

HOUSE RESEARCH

Bill Summary

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Section

Article 1: Family Child Care Providers Representation Act

- 1 Representation of family child care providers.** Identifies legislation as the Family Child Care Representation Act.
- 2 Definitions.** Provides definitions of terms used in the act. Family child care provider means legal licensed or non licensed family child care providers who provide child care services under the child care assistance programs in chapter 119B. Center based child care services are not included.
- 3 Right to organize.**

Subd. 1. Right to organize; limitations. Provides family child care providers the right to form, join and participate in the activities of labor organizations for the purpose of representation and bargaining with the state. Family child care providers have the right to interest arbitration; they do not have the right to strike.

Subd. 2. Statewide unit. The bargaining unit shall be a statewide unit of all family child care providers.

Section

Subd. 3. Certification; process. Certification of a labor organization would follow the processes under PELRA and a certification election is to be conducted by mail ballot. A list of family child care providers would be provided by the Department of Human Services.

Subd. 4. Compilation of list. Directs the commissioner to compile and maintain a list of family child care providers who have had active registration under chapter 119B within the previous 12 months.

Subd. 5. List access. Provides for access to the list of family child care providers compiled by the commissioner.

Subd. 6. Elections for exclusive representative. Provides for representation elections upon a showing that 10 percent of those in the appropriate unit wish to be represented.

Subd. 7. Meet and negotiate. If the commissioner certifies a labor organization as the exclusive representative, the state shall meet and negotiate over grievance issues, child care assistance reimbursement rates and fringe benefits, but not retirement contributions or benefits or other benefits when a person is no longer a family child care provider.

Subd. 8. Legislative action on agreements. Requires the legislature to approve or reject a negotiated agreement or arbitration award.

Subd. 9. Meet and confer. The state and the exclusive representative may also meet and confer on other issues.

Subd. 10. Exemption; federal law. Sets forth that the state intends that the “state action” exemption from federal antitrust laws be available to the state.

Subd. 11. Rights. States that nothing in the bill shall be construed to interfere with:

- parent rights to select or reject providers or the ability of providers to establish the rate they charge to parents;
- the right of any state agency to communicate with others; and
- the rights and responsibilities of providers under federal law.

Subd. 12. Membership status and eligibility for subsidies. States that membership status in an employee organization shall not affect eligibility to provide care or be paid under subsidy programs.

Subd. 13. Membership status and licensure. Provides that membership status in an employee organization shall not affect licensure.

Section

- 4** **No use of scholarships for dues or fees.** Prohibits use of early learning scholarship funds for payment of union dues or fees.
- 5** **Severability.** Provides that should any part of the act be declared invalid or unenforceable or enforcement suspended, constrained or barred the remainder of the act remains in effect.

Article 2: Individual Providers of Direct Support Services Representation

1 **Individual providers of direct support services.**

Subd. 1. Definitions. Provides definitions for this section through cross reference to section 2 for the following terms: direct support services, individual provider, participant, and participant's representative.

Subd. 2. Rights of individual providers and participants. Provides that only for the purposes of meeting and negotiating on specific issues, individual providers are considered executive branch state employees employed by the commissioner of MMB. Individual providers, however, are not public employees for any other purpose. Individual providers are covered under these provisions regardless of part-time or full-time employment status.

Subd. 3. Scope of meet and negotiate. Specifies that compensation rates, payments and practices, fringe benefits (excluding retirement), access to training and educational opportunities and funding for training, required orientation programs, access to job opportunities within covered programs, access to and dissemination of information in the registry, and grievance procedures are subject to negotiation.

Subd. 4. Rights of covered program participants. States that no agreement or arbitration award interferes with participant rights to select, hire, supervise or terminate the employment of individual providers, to manage individual service budgets, or to receive direct support services from providers not referred through a state registry.

Subd. 5. Legislative action on agreements. Agreements and arbitration awards must be submitted for legislative approval or rejection.

Subd. 6. Strikes prohibited. Individual providers may not strike.

Subd. 7. Interest arbitration. Provides for interest arbitration.

Subd. 8. Appropriate unit. The only appropriate unit for individual providers shall be a statewide unit of individual providers.

Subd. 9. List access. Beginning July 1, 2013, an employee organization may show the commissioner of mediation services that at least 500 individual providers

Section

support representation; subsequently the commissioner of human services must provide to the organization the most recent list of individual providers compiled by the commissioner.

Subd. 10. Representation and election. Beginning August 1, 2013, any employee organization seeking to represent providers may seek exclusive representative status. Representation elections are to be conducted by mail ballot; the election may be conducted upon presentation of a petition stating that at least 10 percent of the unit wishes to be represented by the petitioner. Individual providers eligible to vote in an election are those providers on the list compiled by the commissioner of DHS.

Subd. 11. Fee collection prior to agreement ratification. Allows only voluntary payments of fees prior to ratification.

Subd. 12. Exemption; federal law. Sets forth that the state intends that the “state action” exemption from federal antitrust laws be available to the state.

2 Quality consumer-directed services workforce.

Subd. 1. Definitions. Provides the following definitions:

- commissioner is the commissioner of human services;
- covered program means one that provides direct support services and includes the Community First Services and Supports program, Consumer Directed Community Supports, extended state plan personal care assistance services under home and community based waivers and under the alternative care program; the personal care assistance choice program and similar programs;
- direct support services means MA covered services; assistance with activities of daily living and instrumental activities of daily living; and similar programs and services for the elderly or disabled;
- individual provider means a person selected by and working under the direction of a participant in a covered program; it does not cover an employee from a workforce assembled, directed and controlled by a provider agency;
- participant means a person receiving direct support services through a covered program; and
- participant’s representative is a legal guardian or person with authority to act on a participant’s behalf.

Subds. 2-8. Quality consumer-directed services workforce council established; duties; operatives. Establishes a council made up of the DHS commissioner and gubernatorial appointees to advise the commissioner.

Section

Subds. 9-10. Operations of covered programs. Directs that all covered programs operate under the requirements of this bill, however, participants may choose to receive services through a provider agency.

Subd. 11. Duties of Department of Human Services. Specifies that the commissioner, in consultation with the council, shall establish rates of compensations, payment terms and practices, benefits, provide for orientation programs for new providers, provide for training, maintain public registries, provide referrals, employment opportunities, and establish other appropriate terms and conditions of employment. The commissioner's authority over the items enumerated above is subject to the state's obligations to meet and negotiate with an exclusive representative.

By July 1, 2013, and then monthly thereafter, the commissioner must compile and maintain a list of names and addresses of individual providers who have been paid for providing direct support services within the previous six months. The list must be shared with the council and others as needed.

3 Severability. Provides that if any part of the act is declared invalid or unenforceable or otherwise suspended, restrained, or barred, the remainder remains in effect.

4 Effective date. Bill is effective the day following final enactment.