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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 950

02/25/2013 Authored by Nelson; Huntley; Murphy, E.; Fischer; Metsa and others
The bill was read for the first time and referred to the Committee on Early Childhood and Youth Development Policy

1.1 A bill for an act
1.2 relating to collective bargaining; authorizing collective bargaining for family
1.3 child care providers; proposing coding for new law in Minnesota Statutes,
1.4 chapter 179A.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **[179A.50] REPRESENTATION OF FAMILY CHILD CARE**
1.7 **PROVIDERS.**

1.8 Sections 179A.50 to 179A.53 shall be known as the Family Child Care Providers
1.9 Representation Act.

1.10 Sec. 2. **[179A.51] DEFINITIONS.**

1.11 Subdivision 1. **Scope.** For the purposes of sections 179A.50 to 179A.53, the terms
1.12 in this section have the meanings given them.

1.13 Subd. 2. **Commissioner.** "Commissioner" means the commissioner of mediation
1.14 services.

1.15 Subd. 3. **Exclusive representative.** "Exclusive representative" means a labor
1.16 organization that has been elected and certified under this chapter thereby maintaining the
1.17 right to represent family child care providers in their relations with the state.

1.18 Subd. 4. **Family child care provider.** "Family child care provider" means an
1.19 individual, either licensed or unlicensed, who provides legal child care services as defined
1.20 under section 245A.03, except for providers licensed under Minnesota Rules, chapter
1.21 9503, or excluded from licensure under section 245A.03, subdivision 2, paragraph (a),
1.22 clause (5), and who provides child care assistance services under chapter 119B.

2.1 Subd. 5. **Labor organization.** "Labor organization" means an organization that has
2.2 as its primary purpose the representation of public service providers in their relations with
2.3 the state and other public entities.

2.4 Subd. 6. **State.** "State" means the state of Minnesota.

2.5 Sec. 3. **[179A.52] RIGHT TO ORGANIZE.**

2.6 Subdivision 1. **Right to organize; limitations.** Family child care providers shall
2.7 have the right to form, join, and participate in the activities of labor organizations of their
2.8 own choosing for the purpose of representation and meeting and negotiating with the state
2.9 on subjects pertaining to relations between the state and family child care providers.

2.10 Section 179A.22 applies to family child care providers except as otherwise provided in
2.11 this section. Family child care providers shall have the rights and obligations of public
2.12 employees pursuant to and solely for the purposes of chapter 179A, except as otherwise
2.13 provided in this section. Family child care providers shall have the same rights to interest
2.14 arbitration provided under section 179A.16, subdivision 2, to essential employees. This
2.15 section is not intended to grant family child care providers status as public employees for
2.16 any other purpose. Family child care providers shall not have the right to strike.

2.17 Subd. 2. **Employer of record.** For the purposes of chapter 179A, the state is the
2.18 public employer of record for family child care providers.

2.19 Subd. 3. **Statewide unit.** Notwithstanding any other law to the contrary, the only
2.20 bargaining unit under this section shall be a statewide unit of all family child care providers.

2.21 Subd. 4. **Certification; process.** For the purposes of determining certification,
2.22 the commissioner shall utilize a list of family child care providers compiled by the
2.23 commissioner of human services over the most recent 12-month period. Upon application
2.24 by petition, authorization cards, or union membership cards of a labor organization
2.25 adequately showing that a majority of family child care providers in the state desire to
2.26 be represented exclusively by that labor organization, and no other labor organization is
2.27 currently certified as the exclusive representative, the commissioner shall certify and
2.28 grant exclusive representation to the labor organization for the purposes set forth in this
2.29 section. Upon application by petition, authorization cards, or union membership cards of a
2.30 labor organization adequately showing that less than a majority, but at least 30 percent of
2.31 family child care providers in the state desire to be represented by that labor organization,
2.32 and no other labor organization is currently certified as the exclusive representative,
2.33 the commissioner shall conduct a certification election by mail ballot pursuant to the
2.34 procedures in chapter 179A.

3.1 Subd. 5. **Meet and negotiate.** If the commissioner certifies a labor organization as
3.2 the majority exclusive representative, the state, through the governor or the governor's
3.3 designee, shall meet and negotiate in good faith with the exclusive representative of the
3.4 family child care provider unit regarding issues of mutual concern. Issues of mutual
3.5 concern include quality standards and quality rating systems, the availability of training
3.6 opportunities and funding, reimbursement rates, access to benefits, changes to the state
3.7 system of providing early childhood education services, the collection and disbursement
3.8 of established dues or fees to the exclusive representative of family child care providers,
3.9 licensing and licensing actions, the monitoring and evaluating of family child care
3.10 providers, and any other matters that the parties agree would improve recruitment and
3.11 retention of qualified family child care providers and the quality of the programs they
3.12 provide. The governor or the governor's designee is authorized to enter into agreements
3.13 with the exclusive representative. Negotiated agreements and arbitration decisions must
3.14 be submitted to the legislature to be accepted or rejected in accordance with sections
3.15 3.855 and 179A.22.

3.16 Subd. 6. **Exemption; federal law.** In affording family child care providers the right
3.17 to engage in collective action, select a representative, and jointly engage in discussions
3.18 with the state under the terms of this section, the state intends that the "state action"
3.19 exemption from federal antitrust laws be fully available to the state, based on the state's
3.20 active supervision of family child care providers to improve the quality, accessibility, and
3.21 affordability of early childhood education services in the state.

3.22 Subd. 7. **Rights.** Nothing in this section shall be construed to interfere with:

3.23 (1) parental rights to select and deselect family child care providers or the ability of
3.24 family child care providers to establish the rates they charge to parents;

3.25 (2) the right or obligation of any state agency to communicate or meet with any
3.26 citizen or organization concerning family child care legislation, regulation, or policy; or

3.27 (3) the rights and responsibilities of family child care providers under federal law.

3.28 Subd. 8. **Severability.** Should any part of this act be declared invalid or
3.29 unenforceable, or the enforcement or compliance with it is suspended, restrained, or
3.30 barred, either by the state or by the final judgment of a court of competent jurisdiction, the
3.31 remainder of this act shall remain in full force and effect.

3.32 **EFFECTIVE DATE.** This section is effective the day following final enactment.