
HOUSE BILL 1953

State of Washington

64th Legislature

2015 Regular Session

By Representatives Pike and Manweller

Read first time 02/04/15. Referred to Committee on Labor.

1 AN ACT Relating to requiring periodic recertification elections
2 for bargaining representatives of partial public employees; and
3 amending RCW 74.39A.270, 41.56.028, 41.56.029, and 41.56.510.

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

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

7 (1) Solely for the purposes of collective bargaining and as
8 expressly limited under subsections (2) and (3) of this section, the
9 governor is the public employer, as defined in chapter 41.56 RCW, of
10 individual providers, who, solely for the purposes of collective
11 bargaining, are public employees as defined in chapter 41.56 RCW. To
12 accommodate the role of the state as payor for the community-based
13 services provided under this chapter and to ensure coordination with
14 state employee collective bargaining under chapter 41.80 RCW and the
15 coordination necessary to implement RCW 74.39A.300, the public
16 employer shall be represented for bargaining purposes by the governor
17 or the governor's designee appointed under chapter 41.80 RCW. The
18 governor or governor's designee shall periodically consult with the
19 authority during the collective bargaining process to allow the
20 authority to communicate issues relating to the long-term in-home
21 care services received by consumers. The department shall solicit

1 input from the developmental disabilities council, the governor's
2 committee on disability issues and employment, the state council on
3 aging, and other consumer advocacy organizations to obtain informed
4 input from consumers on their interests, including impacts on
5 consumer choice, for all issues proposed for collective bargaining
6 under subsections (5) and (6) of this section.

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

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

13 (b) The showing of interest required to request an election under
14 RCW (~~41.56.060~~) 41.56.070 is ten percent of the unit, and any
15 intervener seeking to appear on the ballot must make the same showing
16 of interest;

17 (c) Once a bargaining representative has been certified by the
18 public employment relations commission to represent the bargaining
19 unit of individual providers, the public employment relations
20 commission shall, in April of every even-numbered year, conduct a
21 secret ballot election to determine the bargaining representative of
22 individual providers, subject to the following conditions:

23 (i) The existing bargaining representative must be on the ballot
24 automatically as shall a choice of no union representation. Any other
25 bargaining representative may petition the public employment
26 relations commission to appear on the ballot by showing written proof
27 of interest from at least ten percent of the bargaining unit.

28 (ii) The public employment relations commission shall certify the
29 bargaining representative that receives the most votes cast by
30 members of the bargaining unit. If a bargaining representative other
31 than the current bargaining representative receives the most votes,
32 it must be certified by the public employment relations commission to
33 represent individual providers at the expiration of the current
34 contract. However, nothing prevents the bargaining representative
35 that received the most votes from, prior to its certification,
36 negotiating a new contract with the public employer to take effect
37 upon the expiration of the current contract. If more votes are cast
38 for no union representation than for any bargaining representative,
39 the public employment relations commission shall decertify the

1 bargaining representative at the expiration of the collective
2 bargaining agreement.

3 (iii) No representation election for the bargaining unit of
4 individual providers may be held for a period of at least one year
5 following a certification of no union representation.

6 (iv) To the extent not inconsistent with this subsection (2)(c),
7 elections under this subsection (2)(c) must be conducted in
8 accordance with RCW 41.56.070;

9 (d) The mediation and interest arbitration provisions of RCW
10 41.56.430 through 41.56.470 and 41.56.480 apply, except that:

11 (i) With respect to commencement of negotiations between the
12 governor and the bargaining representative of individual providers,
13 negotiations shall be commenced by May 1st of any year prior to the
14 year in which an existing collective bargaining agreement expires;
15 and

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

21 ~~((d))~~ (e) Individual providers do not have the right to strike;
22 and

23 ~~((e))~~ (f) Individual providers who are related to, or family
24 members of, consumers or prospective consumers are not, for that
25 reason, exempt from this chapter or chapter 41.56 RCW.

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

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

38 (5) Except as expressly limited in this section and RCW
39 74.39A.300, the wages, hours, and working conditions of individual
40 providers are determined solely through collective bargaining as

1 provided in this chapter. No agency or department of the state may
2 establish policies or rules governing the wages or hours of
3 individual providers. However, this subsection does not modify:

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

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

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

21 (d) The consumer's right to select, hire, terminate, supervise
22 the work of, and determine the conditions of employment for each
23 individual provider providing services to the consumer under this
24 chapter;

25 (e) The department's obligation to comply with the federal
26 medicaid statute and regulations and the terms of any community-based
27 waiver granted by the federal department of health and human services
28 and to ensure federal financial participation in the provision of the
29 services; and

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

37 (6) At the request of the exclusive bargaining representative,
38 the governor or the governor's designee appointed under chapter 41.80
39 RCW shall engage in collective bargaining, as defined in RCW
40 41.56.030(4), with the exclusive bargaining representative over

1 employer contributions to the training partnership for the costs of:
2 (a) Meeting all training and peer mentoring required under this
3 chapter; and (b) other training intended to promote the career
4 development of individual providers.

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

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

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

24 (1) In addition to the entities listed in RCW 41.56.020, this
25 chapter applies to the governor with respect to family child care
26 providers. Solely for the purposes of collective bargaining and as
27 expressly limited under subsections (2) and (3) of this section, the
28 governor is the public employer of family child care providers who,
29 solely for the purposes of collective bargaining, are public
30 employees. The public employer shall be represented for bargaining
31 purposes by the governor or the governor's designee appointed under
32 chapter 41.80 RCW.

33 (2) This chapter governs the collective bargaining relationship
34 between the governor and family child care providers, except as
35 follows:

36 (a) A statewide unit of all family child care providers is the
37 only unit appropriate for purposes of collective bargaining under RCW
38 41.56.060.

1 (b) The exclusive bargaining representative of family child care
2 providers in the unit specified in (a) of this subsection shall be
3 the representative chosen in an election conducted pursuant to RCW
4 41.56.070, except that in the initial election conducted under
5 chapter 54, Laws of 2006, if more than one labor organization is on
6 the ballot and none of the choices receives a majority of the votes
7 cast, a run-off election shall be held.

8 (c) Once a bargaining representative has been certified by the
9 commission to represent the bargaining unit of family child care
10 providers, the commission shall, in April of every even-numbered
11 year, conduct a secret ballot election to determine the bargaining
12 representative of family child care providers, subject to the
13 following conditions:

14 (i) The existing bargaining representative must be on the ballot
15 automatically as shall a choice of no union representation. Any other
16 bargaining representative may petition the commission to appear on
17 the ballot by showing written proof of interest from at least ten
18 percent of the bargaining unit.

19 (ii) The commission shall certify the bargaining representative
20 that receives the most votes cast by members of the bargaining unit.
21 If a bargaining representative other than the current bargaining
22 representative receives the most votes, it must be certified by the
23 commission to represent family child care providers at the expiration
24 of the current contract. However, nothing prevents the bargaining
25 representative that received the most votes from, prior to its
26 certification, negotiating a new contract with the public employer to
27 take effect upon the expiration of the current contract. If more
28 votes are cast for no union representation than for any bargaining
29 representative, the commission shall decertify the bargaining
30 representative at the expiration of the collective bargaining
31 agreement.

32 (iii) No representation election for the bargaining unit of
33 family child care providers may be held for a period of at least one
34 year following a certification of no union representation.

35 (iv) To the extent not inconsistent with this subsection (2)(c),
36 elections under this subsection (2)(c) must be conducted in
37 accordance with RCW 41.56.070.

38 (d) Notwithstanding the definition of "collective bargaining" in
39 RCW 41.56.030(4), the scope of collective bargaining for child care
40 providers under this section shall be limited solely to: (i) Economic

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

9 ~~((d))~~ (e) The mediation and interest arbitration provisions of
10 RCW 41.56.430 through 41.56.470 and 41.56.480 apply, except that:

11 (i) With respect to commencement of negotiations between the
12 governor and the exclusive bargaining representative of family child
13 care providers, negotiations shall be commenced initially upon
14 certification of an exclusive bargaining representative under (a) of
15 this subsection and, thereafter, by February 1st of any even-numbered
16 year; and

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

22 ~~((e))~~ (f) Family child care providers do not have the right to
23 strike.

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

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

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

35 (b) The secretary of the department of social and health
36 services' right to adopt requirements under RCW 74.15.030, except for
37 requirements related to grievance procedures and collective
38 negotiations on personnel matters as specified in subsection (2)
39 ~~((e))~~ (d) of this section;

1 (c) Chapter 26.44 RCW, RCW 43.43.832, 43.20A.205, and 74.15.130;
2 and

3 (d) The legislature's right to make programmatic modifications to
4 the delivery of state services through child care subsidy programs,
5 including standards of eligibility of parents, legal guardians, and
6 family child care providers participating in child care subsidy
7 programs, and the nature of services provided. The governor shall not
8 enter into, extend, or renew any agreement under this section that
9 does not expressly reserve the legislative rights described in this
10 subsection (4)(d).

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

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

22 (a) Submitted to the director of financial management by October
23 1st before the legislative session at which the request is to be
24 considered, except that, for initial negotiations under this section,
25 the request must be submitted by November 15, 2006; and

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

29 (7) The legislature must approve or reject the submission of the
30 request for funds as a whole. If the legislature rejects or fails to
31 act on the submission, any such agreement will be reopened solely for
32 the purpose of renegotiating the funds necessary to implement the
33 agreement.

34 (8) The governor shall periodically consult with the joint
35 committee on employment relations established by RCW 41.80.010
36 regarding appropriations necessary to implement the compensation and
37 benefit provisions of any collective bargaining agreement and, upon
38 completion of negotiations, advise the committee on the elements of
39 the agreement and on any legislation necessary to implement such
40 agreement.

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

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

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

18 **Sec. 3.** RCW 41.56.029 and 2007 c 184 s 1 are each amended to
19 read as follows:

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

28 (2) There shall be collective bargaining, as defined in RCW
29 41.56.030, between the governor and adult family home providers,
30 except as follows:

31 (a) A statewide unit of all adult family home providers is the
32 only unit appropriate for purposes of collective bargaining under RCW
33 41.56.060.

34 (b) The exclusive bargaining representative of adult family home
35 providers in the unit specified in (a) of this subsection shall be
36 the representative chosen in an election conducted pursuant to RCW
37 41.56.070.

38 Bargaining authorization cards furnished as the showing of
39 interest in support of any representation petition or motion for

1 intervention filed under this section shall be exempt from disclosure
2 under chapter 42.56 RCW.

3 (c) Once a bargaining representative has been certified by the
4 commission to represent the bargaining unit of adult family home
5 providers, the commission shall, in April of every even-numbered
6 year, conduct a secret ballot election to determine the bargaining
7 representative of adult family home providers, subject to the
8 following conditions:

9 (i) The existing bargaining representative must be on the ballot
10 automatically as shall a choice of no union representation. Any other
11 bargaining representative may petition the commission to appear on
12 the ballot by showing written proof of interest from at least ten
13 percent of the bargaining unit.

14 (ii) The commission shall certify the bargaining representative
15 that receives the most votes cast by members of the bargaining unit.
16 If a bargaining representative other than the current bargaining
17 representative receives the most votes, it must be certified by the
18 commission to represent adult family home providers at the expiration
19 of the current contract. However, nothing prevents the bargaining
20 representative that received the most votes from, prior to its
21 certification, negotiating a new contract with the public employer to
22 take effect upon the expiration of the current contract. If more
23 votes are cast for no union representation than for any bargaining
24 representative, the commission shall decertify the bargaining
25 representative at the expiration of the collective bargaining
26 agreement.

27 (iii) No representation election for the bargaining unit of adult
28 family home providers may be held for a period of at least one year
29 following a certification of no union representation.

30 (iv) To the extent not inconsistent with this subsection (2)(c),
31 elections under this subsection (2)(c) must be conducted in
32 accordance with RCW 41.56.070.

33 (d) Notwithstanding the definition of "collective bargaining" in
34 RCW 41.56.030(4), the scope of collective bargaining for adult family
35 home providers under this section shall be limited solely to: (i)
36 Economic compensation, such as manner and rate of subsidy and
37 reimbursement, including tiered reimbursements; (ii) health and
38 welfare benefits; (iii) professional development and training; (iv)
39 labor-management committees; (v) grievance procedures; and (vi) other
40 economic matters. Retirement benefits shall not be subject to

1 collective bargaining. By such obligation neither party shall be
2 compelled to agree to a proposal or be required to make a concession
3 unless otherwise provided in this chapter.

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

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

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

19 ~~((e))~~ (f) Adult family home providers do not have the right to
20 strike.

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

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

29 (a) The department's authority to establish a plan of care for
30 each consumer or its core responsibility to manage long-term care
31 services under chapter 70.128 RCW, including determination of the
32 level of care that each consumer is eligible to receive. However, at
33 the request of the exclusive bargaining representative, the governor
34 or the governor's designee appointed under chapter 41.80 RCW shall
35 engage in collective bargaining, as defined in RCW 41.56.030(4), with
36 the exclusive bargaining representative over how the department's
37 core responsibility affects hours of work for adult family home
38 providers. This subsection shall not be interpreted to require
39 collective bargaining over an individual consumer's plan of care;

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

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

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

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

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

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

29 (a) Submitted to the director of financial management by October
30 1st prior to the legislative session at which the requests are to be
31 considered; and

32 (b) Certified by the director of financial management as
33 financially feasible for the state or reflective of a binding
34 decision of an arbitration panel reached under subsection (2)((+d))
35 (e) of this section.

36 (7) The legislature must approve or reject the submission of the
37 request for funds as a whole. If the legislature rejects or fails to
38 act on the submission, any collective bargaining agreement must be
39 reopened for the sole purpose of renegotiating the funds necessary to
40 implement the agreement.

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

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

12 (10) In enacting this section, the legislature intends to provide
13 state action immunity under federal and state antitrust laws for the
14 joint activities of adult family home providers and their exclusive
15 bargaining representative to the extent the activities are authorized
16 by this chapter.

17 **Sec. 4.** RCW 41.56.510 and 2010 c 296 s 2 are each amended to
18 read as follows:

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

27 (2) There shall be collective bargaining, as defined in RCW
28 41.56.030, between the governor and language access providers, except
29 as follows:

30 (a) A statewide unit of all language access providers is the only
31 unit appropriate for purposes of collective bargaining under RCW
32 41.56.060;

33 (b) The exclusive bargaining representative of language access
34 providers in the unit specified in (a) of this subsection shall be
35 the representative chosen in an election conducted pursuant to RCW
36 41.56.070.

37 Bargaining authorization cards furnished as the showing of
38 interest in support of any representation petition or motion for

1 intervention filed under this section are exempt from disclosure
2 under chapter 42.56 RCW;

3 (c) Once a bargaining representative has been certified by the
4 commission to represent the bargaining unit of language access
5 providers, the commission shall, in April of every even-numbered
6 year, conduct a secret ballot election to determine the bargaining
7 representative of language access providers, subject to the following
8 conditions:

9 (i) The existing bargaining representative must be on the ballot
10 automatically as shall a choice of no union representation. Any other
11 bargaining representative may petition the commission to appear on
12 the ballot by showing written proof of interest from at least ten
13 percent of the bargaining unit.

14 (ii) The commission shall certify the bargaining representative
15 that receives the most votes cast by members of the bargaining unit.
16 If a bargaining representative other than the current bargaining
17 representative receives the most votes, it must be certified by the
18 commission to represent language access providers at the expiration
19 of the current contract. However, nothing prevents the bargaining
20 representative that received the most votes from, prior to its
21 certification, negotiating a new contract with the public employer to
22 take effect upon the expiration of the current contract. If more
23 votes are cast for no union representation than for any bargaining
24 representative, the commission shall decertify the bargaining
25 representative at the expiration of the collective bargaining
26 agreement.

27 (iii) No representation election for the bargaining unit of
28 language access providers may be held for a period of at least one
29 year following a certification of no union representation.

30 (iv) To the extent not inconsistent with this subsection (2)(c),
31 elections under this subsection (2)(c) must be conducted in
32 accordance with RCW 41.56.070;

33 (d) Notwithstanding the definition of "collective bargaining" in
34 RCW 41.56.030(4), the scope of collective bargaining for language
35 access providers under this section is limited solely to: (i)
36 Economic compensation, such as the manner and rate of payments; (ii)
37 professional development and training; (iii) labor-management
38 committees; and (iv) grievance procedures. Retirement benefits are
39 not subject to collective bargaining. By such obligation neither

1 party may be compelled to agree to a proposal or be required to make
2 a concession unless otherwise provided in this chapter;

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

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

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

18 ~~((e))~~ (f) Language access providers do not have the right to
19 strike.

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

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

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

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

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

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

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

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

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

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

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

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

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

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