

---

SENATE BILL 6126

---

State of Washington                      64th Legislature      2015 1st Special Session

By Senator Braun

Read first time 05/22/15. Referred to Committee on Ways & Means.

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

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

13                                              **PART I - TRANSPARENT NEGOTIATIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (a) The term of agreement;

26 (b) The bargaining units covered by the agreement by state  
27 agency;

28 (c) Base compensation;

29 (d) Eligibility for and rate of overtime pay;

30 (e) Eligibility for and rate of compensatory time;

31 (f) Eligibility for and rate of any other compensation, including  
32 but not limited to shift premium pay, on-call pay, stand-by pay,  
33 assignment pay, special pay, or employer provided housing or meals;

34 (g) Eligibility for and rate of pay for each paid leave  
35 provision;

36 (h) Eligibility for and rate of pay for any cash out provisions  
37 for compensatory time or paid leave;

38 (i) Temporary layoff provision;

39 (j) Any impasse procedure subject to bargaining;

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

3 (l) Any retirement benefit subject to bargaining;

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

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

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

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

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

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

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

## 24 PART II - BINDING INTEREST ARBITRATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 In addition to the classes of employees listed in RCW  
6 41.56.030(13), the provisions of RCW 41.56.430 through 41.56.452 and  
7 41.56.470, 41.56.480, and 41.56.490 also apply to the employees of  
8 the state working for the department of corrections as described in  
9 section 17(1) of this act, subject to the following:

10 (1) Within ten working days after the first Monday in September  
11 of every odd-numbered year, the governor or the governor's designee  
12 and the bargaining representative for the appropriate bargaining unit  
13 shall attempt to agree on an interest arbitration panel consisting of  
14 three members to be used if the parties are not successful in  
15 negotiating a comprehensive collective bargaining agreement. Each  
16 party shall name one person to serve as its arbitrator on the  
17 arbitration panel. The two members so appointed shall meet within  
18 seven days following the appointment of the later appointed member to  
19 attempt to choose a third member to act as the neutral chair of the  
20 arbitration panel. Upon the failure of the arbitrators to select a  
21 neutral chair within seven days, the two appointed members shall use  
22 one of the two following options in the appointment of the third  
23 member, who shall act as chair of the panel: (a) By mutual consent,  
24 the two appointed members may jointly request the commission to, and  
25 the commission shall, appoint a third member within two days of such  
26 a request. Costs of each party's appointee shall be borne by each  
27 party respectively; other costs of the arbitration proceedings shall  
28 be borne by the commission; or (b) either party may apply to the  
29 commission, the federal mediation and conciliation service, or the  
30 American arbitration association to provide a list of five qualified  
31 arbitrators from which the neutral chair shall be chosen. Each party  
32 shall pay the fees and expenses of its arbitrator, and the fees and  
33 expenses of the neutral chair shall be shared equally between the  
34 parties. Immediately upon selecting an interest arbitration panel,  
35 the parties shall cooperate to reserve dates with the arbitration  
36 panel for potential arbitration between August 1st and September 15th  
37 of the following even-numbered year. The parties shall also prepare a  
38 schedule of at least five negotiation dates for the following year,  
39 absent an agreement to the contrary. The parties shall execute a

1 written agreement before November 1st of each odd-numbered year  
2 setting forth the names of the members of the arbitration panel and  
3 the dates reserved for bargaining and arbitration. This subsection  
4 imposes minimum obligations only and is not intended to define or  
5 limit a party's full, good faith bargaining obligation under other  
6 sections of this chapter.

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

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

16 (a) The financial ability of the department of corrections to pay  
17 for the compensation and benefit provisions of a collective  
18 bargaining agreement;

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

20 (c) Stipulations of the parties;

21 (d) Comparison of the wages, hours, and working conditions of  
22 employment of personnel involved in the proceedings with the hours  
23 and conditions of employment of like personnel of like state  
24 government employers of similar size in the western United States;

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

27 (f) The overall compensation presently received by employees of  
28 the department of corrections, including direct wage compensation,  
29 vacations, holidays and other paid excused time, pensions, insurance  
30 benefits, and all other direct or indirect monetary benefits  
31 received;

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

34 (h) Such other factors, not confined to those listed in this  
35 subsection, which are normally or traditionally taken into  
36 consideration in the determination of matters that are subject to  
37 bargaining under section 17 of this act and mediation or arbitration  
38 under this section.

39 (4) The decision of an arbitration panel is not binding on the  
40 legislature and, if the legislature does not approve the funds

1 necessary to implement the compensation and fringe benefit provisions  
2 of the arbitrated collective bargaining agreement, is not binding on  
3 the state or the department of corrections.

4 **Sec. 19.** RCW 41.80.020 and 2011 1st sp.s. c 50 s 939 and 2011  
5 1st sp.s. c 43 s 445 are each reenacted and amended to read as  
6 follows:

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

11 (2) The employer is not required to bargain over matters  
12 pertaining to:

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

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

16 (c) Rules of the human resources director, the director of  
17 enterprise services, or the Washington personnel resources board  
18 adopted under RCW 41.06.157.

19 (3) Matters subject to bargaining include the number of names to  
20 be certified for vacancies, promotional preferences, and the dollar  
21 amount expended on behalf of each employee for health care benefits.  
22 However, except as provided otherwise in this subsection for  
23 institutions of higher education, negotiations regarding the number  
24 of names to be certified for vacancies, promotional preferences, and  
25 the dollar amount expended on behalf of each employee for health care  
26 benefits shall be conducted between the employer and one coalition of  
27 all the exclusive bargaining representatives subject to this chapter  
28 and all the exclusive bargaining representatives subject to section  
29 17 of this act. The exclusive bargaining representatives for  
30 employees that are subject to chapter 47.64 RCW shall bargain the  
31 dollar amount expended on behalf of each employee for health care  
32 benefits with the employer as part of the coalition under this  
33 subsection. Any such provision agreed to by the employer and the  
34 coalition shall be included in all master collective bargaining  
35 agreements negotiated by the parties. For institutions of higher  
36 education, promotional preferences and the number of names to be  
37 certified for vacancies shall be bargained under the provisions of  
38 RCW 41.80.010(4). For agreements covering the 2011-2013 fiscal  
39 biennium, any agreement between the employer and the coalition

1 regarding the dollar amount expended on behalf of each employee for  
2 health care benefits is a separate agreement and shall not be  
3 included in the master collective bargaining agreements negotiated by  
4 the parties.

5 (4) The employer and the exclusive bargaining representative  
6 shall not agree to any proposal that would prevent the implementation  
7 of approved affirmative action plans or that would be inconsistent  
8 with the comparable worth agreement that provided the basis for the  
9 salary changes implemented beginning with the 1983-1985 biennium to  
10 achieve comparable worth.

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

14 (6) Except as otherwise provided in this chapter, if a conflict  
15 exists between an executive order, administrative rule, or agency  
16 policy relating to wages, hours, and terms and conditions of  
17 employment and a collective bargaining agreement negotiated under  
18 this chapter, the collective bargaining agreement shall prevail. A  
19 provision of a collective bargaining agreement that conflicts with  
20 the terms of a statute is invalid and unenforceable.

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

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

25 (1) Collective bargaining negotiations between the state and  
26 bargaining units of employees working for the department of  
27 corrections under this chapter shall commence no later than July 1,  
28 2016. A collective bargaining agreement between the state and any  
29 bargaining unit of employees working for the department of  
30 corrections entered into under this chapter shall not be effective  
31 prior to July 1, 2017.

32 (2) Any collective bargaining agreement between the state and any  
33 bargaining unit of employees working for the department of  
34 corrections entered into under chapter 41.80 RCW before July 1, 2016,  
35 that expires after July 1, 2016, shall, unless a superseding  
36 agreement complying with this chapter is negotiated by the parties,  
37 remain in full force during its duration, but the agreement may not  
38 be renewed or extended beyond July 1, 2017. If an agreement under  
39 this chapter cannot be reached by July 1, 2017, the terms and

1 conditions of any collective bargaining agreement negotiated under  
2 chapter 41.80 RCW shall remain in effect until the effective date of  
3 an agreement under this chapter, not to exceed one year from the  
4 expiration date stated in the agreement. Thereafter, the employer may  
5 unilaterally implement according to law.

6 (3) The duration of any collective bargaining agreement between  
7 the state and bargaining units of employees working for the  
8 department of corrections under this chapter shall not exceed one  
9 fiscal biennium.

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

12 (1) The joint legislative audit and review committee shall review  
13 and study the effect of section 17 of this act, which provides  
14 binding interest arbitration to classified staff at the department of  
15 corrections. The study must consider the impact interest arbitration  
16 has had on:

- 17 (a) Recruitment, hiring, and retention of classified staff;
- 18 (b) Staffing levels;
- 19 (c) Training;
- 20 (d) Total compensation rates;
- 21 (e) Employee safety and injury rates;
- 22 (f) The number and subjects brought to interest arbitration; and
- 23 (g) Costs and saving to the state.

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

31 **PART III - RETIREMENT BENEFIT**

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

34 Membership in the retirement system shall consist of all  
35 regularly compensated employees and appointive and elective officials  
36 of employers, as defined in this chapter, with the following  
37 exceptions:

1 (1) Persons in ineligible positions;

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

6 (3)(a) Persons holding elective offices or persons appointed  
7 directly by the governor: PROVIDED, That such persons shall have the  
8 option of applying for membership during such periods of employment:  
9 AND PROVIDED FURTHER, That any persons holding or who have held  
10 elective offices or persons appointed by the governor who are members  
11 in the retirement system and who have, prior to becoming such  
12 members, previously held an elective office, and did not at the start  
13 of such initial or successive terms of office exercise their option  
14 to become members, may apply for membership to be effective during  
15 such term or terms of office, and shall be allowed to establish the  
16 service credit applicable to such term or terms of office upon  
17 payment of the employee contributions therefor by the employee with  
18 interest as determined by the director and employer contributions  
19 therefor by the employer or employee with interest as determined by  
20 the director: AND PROVIDED FURTHER, That all contributions with  
21 interest submitted by the employee under this subsection shall be  
22 placed in the employee's individual account in the employee's savings  
23 fund and be treated as any other contribution made by the employee,  
24 with the exception that any contributions submitted by the employee  
25 in payment of the employer's obligation, together with the interest  
26 the director may apply to the employer's contribution, shall not be  
27 considered part of the member's annuity for any purpose except  
28 withdrawal of contributions;

29 (b) A member holding elective office who has elected to apply for  
30 membership pursuant to (a) of this subsection and who later wishes to  
31 be eligible for a retirement allowance shall have the option of  
32 ending his or her membership in the retirement system. A member  
33 wishing to end his or her membership under this subsection must file,  
34 on a form supplied by the department, a statement indicating that the  
35 member agrees to irrevocably abandon any claim for service for future  
36 periods served as an elected official. A member who receives more  
37 than fifteen thousand dollars per year in compensation for his or her  
38 elective service, adjusted annually for inflation by the director, is  
39 not eligible for the option provided by this subsection (3)(b);

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

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

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

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

20 (d) Except as provided in RCW 41.40.109, on or after July 25,  
21 1999, an employee shall not be excluded from membership or denied  
22 service credit pursuant to this subsection solely on account of  
23 participation in a defined contribution pension plan qualified under  
24 section 401 of the internal revenue code;

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

32 (5) Patient and inmate help in state charitable, penal, and  
33 correctional institutions;

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

35 (7) Persons employed by an institution of higher learning or  
36 community college, primarily as an incident to and in furtherance of  
37 their education or training, or the education or training of a  
38 spouse;

39 (8) Employees of an institution of higher learning or community  
40 college during the period of service necessary to establish

1 eligibility for membership in the retirement plans operated by such  
2 institutions;

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

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

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

13 (12) Retirement system retirees: PROVIDED, That following  
14 reemployment in an eligible position, a retiree may elect to  
15 prospectively become a member of the retirement system if otherwise  
16 eligible;

17 (13) Persons employed by or appointed or elected as an official  
18 of a first class city that has its own retirement system: PROVIDED,  
19 That any member elected or appointed to an elective office on or  
20 after April 1, 1971, shall have the option of continuing as a member  
21 of this system in lieu of becoming a member of the city system. A  
22 member who elects to continue as a member of this system shall pay  
23 the appropriate member contributions and the city shall pay the  
24 employer contributions at the rates prescribed by this chapter. The  
25 city shall also transfer to this system all of such member's  
26 accumulated contributions together with such further amounts as  
27 necessary to equal all employee and employer contributions which  
28 would have been paid into this system on account of such service with  
29 the city and thereupon the member shall be granted credit for all  
30 such service. Any city that becomes an employer as defined in RCW  
31 41.40.010(13) as the result of an individual's election under this  
32 subsection shall not be required to have all employees covered for  
33 retirement under the provisions of this chapter. Nothing in this  
34 subsection shall prohibit a city of the first class with its own  
35 retirement system from: (a) Transferring all of its current employees  
36 to the retirement system established under this chapter, or (b)  
37 allowing newly hired employees the option of continuing coverage  
38 under the retirement system established by this chapter.

39 Notwithstanding any other provision of this chapter, persons  
40 transferring from employment with a first class city of over four

1 hundred thousand population that has its own retirement system to  
2 employment with the state department of agriculture may elect to  
3 remain within the retirement system of such city and the state shall  
4 pay the employer contributions for such persons at like rates as  
5 prescribed for employers of other members of such system;

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

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

15 (16) Employees who are citizens of the United States and who  
16 reside and perform duties for an employer outside of the United  
17 States: PROVIDED, That unless otherwise excluded under this chapter  
18 or chapter 41.04 RCW, the employee may apply for membership (a)  
19 within thirty days after employment in an eligible position and  
20 membership service credit shall be granted from the first day of  
21 membership service, and (b) after this thirty-day period, but  
22 membership service credit shall be granted only if payment is made  
23 for the noncredited membership service under RCW 41.50.165(2),  
24 otherwise service shall be from the date of application;

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

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

1 (18) Persons serving as: (a) The chief administrative officer of  
2 a public utility district as defined in RCW 54.16.100; (b) the chief  
3 administrative officer of a port district formed under chapter 53.04  
4 RCW; or (c) the chief administrative officer of a county who serves  
5 at the pleasure of an appointing authority: PROVIDED, That such  
6 persons shall have the option of applying for membership within  
7 thirty days from the date of their appointment to such positions.  
8 Persons serving in such positions as of July 25, 1999, shall continue  
9 to be members in the retirement system unless they notify the  
10 director in writing prior to December 31, 1999, of their desire to  
11 withdraw from membership in the retirement system. A member who  
12 withdraws from membership in the system under this section shall  
13 receive a refund of the member's accumulated contributions upon  
14 termination of employment or as otherwise consistent with the plan's  
15 tax qualification status as defined in internal revenue code section  
16 401.

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

22 (19) Persons enrolled in state-approved apprenticeship programs,  
23 authorized under chapter 49.04 RCW, and who are employed by local  
24 governments to earn hours to complete such apprenticeship programs,  
25 if the employee is a member of a union-sponsored retirement plan and  
26 is making contributions to such a retirement plan or if the employee  
27 is a member of a Taft-Hartley retirement plan;

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

34 (21) Employees who are removed from membership under RCW  
35 41.40.823 or 41.40.633; ((and))

36 (22) Persons employed as the state director of fire protection  
37 under RCW 43.43.938 who were previously members of the law  
38 enforcement officers' and firefighters' retirement system plan 2  
39 under chapter 41.26 RCW may continue as a member of the law

1 enforcement officers' and firefighters' retirement system in lieu of  
2 becoming a member of this system; and

3 (23) Persons employed as individual providers under chapter  
4 74.39A RCW and any other persons who are public employees, solely for  
5 the purposes of collective bargaining, are not eligible for coverage  
6 in the retirement plans provided pursuant to this chapter.

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

9 (1) Solely for the purposes of collective bargaining and as  
10 expressly limited under subsections (2) and (3) of this section, the  
11 governor is the public employer, as defined in chapter 41.56 RCW, of  
12 individual providers, who, solely for the purposes of collective  
13 bargaining, are public employees as defined in chapter 41.56 RCW. To  
14 accommodate the role of the state as payor for the community-based  
15 services provided under this chapter and to ensure coordination with  
16 state employee collective bargaining under chapter 41.80 RCW and the  
17 coordination necessary to implement RCW 74.39A.300, the public  
18 employer shall be represented for bargaining purposes by the governor  
19 or the governor's designee appointed under chapter 41.80 RCW. The  
20 governor or governor's designee shall periodically consult with the  
21 authority during the collective bargaining process to allow the  
22 authority to communicate issues relating to the long-term in-home  
23 care services received by consumers. The department shall solicit  
24 input from the developmental disabilities council, the governor's  
25 committee on disability issues and employment, the state council on  
26 aging, and other consumer advocacy organizations to obtain informed  
27 input from consumers on their interests, including impacts on  
28 consumer choice, for all issues proposed for collective bargaining  
29 under subsections (5) and (6) of this section.

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

33 (a) The only unit appropriate for the purpose of collective  
34 bargaining under RCW 41.56.060 is a statewide unit of all individual  
35 providers;

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

1 (c) The mediation and interest arbitration provisions of RCW  
2 41.56.430 through 41.56.470 and 41.56.480 apply, except that:

3 (i) With respect to commencement of negotiations between the  
4 governor and the bargaining representative of individual providers,  
5 negotiations shall be commenced by May 1st of any year prior to the  
6 year in which an existing collective bargaining agreement expires;  
7 and

8 (ii) The decision of the arbitration panel is not binding on the  
9 legislature and, if the legislature does not approve the request for  
10 funds necessary to implement the compensation and fringe benefit  
11 provisions of the arbitrated collective bargaining agreement, is not  
12 binding on the authority or the state;

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

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

17 (3) Individual providers who are public employees solely for the  
18 purposes of collective bargaining under subsection (1) of this  
19 section are not, for that reason, employees of the state, its  
20 political subdivisions, or an area agency on aging for any purpose.  
21 Chapter 41.56 RCW applies only to the governance of the collective  
22 bargaining relationship between the employer and individual providers  
23 as provided in subsections (1) and (2) of this section.

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

29 (5) Except as expressly limited in this section and RCW  
30 74.39A.300, the wages, hours, and working conditions of individual  
31 providers are determined solely through collective bargaining as  
32 provided in this chapter. No agency or department of the state may  
33 establish policies or rules governing the wages or hours of  
34 individual providers. However, this subsection does not modify:

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

1 engage in collective bargaining, as defined in RCW 41.56.030(4), with  
2 the exclusive bargaining representative over how the department's  
3 core responsibility affects hours of work for individual providers.  
4 This subsection shall not be interpreted to require collective  
5 bargaining over an individual consumer's plan of care;

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

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

12 (d) The consumer's right to select, hire, terminate, supervise  
13 the work of, and determine the conditions of employment for each  
14 individual provider providing services to the consumer under this  
15 chapter;

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

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

28 (6) At the request of the exclusive bargaining representative,  
29 the governor or the governor's designee appointed under chapter 41.80  
30 RCW shall engage in collective bargaining, as defined in RCW  
31 41.56.030(4), with the exclusive bargaining representative over  
32 employer contributions to the training partnership for the costs of:

33 (a) Meeting all training and peer mentoring required under this  
34 chapter; and (b) other training intended to promote the career  
35 development of individual providers.

36 (7) The state, the department, the area agencies on aging, or  
37 their contractors under this chapter may not be held vicariously or  
38 jointly liable for the action or inaction of any individual provider  
39 or prospective individual provider, whether or not that individual  
40 provider or prospective individual provider was included on the

1 referral registry or referred to a consumer or prospective consumer.  
2 The existence of a collective bargaining agreement, the placement of  
3 an individual provider on the referral registry, or the development  
4 or approval of a plan of care for a consumer who chooses to use the  
5 services of an individual provider and the provision of case  
6 management services to that consumer, by the department or an area  
7 agency on aging, does not constitute a special relationship with the  
8 consumer.

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

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

18 **PART IV - FINANCIAL FEASIBILITY**

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

21 Unless the context clearly requires otherwise, the definitions in  
22 this section apply throughout this chapter.

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

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

32 (3) "Commission" means the public employment relations  
33 commission.

34 (4) "Confidential employee" means an employee who, in the regular  
35 course of his or her duties, assists in a confidential capacity  
36 persons who formulate, determine, and effectuate management policies  
37 with regard to labor relations or who, in the regular course of his  
38 or her duties, has authorized access to information relating to the

1 effectuation or review of the employer's collective bargaining  
2 policies, or who assists or aids a manager. "Confidential employee"  
3 also includes employees who assist assistant attorneys general who  
4 advise and represent managers or confidential employees in personnel  
5 or labor relations matters, or who advise or represent the state in  
6 tort actions.

7 (5) "Director" means the director of the public employment  
8 relations commission.

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

12 (a) Employees covered for collective bargaining by chapter 41.56  
13 RCW;

14 (b) Confidential employees;

15 (c) Members of the Washington management service;

16 (d) Internal auditors in any agency; or

17 (e) Any employee of the commission, the office of financial  
18 management, or the office of risk management within the department of  
19 enterprise services.

20 (7) "Employee organization" means any organization, union, or  
21 association in which employees participate and that exists for the  
22 purpose, in whole or in part, of collective bargaining with  
23 employers.

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

25 (9) "Estimate of state financial resources" means the amount of  
26 available fiscal resources that exceed projected maintenance level as  
27 those terms are defined in RCW 43.88.055 and as adopted by the  
28 economic and revenue forecast council in November as directed in RCW  
29 82.33.060.

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

33 ((+10)) (11)(a) "Feasible financially for the state" means:

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

1 (ii) For each bargaining agreement negotiated or awarded under  
2 the authority of this chapter, section 17 of this act, RCW 41.56.026,  
3 41.56.028, 41.56.029, 41.56.510, and 74.39A.270, the request for  
4 funds does not exceed a three percent biennial increase in general  
5 fund and related funds costs from the current bargaining agreement  
6 for the term of the agreement and for the ensuing biennium.

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

9 (12) "Institutions of higher education" means the University of  
10 Washington, Washington State University, Central Washington  
11 University, Eastern Washington University, Western Washington  
12 University, The Evergreen State College, and the various state  
13 community colleges.

14 ~~((11))~~ (13) "Labor dispute" means any controversy concerning  
15 terms, tenure, or conditions of employment, or concerning the  
16 association or representation of persons in negotiating, fixing,  
17 maintaining, changing, or seeking to arrange terms or conditions of  
18 employment with respect to the subjects of bargaining provided in  
19 this chapter, regardless of whether the disputants stand in the  
20 proximate relation of employer and employee.

21 ~~((12))~~ (14) "Manager" means "manager" as defined in RCW  
22 41.06.022.

23 ~~((13))~~ (15) "Request for funds" means the incremental increased  
24 cost of the compensation and fringe benefits provisions of a  
25 bargaining agreement or interest arbitration award. A request for  
26 funds does not include appropriations necessary to maintain and  
27 continue the compensation and fringe benefits provisions of a current  
28 bargaining agreement into ensuing biennia.

29 (16) "Supervisor" means an employee who has authority, in the  
30 interest of the employer, to hire, transfer, suspend, lay off,  
31 recall, promote, discharge, direct, reward, or discipline employees,  
32 or to adjust employee grievances, or effectively to recommend such  
33 action, if the exercise of the authority is not of a merely routine  
34 nature but requires the consistent exercise of individual judgment.  
35 However, no employee who is a member of the Washington management  
36 service may be included in a collective bargaining unit established  
37 under this section.

38 ~~((14))~~ (17) "Unfair labor practice" means any unfair labor  
39 practice listed in RCW 41.80.110.

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

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

7       (2)(a) If an exclusive bargaining representative represents more  
8 than one bargaining unit, the exclusive bargaining representative  
9 shall negotiate with each employer representative as designated in  
10 subsection (1) of this section one master collective bargaining  
11 agreement on behalf of all the employees in bargaining units that the  
12 exclusive bargaining representative represents. For those exclusive  
13 bargaining representatives who represent fewer than a total of five  
14 hundred employees each, negotiation shall be by a coalition of all  
15 those exclusive bargaining representatives. The coalition shall  
16 bargain for a master collective bargaining agreement covering all of  
17 the employees represented by the coalition. The governor's designee  
18 and the exclusive bargaining representative or representatives are  
19 authorized to enter into supplemental bargaining of agency-specific  
20 issues for inclusion in or as an addendum to the master collective  
21 bargaining agreement, subject to the parties' agreement regarding the  
22 issues and procedures for supplemental bargaining. This section does  
23 not prohibit cooperation and coordination of bargaining between two  
24 or more exclusive bargaining representatives.

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

32       (c) If five hundred or more employees of an independent state  
33 elected official listed in RCW 43.01.010 are organized in a  
34 bargaining unit or bargaining units under RCW 41.80.070, the official  
35 shall be consulted by the governor or the governor's designee before  
36 any agreement is reached under (a) of this subsection concerning  
37 supplemental bargaining of agency specific issues affecting the  
38 employees in such bargaining unit.

39       (3) The governor shall submit a request for funds necessary to  
40 implement the compensation and fringe benefit provisions in the

1 master collective bargaining agreement or for legislation necessary  
2 to implement the agreement. Requests for funds necessary to implement  
3 the provisions of bargaining agreements shall not be submitted to the  
4 legislature by the governor unless such requests:

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

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

10 The legislature shall approve or reject the submission of the  
11 request for funds as a whole. The legislature shall not consider a  
12 request for funds to implement a collective bargaining agreement  
13 unless the request is transmitted to the legislature as part of the  
14 governor's budget document submitted under RCW 43.88.030 and  
15 43.88.060. If the legislature rejects or fails to act on the  
16 submission, either party may reopen all or part of the agreement or  
17 the exclusive bargaining representative may seek to implement the  
18 procedures provided for in RCW 41.80.090.

19 (4)(a)(i) For the purpose of negotiating agreements for  
20 institutions of higher education, the employer shall be the  
21 respective governing board of each of the universities, colleges, or  
22 community colleges or a designee chosen by the board to negotiate on  
23 its behalf.

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

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

32 (B) If the parties mutually agree, the governor or the governor's  
33 designee and an exclusive bargaining representative shall negotiate  
34 one master collective bargaining agreement for all of the bargaining  
35 units of employees of more than one university or college that the  
36 representative represents.

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

1 (b) Prior to entering into negotiations under this chapter, the  
2 institutions of higher education or their designees shall consult  
3 with the director of the office of financial management regarding  
4 financial and budgetary issues that are likely to arise in the  
5 impending negotiations.

6 (c)(i) In the case of bargaining agreements reached between  
7 institutions of higher education other than the University of  
8 Washington and exclusive bargaining representatives agreed to under  
9 the provisions of this chapter, if appropriations are necessary to  
10 implement the compensation and fringe benefit provisions of the  
11 bargaining agreements, the governor shall submit a request for such  
12 funds to the legislature according to the provisions of subsection  
13 (3) of this section, except as provided in (c)(iii) of this  
14 subsection.

15 (ii) In the case of bargaining agreements reached between the  
16 University of Washington and exclusive bargaining representatives  
17 agreed to under the provisions of this chapter, if appropriations are  
18 necessary to implement the compensation and fringe benefit provisions  
19 of a bargaining agreement, the governor shall submit a request for  
20 such funds to the legislature according to the provisions of  
21 subsection (3) of this section, except as provided in this subsection  
22 (4)(c)(ii) and as provided in (c)(iii) of this subsection.

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

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

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

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

38 (C) If the director of the office of financial management does  
39 not certify a request under (c)(ii)(B) of this subsection as being  
40 feasible financially for the state, the parties shall enter into

1 collective bargaining solely for the purpose of reaching a mutually  
2 agreed upon modification of the agreement necessary to address the  
3 absence of those requested funds. The legislature may act upon the  
4 compensation and fringe benefit provisions of the modified collective  
5 bargaining agreement if those provisions are agreed upon and  
6 submitted to the office of financial management and legislative  
7 budget committees before final legislative action on the biennial or  
8 supplemental operating budget by the sitting legislature.

9 (iii) In the case of a bargaining unit of employees of  
10 institutions of higher education in which the exclusive bargaining  
11 representative is certified during or after the conclusion of a  
12 legislative session, the legislature may act upon the compensation  
13 and fringe benefit provisions of the unit's initial collective  
14 bargaining agreement if those provisions are agreed upon and  
15 submitted to the office of financial management and legislative  
16 budget committees before final legislative action on the biennial or  
17 supplemental operating budget by the sitting legislature.

18 (5) There is hereby created a joint committee on employment  
19 relations, which consists of two members with leadership positions in  
20 the house of representatives, representing each of the two largest  
21 caucuses; the chair and ranking minority member of the house  
22 appropriations committee, or its successor, representing each of the  
23 two largest caucuses; two members with leadership positions in the  
24 senate, representing each of the two largest caucuses; and the chair  
25 and ranking minority member of the senate ways and means committee,  
26 or its successor, representing each of the two largest caucuses. The  
27 governor shall periodically consult with the committee regarding  
28 appropriations necessary to implement the compensation and fringe  
29 benefit provisions in the master collective bargaining agreements,  
30 and upon completion of negotiations, advise the committee on the  
31 elements of the agreements and on any legislation necessary to  
32 implement the agreements.

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

39 (7) After the expiration date of a collective bargaining  
40 agreement negotiated under this chapter, all of the terms and

1 conditions specified in the collective bargaining agreement remain in  
2 effect until the effective date of a subsequently negotiated  
3 agreement, not to exceed one year from the expiration date stated in  
4 the agreement. Thereafter, the employer may unilaterally implement  
5 according to law.

6 (8) For the 2013-2015 fiscal biennium, a collective bargaining  
7 agreement related to employee health care benefits negotiated between  
8 the employer and coalition pursuant to RCW 41.80.020(3) regarding the  
9 dollar amount expended on behalf of each employee shall be a separate  
10 agreement for which the governor may request funds necessary to  
11 implement the agreement. The legislature may act upon a 2013-2015  
12 collective bargaining agreement related to employee health care  
13 benefits if an agreement is reached and submitted to the office of  
14 financial management and legislative budget committees before final  
15 legislative action on the biennial or supplemental operating  
16 appropriations act by the sitting legislature.

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

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

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

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

4 (a) A statewide unit of all family child care providers is the  
5 only unit appropriate for purposes of collective bargaining under RCW  
6 41.56.060.

7 (b) The exclusive bargaining representative of family child care  
8 providers in the unit specified in (a) of this subsection shall be  
9 the representative chosen in an election conducted pursuant to RCW  
10 41.56.070, except that in the initial election conducted under  
11 chapter 54, Laws of 2006, if more than one labor organization is on  
12 the ballot and none of the choices receives a majority of the votes  
13 cast, a run-off election shall be held.

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

25 (d) The mediation and interest arbitration provisions of RCW  
26 41.56.430 through 41.56.470 and 41.56.480 apply, except that:

27 (i) With respect to commencement of negotiations between the  
28 governor and the exclusive bargaining representative of family child  
29 care providers, negotiations shall be commenced initially upon  
30 certification of an exclusive bargaining representative under (a) of  
31 this subsection and, thereafter, by February 1st of any even-numbered  
32 year; and

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

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

39 (3) Family child care providers who are public employees solely  
40 for the purposes of collective bargaining under subsection (1) of

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

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

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

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

15 (c) Chapter 26.44 RCW, RCW 43.43.832, 43.20A.205, and 74.15.130;  
16 and

17 (d) The legislature's right to make programmatic modifications to  
18 the delivery of state services through child care subsidy programs,  
19 including standards of eligibility of parents, legal guardians, and  
20 family child care providers participating in child care subsidy  
21 programs, and the nature of services provided. The governor shall not  
22 enter into, extend, or renew any agreement under this section that  
23 does not expressly reserve the legislative rights described in this  
24 subsection (4)(d).

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

32 (6) A request for funds necessary to implement the compensation  
33 and benefit provisions of a collective bargaining agreement entered  
34 into under this section shall not be submitted by the governor to the  
35 legislature unless such request has 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,  
39 the request must be submitted by November 15, 2006; and

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

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

9 (8) The governor shall periodically consult with the joint  
10 committee on employment relations established by RCW 41.80.010  
11 regarding appropriations necessary to implement the compensation and  
12 benefit provisions of any collective bargaining agreement and, upon  
13 completion of negotiations, advise the committee on the elements of  
14 the agreement and on any legislation necessary to implement such  
15 agreement.

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

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

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

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

1 management as being feasible financially for the state, and submitted  
2 to legislative fiscal committees before final legislative action on  
3 the biennial or supplemental operating budget by the sitting  
4 legislature.

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

8 **Sec. 27.** RCW 41.56.029 and 2007 c 184 s 1 are each amended to  
9 read as follows:

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

18 (2) There shall be collective bargaining, as defined in RCW  
19 41.56.030, between the governor and adult family home providers,  
20 except as follows:

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

24 (b) The exclusive bargaining representative of adult family home  
25 providers in the unit specified in (a) of this subsection shall be  
26 the representative chosen in an election conducted pursuant to RCW  
27 41.56.070.

28 Bargaining authorization cards furnished as the showing of  
29 interest in support of any representation petition or motion for  
30 intervention filed under this section shall be exempt from disclosure  
31 under chapter 42.56 RCW.

32 (c) Notwithstanding the definition of "collective bargaining" in  
33 RCW 41.56.030(4), the scope of collective bargaining for adult family  
34 home providers under this section shall be limited solely to: (i)  
35 Economic compensation, such as manner and rate of subsidy and  
36 reimbursement, including tiered reimbursements; (ii) health and  
37 welfare benefits; (iii) professional development and training; (iv)  
38 labor-management committees; (v) grievance procedures; and (vi) other  
39 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) In addition to the entities listed in the mediation and  
5 interest arbitration provisions of RCW 41.56.430 through 41.56.470  
6 and 41.56.480, the provisions apply to the governor or the governor's  
7 designee and the exclusive bargaining representative of adult family  
8 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) Adult family home providers do not have the right to strike.

20 (3) Adult family home providers who are public employees solely  
21 for the purposes of collective bargaining under subsection (1) of  
22 this 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 adult  
25 family home providers as provided in subsections (1) and (2) of this  
26 section.

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

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

39 (b) The department's obligation to comply with the federal  
40 medicaid statute and regulations and the terms of any community-based

1 waiver granted by the federal department of health and human services  
2 and to ensure federal financial participation in the provision of the  
3 services;

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

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

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

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

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

27 (a) Submitted to the director of financial management by October  
28 1st prior to the legislative session at which the requests are to be  
29 considered; and

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

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

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

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

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

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

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

27 (12) For purposes of this section:

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

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

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

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

1 employees. The governor or the governor's designee shall represent  
2 the public employer for bargaining purposes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (a) Submitted to the director of financial management by October  
39 1st prior to the legislative session at which the requests are to be

1 considered, except that, for initial negotiations under this section,  
2 the request may not be submitted before July 1, 2011; and

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

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

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

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

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

28 (12) If the director of the office of financial management does  
29 not certify a request for funds as being feasible financially for the  
30 state, the parties shall immediately enter into collective bargaining  
31 solely for the purpose of reaching a mutually agreed upon  
32 modification of the agreement. The legislature may act upon the  
33 compensation and fringe benefits provisions of the modified  
34 collective bargaining agreement if those provisions are agreed upon,  
35 have been certified by the director of the office of financial  
36 management as being feasible financially for the state, and submitted  
37 to legislative fiscal committees before final legislative action on  
38 the biennial or supplemental operating budget by the sitting  
39 legislature.

40 (13) For purposes of this section:

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

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

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

6 The definitions in this section apply throughout RCW 74.39A.030  
7 ((and)), 74.39A.095 ((and)), 74.39A.220 through 74.39A.300, and  
8 41.56.026 unless the context clearly requires otherwise.

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

11 (2) "Department" means the department of social and health  
12 services.

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

15 (4) "Individual provider" means a person, including a personal  
16 aide, who has contracted with the department to provide personal care  
17 or respite care services to functionally disabled persons under the  
18 medicaid personal care, community options program entry system, chore  
19 services program, or respite care program, or to provide respite care  
20 or residential services and support to persons with developmental  
21 disabilities under chapter 71A.12 RCW, or to provide respite care as  
22 defined in RCW 74.13.270.

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

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

26 (1) Upon meeting the requirements of subsection (2) of this  
27 section, the governor must submit, as a part of the proposed biennial  
28 or supplemental operating budget submitted to the legislature under  
29 RCW 43.88.030, a request for funds necessary to administer chapter 3,  
30 Laws of 2002 and to implement the compensation and fringe benefits  
31 provisions of a collective bargaining agreement entered into under  
32 RCW 74.39A.270 or for legislation necessary to implement such  
33 agreement.

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

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

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

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

12 (4) When any increase in individual provider wages or benefits is  
13 negotiated or agreed to, no increase in wages or benefits negotiated  
14 or agreed to under this chapter will take effect unless and until,  
15 before its implementation, the department has determined that the  
16 increase is consistent with federal law and federal financial  
17 participation in the provision of services under Title XIX of the  
18 federal social security act.

19 (5) 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 fringe benefits provisions of any collective bargaining agreement  
23 and, upon completion of negotiations, advise the committee on the  
24 elements of the agreement and on any legislation necessary to  
25 implement such agreement.

26 (6) After the expiration date of any collective bargaining  
27 agreement entered into under RCW 74.39A.270, 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 RCW 74.39A.270(~~(+6)~~) (5)(f).

32 (7) 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 (8) If the director of the office of financial management does  
39 not certify a request for funds as being feasible financially for the  
40 state, the parties shall immediately enter into collective bargaining

1 solely for the purpose of reaching a mutually agreed upon  
2 modification of the agreement. The legislature may act upon the  
3 compensation and fringe benefits provisions of the modified  
4 collective bargaining agreement if those provisions are agreed upon,  
5 have been certified by the director of the office of financial  
6 management as being feasible financially for the state, and submitted  
7 to legislative fiscal committees before final legislative action on  
8 the biennial or supplemental operating budget by the sitting  
9 legislature.

10 **PART V - MISCELLANEOUS PROVISIONS**

11 NEW SECTION. **Sec. 31.** Sections 17 through 21 of this act expire  
12 July 1, 2022.

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

--- END ---