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STATE OF WASHINGTON

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NO. 82577-7

BY RONALD R. CARPENTER

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SUPREME COURT OF THE STATE OF WASHINGTON

SEIU LOCAL 925,

Petitioner,

v.

GOVERNOR CHRISTINE GREGOIRE,

Respondent.

AGREED STATEMENT OF FACTS

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ORIGINAL - FILED BY E-MAIL ATTACHMENT

1. Petitioner. Petitioner, SEIU Local 925 (Union or Local 925), is the exclusive bargaining representative for approximately 9,000 family child care providers (FCCP), both licensed and license exempt, throughout the State of Washington. The providers are considered public employees solely for the purposes of collective bargaining. The Local 925 is a bargaining representative as defined in RCW 41.56.030.

2. Respondent. Respondent, Christine Gregoire, is the Governor of the State of Washington.

3. Family Child Care Act. The Access to Quality Family Child Care Act (Family Child Care Act), enacted by the Legislature as Second Substitute House Bill 2353, was signed by the Governor in May 2006. It is codified at RCW 41.56.028, and establishes a collective bargaining framework for family child care providers.

4. Bargaining in 2008. The Washington State Labor Relations Office (LRO) and SEIU Local 925 commenced bargaining the 2009-11 labor contract on January 22, 2008, and reached tentative agreement on a number of issues. The parties reached impasse on several remaining issues, which were then certified for interest arbitration by the Public Employment Relations Commission (PERC). July 28, 2008 Letter

from PERC Re: Interest Arbitration, Exhibit 1. A Timeline for SEIU 925 Bargaining is attached as Exhibit 2.

5. Interest Arbitration. RCW 41.56.028(2)(d) provides that the interest arbitration provisions in RCW 41.56.430 - .470 and RCW 41.56.480 apply to family child care providers. In interest arbitration, the parties select an arbitrator to address outstanding collective bargaining issues; the arbitrator's award determines substantive provisions in a new labor agreement. The interest arbitration hearing occurred on August 4-8, 2008.

6. Past Contracts and Interest Arbitration. The parties' 2007-2009 collective bargaining agreement, which remains in effect through June 30, 2009, was in part the result of a timely interest arbitration award issued by Timothy Williams in November 2006. Funding to implement the provisions of the 2007-2009 contract, including the provisions decided by Arbitrator Williams' award, was included in the Governor's budget document and approved by the Legislature in 2007.

7. Evidence Regarding State's Financial Condition. During the hearing, the State introduced testimony and exhibits relating to the financial condition of the State. Attached as Exhibit 3 is the transcribed testimony of OFM Deputy Director Wolfgang Optiz. Transcript of Proceedings, PERC No. 21885-I-08-0513, Aug. 4, 2008, pp. 124-169.

Attached as Exhibit 4 is the transcribed testimony of Wolfgang Optiz from PERC No. 21907-01-08-0516, Aug. 26, 2008, pp. 640-641. The exhibits listed below were introduced into evidence through Mr. Opitz's testimony:

- a. *Washington State Budget Process*, OFM publication dated June 2008, attached as Exhibit 5.
- b. *Estimated Six Year GF-S Outlook*, Senate Ways and Means Committee, June 26, 2008, attached as Exhibit 6.
- c. *Washington Economic & Revenue Forecast Vol. XXXI, No. 2*, Economic & Revenue Forecast Council, June 2008 Executive Summary pp. 1-4, attached as Exhibit 7.
- d. *Washington Quarterly Revenue Projection Down \$167 Million*, OFM News Release, June 19, 2008, attached as Exhibit 8 (available at <http://www.ofm.wa.gov/news/release/2008/080619.asp>).

8. Arbitrator's Decision. Arbitrator Michael Cavanaugh issued his arbitration award on August 25, 2008. The Cavanaugh award was timely submitted to the Governor's office of financial management. A copy of Interest Arbitrator's Decision and Award, Michael Cavanaugh, Aug. 25, 2008, is attached as Exhibit 9.

9. Tentative Collective Bargaining Agreement. The 2009-2011 tentative Articles agreed to by the parties is attached as Exhibit 10. *2009-2011 Tentative Collective Bargaining Agreement By and Between The State of Washington and SEIU Local 925*, effective July 1, 2009-June 30, 2011.

10. Membership Vote. SEIU Local 925 members voted to approve the 2009-2011 labor contract on September 27, 2008.

11. Contract Funding Information. A summary of the costs of the arbitration award rendered pursuant to RCW 41.56.028(d), plus all costs associated with monetary issues successfully negotiated by the parties without requiring interest arbitration, was submitted by LRO to the director of OFM as part of the process for requesting funding for the labor contract. A copy of the cost summary is attached as Exhibit 11.

12. November Economic Report. In November 2008, the Economic and Revenue Forecast Council issued a quarterly report titled *Washington Economic and Revenue Forecast, Vol. XXXI, No. 4*, attached as Exhibit 12.

13. Budget Outlook. On December 4, 2008, the Senate Ways and Means Committee published a report titled *2009-11 Budget Outlook*, a copy of which is attached as Exhibit 13. This document is also accessible electronically at the following link:

<http://www.leg.wa.gov/Senate/Committees/WM/Presentations/>.

14. Report on Financial Feasibility. On December 17, 2008, the Director of the Office of Financial Management (OFM) submitted a memorandum to the Governor titled *Financial Feasibility of Collective*

Bargaining Agreements & Arbitration Awards for 2009-11 Biennium, a copy of which is attached as Exhibit 14.

15. Letter From LRO. On December 18, 2008, the Director of LRO issued a letter addressed to several labor organizations, including Petitioner, regarding *Financial Feasibility of 2009–2011 Collective Bargaining Agreement*, a copy of which is attached as Exhibit 15.

16. Budget Document. On December 18, 2008, the Governor submitted her proposed biennial budget document to the legislature, pursuant to RCW 43.88.030 and 43.88.060. The budget document includes the following: *Proposed 2009-2011 Budget & Policy Highlights*, *Agency Recommendation Summaries*, *Agency Detail Budgets*, and *Summary Tables*. A copy of the publication titled *Proposed 2009-2011 Budget & Policy Highlights* is attached as Exhibit 16. The additional budget document components listed above are accessible on-line at <http://www.ofm.wa.gov/budget09/default.asp>.

17. No Request for Funding. The Governor's budget document does not include a request for funding to implement the compensation and fringe benefit increases decided by Arbitrator Cavanaugh, and does not include a request for funding to implement any compensation or money contributions that were agreed to by the parties and not subject to interest arbitration.

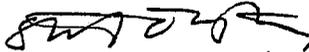
18. Budget Bill. *Proposed 2009-2011 Operating Appropriations Bill*, Governor Gregoire, Dec. 18, 2008, is attached as Exhibit 17. The Budget Bill is accessible on-line at:
<http://www.ofm.wa.gov/budget09/bills/default.asp>.

19. Legislative Calendar. The 2009 legislative session commenced on January 12. The last day allowed for the 2009 regular legislative session under the state constitution is April 26.

20. Additional Facts Not Precluded. This Agreed Statement of Facts comprises all the facts to which the parties agree. It is not intended to preclude the parties from citing additional matters of which the Court may take judicial notice in briefing to the Court, including, but not limited to, pending legislation.

RESPECTFULLY SUBMITTED this 27th day of January, 2009.

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& Lavitt, LLP

 WSBA NO 2774,
per e-mail authorization by

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