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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

03/11/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on Labor, Workplace and Regulated Industries

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.52 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.52, 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 section 179A.52, thereby maintaining  
1.17 the 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  
2.9 state. Section 179A.22 applies to family child care providers except as otherwise provided  
2.10 in this section. Family child care providers have the rights and obligations of public  
2.11 employees solely for purposes related to meeting and negotiating on issues specifically set  
2.12 forth in subdivision 4, paragraph (c), and purposes related to meeting and conferring as  
2.13 provided in this section. This section does not grant family child care providers status as  
2.14 public employees for any purpose other than use of chapter 179A procedures for the right  
2.15 to organize, mediate, and negotiate related to the issues in subdivision 4, paragraph (c),  
2.16 and to meet and confer as set forth in this section. This chapter applies to the relations  
2.17 between the state, the exclusive representative, and family child care providers only for  
2.18 purposes described in this section. Family child care providers have the same rights to  
2.19 interest arbitration provided under section 179A.16, subdivision 2, to essential employees.  
2.20 Family child care providers do not have the right to strike.

2.21 Subd. 2. **Statewide unit.** Notwithstanding any other law to the contrary, the only  
2.22 bargaining unit under this section shall be a statewide unit of all family child care providers.

2.23 Subd. 3. **Certification; process.** For the purposes of determining certification  
2.24 under section 179A.12, the commissioner shall utilize a list of family child care providers  
2.25 compiled by the commissioner of human services over the most recent 12-month period.  
2.26 The commissioner shall conduct a certification election by mail ballot pursuant to the  
2.27 procedures in this chapter.

2.28 Subd. 4. **Meet and negotiate; meet and confer.** (a) If the commissioner certifies  
2.29 a labor organization as the majority exclusive representative, the state, through the  
2.30 commissioner of management and budget, shall meet and negotiate in good faith with the  
2.31 exclusive representative of the family child care unit regarding issues set forth in paragraph  
2.32 (c), but this obligation does not compel the state or its representatives to agree to a proposal  
2.33 or require the making of a concession. The commissioner of management and budget is  
2.34 authorized to enter into agreements with the exclusive representative on issues specified in

3.1 paragraph (c). Negotiated agreements and arbitration decisions must be submitted to the  
3.2 legislature to be accepted or rejected in accordance with sections 3.855 and 179A.22.

3.3 (b) The state has an obligation to meet and confer under chapter 179A with family  
3.4 child care providers to discuss policies and other matters relating to their working  
3.5 conditions.

3.6 (c) The commissioner of management and budget shall meet and negotiate with the  
3.7 exclusive representative on the following issues:

3.8 (1) child care assistance reimbursement rates under chapter 119B;

3.9 (2) fringe benefits, but not retirement contributions or benefits, and not other benefits  
3.10 to be paid when a person is no longer a family child care provider; and

3.11 (3) grievance procedures regarding matters in clauses (1) and (2).

3.12 (d) Any portion of a negotiated or arbitrated agreement that would require a change  
3.13 in statute or rule may not take effect until the statute or rule is changed in a manner that  
3.14 would make the agreement comply with the statute or rule.

3.15 Subd. 5. **Exemption; federal law.** In affording family child care providers the right  
3.16 to engage in collective action, select a representative, and jointly engage in discussions  
3.17 with the state under the terms of this section, the state intends that the "state action"  
3.18 exemption from federal antitrust laws be fully available to the state, based on the state's  
3.19 active supervision of family child care providers to improve the quality, accessibility, and  
3.20 affordability of early childhood education services in the state.

3.21 Subd. 6. **Rights.** Nothing in this section shall be construed to interfere with:

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

3.24 (2) the right or obligation of any state agency to communicate or meet with any  
3.25 citizen, including another family child care provider, or organization concerning family  
3.26 child care legislation, regulation, or policy on any issue that is not specified in subdivision  
3.27 4, paragraph (c); or

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

3.29 Subd. 7. **Severability.** Should any part of this act be declared invalid or  
3.30 unenforceable, or the enforcement or compliance with it is suspended, restrained, or  
3.31 barred, either by the state or by the final judgment of a court of competent jurisdiction, the  
3.32 remainder of this act shall remain in full force and effect.

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