shall be limited solely to: (i) Economic
28 compensation, such as manner and rate of subsidy and reimbursement,
29 including tiered reimbursements; (ii) health and welfare benefits;
30 (iii) professional development and training; (iv) labor-management
31 committees; (v) grievance procedures; and (vi) other economic
32 matters. Retirement benefits shall not be subject to collective
33 bargaining. By such obligation neither party shall be compelled to
34 agree to a proposal or be required to make a concession unless
35 otherwise provided in this chapter.

36 (d) The mediation and interest arbitration provisions of RCW
37 41.56.430 through 41.56.470 and 41.56.480 apply, except that:

38 (i) With respect to commencement of negotiations between the
39 governor and the exclusive bargaining representative of family child
40 care providers, negotiations shall be commenced initially upon

1 certification of an exclusive bargaining representative under (a) of
2 this subsection and, thereafter, by February 1st of any even-numbered
3 year; and

4 (ii) The decision of the arbitration panel is not binding on the
5 legislature and, if the legislature does not approve the request for
6 funds necessary to implement the compensation and benefit provisions
7 of the arbitrated collective bargaining agreement, is not binding on
8 the state.

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

10 (3) Family child care providers who are public employees solely
11 for the purposes of collective bargaining under subsection (1) of
12 this section are not, for that reason, employees of the state for any
13 purpose. This section applies only to the governance of the
14 collective bargaining relationship between the employer and family
15 child care providers as provided in subsections (1) and (2) of this
16 section.

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

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

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

26 (c) Chapter 26.44 RCW, RCW 43.43.832, 43.20A.205, and 74.15.130;
27 and

28 (d) The legislature's right to make programmatic modifications to
29 the delivery of state services through child care subsidy programs,
30 including standards of eligibility of parents, legal guardians, and
31 family child care providers participating in child care subsidy
32 programs, and the nature of services provided. The governor shall not
33 enter into, extend, or renew any agreement under this section that
34 does not expressly reserve the legislative rights described in this
35 subsection (4)(d).

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

1 agreement entered into under this section or for legislation
2 necessary to implement such 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 such request has been:

7 (a) Submitted to the director of financial management by October
8 1st before the legislative session at which the request is to be
9 considered, except that, for initial negotiations under this section,
10 the request must be submitted by November 15, 2006; and

11 (b) Certified by the director of financial management as being
12 feasible financially for the state or reflects the binding decision
13 of an arbitration panel reached under 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 such agreement will be reopened solely for
17 the purpose of renegotiating the funds necessary to implement the
18 agreement.

19 (8) The governor shall periodically consult with the joint
20 committee on employment relations established by RCW 41.80.010
21 regarding appropriations necessary to implement the compensation and
22 benefit provisions of any collective bargaining agreement and, upon
23 completion of negotiations, advise the committee on the elements of
24 the agreement and on any legislation necessary to implement such
25 agreement.

26 (9) After the expiration date of any collective bargaining
27 agreement entered into under this section, all of the terms and
28 conditions specified in any such agreement remain in effect until the
29 effective date of a subsequent agreement, not to exceed one year from
30 the expiration date stated in the agreement, except as provided in
31 subsection (4)(d) of this section.

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

38 (11) In enacting this section, the legislature intends to provide
39 state action immunity under federal and state antitrust laws for the
40 joint activities of family child care providers and their exclusive

1 bargaining representative to the extent such activities are
2 authorized by this chapter.

3 (12) Family child care providers are not required to pay any dues
4 or fees to a bargaining representative as a condition of receiving
5 any state funds or providing services to consumers receiving state
6 funds.

7 (13) Family child care providers are permitted to freely choose
8 to join or resign membership in a bargaining representative at any
9 time.

10 (14) The state may not deduct dues from family child care
11 providers on behalf of a bargaining representative unless the family
12 child care provider has voluntarily provided signed, written
13 authorization to do so.

14 **Sec. 5.** RCW 41.56.029 and 2007 c 184 s 1 are each amended to
15 read as follows:

16 (1) In addition to the entities listed in RCW 41.56.020, this
17 chapter applies to the governor with respect to adult family home
18 providers. Solely for the purposes of collective bargaining and as
19 expressly limited under subsections (2) and (3) of this section, the
20 governor is the public employer of adult family home providers who,
21 solely for the purposes of collective bargaining, are public
22 employees. The public employer shall be represented for bargaining
23 purposes by the governor or the governor's designee.

24 (2) There shall be collective bargaining, as defined in RCW
25 41.56.030, between the governor and adult family home providers,
26 except as follows:

27 (a) A statewide unit of all adult family home providers is the
28 only unit appropriate for purposes of collective bargaining under RCW
29 41.56.060.

30 (b) The exclusive bargaining representative of adult family home
31 providers in the unit specified in (a) of this subsection shall be
32 the representative chosen in an election conducted pursuant to RCW
33 41.56.070.

34 Bargaining authorization cards furnished as the showing of
35 interest in support of any representation petition or motion for
36 intervention filed under this section shall be exempt from disclosure
37 under chapter 42.56 RCW.

38 (c) Notwithstanding the definition of "collective bargaining" in
39 RCW 41.56.030(4), the scope of collective bargaining for adult family

1 home providers under this section shall be limited solely to: (i)
2 Economic compensation, such as manner and rate of subsidy and
3 reimbursement, including tiered reimbursements; (ii) health and
4 welfare benefits; (iii) professional development and training; (iv)
5 labor-management committees; (v) grievance procedures; and (vi) other
6 economic matters. Retirement benefits shall not be subject to
7 collective bargaining. By such obligation neither party shall be
8 compelled to agree to a proposal or be required to make a concession
9 unless otherwise provided in this chapter.

10 (d) In addition to the entities listed in the mediation and
11 interest arbitration provisions of RCW 41.56.430 through 41.56.470
12 and 41.56.480, the provisions apply to the governor or the governor's
13 designee and the exclusive bargaining representative of adult family
14 home providers, except that:

15 (i) In addition to the factors to be taken into consideration by
16 an interest arbitration panel under RCW 41.56.465, the panel shall
17 consider the financial ability of the state to pay for the
18 compensation and benefit provisions of a collective bargaining
19 agreement.

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

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

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

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

34 (a) The department's authority to establish a plan of care for
35 each consumer or its core responsibility to manage long-term care
36 services under chapter 70.128 RCW, including determination of the
37 level of care that each consumer is eligible to receive. However, at
38 the request of the exclusive bargaining representative, the governor
39 or the governor's designee appointed under chapter 41.80 RCW shall
40 engage in collective bargaining, as defined in RCW 41.56.030(4), with

1 the exclusive bargaining representative over how the department's
2 core responsibility affects hours of work for adult family home
3 providers. This subsection shall not be interpreted to require
4 collective bargaining over an individual consumer's plan of care;

5 (b) The department's obligation to comply with the federal
6 medicaid statute and regulations and the terms of any community-based
7 waiver granted by the federal department of health and human services
8 and to ensure federal financial participation in the provision of the
9 services;

10 (c) The legislature's right to make programmatic modifications to
11 the delivery of state services under chapter 70.128 RCW, including
12 standards of eligibility of consumers and adult family home providers
13 participating in the programs under chapter 70.128 RCW, and the
14 nature of services provided. The governor shall not enter into,
15 extend, or renew any agreement under this chapter that does not
16 expressly reserve the legislative rights described in this subsection
17 (4)(c);

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

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

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

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

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

36 (b) Certified by the director of financial management as
37 financially feasible for the state or reflective of a binding
38 decision of an arbitration panel reached under subsection (2)(d) of
39 this section.

1 (7) The legislature must approve or reject the submission of the
2 request for funds as a whole. If the legislature rejects or fails to
3 act on the submission, any collective bargaining agreement must be
4 reopened for the sole purpose of renegotiating the funds necessary to
5 implement the agreement.

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

12 (9) After the expiration date of any collective bargaining
13 agreement entered into under this section, all of the terms and
14 conditions specified in the agreement remain in effect until the
15 effective date of a subsequent agreement, not to exceed one year from
16 the expiration date stated in the agreement.

17 (10) In enacting this section, the legislature intends to provide
18 state action immunity under federal and state antitrust laws for the
19 joint activities of adult family home providers and their exclusive
20 bargaining representative to the extent the activities are authorized
21 by this chapter.

22 (11) Adult family home providers are not required to pay any dues
23 or fees to a bargaining representative as a condition of receiving
24 any state funds or providing services to consumers receiving state
25 funds.

26 (12) Adult family home providers are permitted to freely choose
27 to join or resign membership in a bargaining representative at any
28 time.

29 (13) The state may not deduct dues from adult family home
30 providers on behalf of a bargaining representative unless the adult
31 family home provider has provided signed, written authorization to do
32 so.

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

35 (1) In addition to the entities listed in RCW 41.56.020, this
36 chapter applies to the governor with respect to language access
37 providers. Solely for the purposes of collective bargaining and as
38 expressly limited under subsections (2) and (3) of this section, the
39 governor is the public employer of language access providers who,

1 solely for the purposes of collective bargaining, are public
2 employees. The governor or the governor's designee shall represent
3 the public employer for bargaining purposes.

4 (2) There shall be collective bargaining, as defined in RCW
5 41.56.030, between the governor and language access providers, except
6 as follows:

7 (a) A statewide unit of all language access providers is the only
8 unit appropriate for purposes of collective bargaining under RCW
9 41.56.060;

10 (b) The exclusive bargaining representative of language access
11 providers in the unit specified in (a) of this subsection shall be
12 the representative chosen in an election conducted pursuant to RCW
13 41.56.070.

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

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

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

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

37 (ii) The decision of the arbitration panel is not binding on the
38 legislature and, if the legislature does not approve the request for
39 funds necessary to implement the compensation and benefit provisions

1 of the arbitrated collective bargaining agreement, the decision is
2 not binding on the state;

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

4 (3) Language access providers who are public employees solely for
5 the purposes of collective bargaining under subsection (1) of this
6 section are not, for that reason, employees of the state for any
7 other purpose. This section applies only to the governance of the
8 collective bargaining relationship between the employer and language
9 access providers as provided in subsections (1) and (2) of this
10 section.

11 (4) Each party with whom the department of social and health
12 services contracts for language access services and each of their
13 subcontractors shall provide to the department an accurate list of
14 language access providers, as defined in RCW 41.56.030, including
15 their names, addresses, and other contact information, annually by
16 January 30th, except that initially the lists must be provided within
17 thirty days of June 10, 2010. The department shall, upon request,
18 provide a list of all language access providers, including their
19 names, addresses, and other contact information, to a labor union
20 seeking to represent language access providers.

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

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

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

29 (6) Upon meeting the requirements of subsection (7) of this
30 section, the governor must submit, as a part of the proposed biennial
31 or supplemental operating budget submitted to the legislature under
32 RCW 43.88.030, a request for funds necessary to implement the
33 compensation and benefit provisions of a collective bargaining
34 agreement entered into under this section or for legislation
35 necessary to implement the agreement.

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

1 (a) Submitted to the director of financial management by October
2 1st prior to the legislative session at which the requests are to be
3 considered, except that, for initial negotiations under this section,
4 the request may not be submitted before July 1, 2011; and

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

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

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

20 (10) After the expiration date of any collective bargaining
21 agreement entered into under this section, all of the terms and
22 conditions specified in the 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.

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

30 (12) Language access providers are not required to pay any dues
31 or fees to a bargaining representative as a condition of receiving
32 any state funds or providing services to consumers receiving state
33 funds.

34 (13) Language access providers are permitted to freely choose to
35 join or resign membership in a bargaining representative at any time.

36 (14) The state may not deduct dues from language access providers
37 on behalf of a bargaining representative unless the language access
38 provider has provided signed, written authorization to do so.

1 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of
3 the state government and its existing public institutions, and takes
4 effect immediately.

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