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## State of Minnesota

## HOUSE OF REPRESENTATIVES

SPECIAL SESSION

H. F. No.

8

09/09/2013 Authored by Franson, Wills, Scott, Mack and O'Neill

The bill was read for the first time and referred to the Committee on Rules and Legislative Administration

1.1 A bill for an act  
1.2 relating to collective bargaining; repealing the authorization for collective  
1.3 bargaining among family child care providers; repealing Laws 2013, chapter  
1.4 128, article 1, sections 1; 2; 3; 4; 5; 6; 7.

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

1.6 Section 1. **REPEALER.**

1.7 Laws 2013, chapter 128, article 1, sections 1; 2; 3; 4; 5; 6; and 7, are repealed.

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

*Laws 2013, chapter 128, article 1, section 1*

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

Sections 179A.50 to 179A.52 shall be known as the Family Child Care Providers Representation Act.

*Laws 2013, chapter 128, article 1, section 2*

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

Subdivision 1. **Scope.** For the purposes of sections 179A.50 to 179A.52, the terms in this section have the meanings given them.

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

Subd. 3. **Exclusive representative.** "Exclusive representative" means an employee organization that has been elected and certified under section 179A.52, thereby maintaining the right to represent family child care providers in their relations with the state.

Subd. 4. **Family child care provider.** "Family child care provider" means an individual, either licensed or unlicensed, who provides legal child care services as defined under section 245A.03, except for providers licensed under Minnesota Rules, chapter 9503, or excluded from licensure under section 245A.03, subdivision 2, paragraph (a), clause (5), and who receives child care assistance to subsidize child care services for a child or children currently in their care, under sections 119B.03; 119B.05; and 119B.011, subdivisions 20 and 20a.

*Laws 2013, chapter 128, article 1, section 3*

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

Subdivision 1. **Rights of individual providers and participants.** For the purposes of the Public Employment Labor Relations Act, under chapter 179A, family child care providers shall be considered, by virtue of this section, executive branch state employees employed by the commissioner of management and budget or the commissioner's representative. This section does not require the treatment of family child care providers as public employees for any other purpose. Family child care providers are not state employees for purposes of section 3.736. Chapter 179A shall apply to family child care providers except as otherwise provided in this section. Notwithstanding section 179A.03, subdivision 14, paragraph (a), clause (5), chapter 179A shall apply to family child care providers regardless of part-time or full-time employment status. Family child care providers shall not have the right to strike.

Subd. 2. **Appropriate unit.** The only appropriate unit under this section shall be a statewide unit of all family child care providers who meet the definition in section 179A.51, and who have had an active registration under chapter 119B within the previous 12 months. The unit shall be treated as an appropriate unit under section 179A.10, subdivision 2.

Subd. 3. **Compilation of list.** The commissioner of human services shall, by July 1, 2013, and monthly thereafter, compile and maintain a list of the names and addresses of all family child care providers who meet the definition in section 179A.51, and who have had an active registration under chapter 119B within the previous 12 months. The list shall not include the name of any participant, or indicate that an individual provider is a relative of a participant or has the same address as a participant. The commissioner of human services shall share the lists with others as needed for the state to meet its obligations under chapter 179A as modified and made applicable to family child care providers under this section, and to facilitate the representational processes under this section.

Subd. 4. **List access.** Beginning July 1, 2013, upon a showing made to the commissioner of the Bureau of Mediation Services by any employee organization wishing to represent the appropriate unit of family child care providers that at least 500 family child care providers support such representation, the commissioner of human services shall provide to such organization within seven days the most recent list of actively registered family child care providers compiled under subdivision 3, and subsequent monthly lists upon request for an additional three months. When the list is made available to an employee organization under this subdivision, the list must be made publicly available.

Subd. 5. **Elections for exclusive representative.** After July 31, 2013, any employee organization wishing to represent the appropriate unit of family child care providers may seek exclusive representative status pursuant to section 179A.12. Certification elections for family child care providers shall be conducted by mail ballot, and such election shall be conducted upon an appropriate petition stating that at least 30 percent of the appropriate unit wishes to be represented

APPENDIX

Repealed Minnesota Session Laws: 13-3364

by the petitioner. The family child care providers eligible to vote in any such election shall be those family child care providers on the monthly list of family child care providers compiled under this section, most recently preceding the filing of the election petition. Except as otherwise provided, elections under this subdivision shall be conducted in accordance with section 179A.12.

Subd. 6. **Meet and negotiate.** If the commissioner certifies an employee organization as the majority exclusive representative, the state, through the governor or the governor's designee, shall meet and negotiate in good faith with the exclusive representative of the family child care provider unit regarding grievance issues, child care assistance reimbursement rates under chapter 119B, and terms and conditions of service, but this obligation does not compel the state or its representatives to agree to a proposal or require the making of a concession. The governor or the governor's designee is authorized to enter into agreements with the exclusive representative. Negotiated agreements and arbitration decisions must be submitted to the legislature to be accepted or rejected in accordance with sections 3.855 and 179A.22.

Subd. 7. **Meet and confer.** The state has an obligation to meet and confer under chapter 179A with family child care providers to discuss policies and other matters relating to their service that are not terms and conditions of service.

Subd. 8. **Terms and conditions of service.** For purposes of this section, "terms and conditions of service" has the same meaning as given in section 179A.03, subdivision 19.

Subd. 9. **Rights.** Nothing in this section shall be construed to interfere with:

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

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

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

Subd. 10. **Membership status and eligibility for subsidies.** Membership status in an employee organization shall not affect the eligibility of a family child care provider to receive payments under, or serve a child who receives payments under, chapter 119B.

*Laws 2013, chapter 128, article 1, section 4*

Sec. 4. **[179A.53] NO USE OF SCHOLARSHIPS FOR DUES OR FEES.**

Early learning scholarships shall not be applied, through state withholding or otherwise, toward payment of dues or fees that are paid to exclusive representatives of family child care providers.

**EFFECTIVE DATE.** This section is effective the day following final enactment of a law styled as Senate File No. 481 of the 88th legislature.

*Laws 2013, chapter 128, article 1, section 5*

Sec. 5. **SEVERABILITY.**

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

*Laws 2013, chapter 128, article 1, section 6*

Sec. 6. **EXPIRATION.**

Sections 1 to 4 expire June 30, 2017, if an exclusive representative has not been certified under Minnesota Statutes, section 179A.52, subdivision 6, by that date, provided that the commissioner of the Bureau of Mediation Services shall process any petition under Minnesota Statutes, section 179A.52, subdivision 5, pending as of June 30, 2017, and any certification of an exclusive representative resulting from a petition pending as of June 30, 2017, shall, for the purposes of this section, be treated as having occurred on the date the petition was initially filed. The revisor of statutes shall publish this expiration date with the codification of sections 1 to 4.

*Laws 2013, chapter 128, article 1, section 7*

Sec. 7. **EFFECTIVE DATE.**

Except for Minnesota Statutes, section 179A.53, this article is effective the day following final enactment.