

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
- 03/18/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on Government Operations
- 03/20/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on Health and Human Services Finance
- 04/02/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on Ways and Means
- 05/06/2013 Adoption of Report: Pass as Amended and Read Second Time

1.1 A bill for an act
 1.2 relating to collective bargaining; authorizing collective bargaining for family
 1.3 child care providers and individual providers of direct support services; creating
 1.4 a Quality Consumer-Directed Services Workforce; appropriating money;
 1.5 proposing coding for new law in Minnesota Statutes, chapters 179A; 256B.

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

1.7 **ARTICLE 1**

1.8 **FAMILY CHILD CARE PROVIDERS REPRESENTATION ACT**

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

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

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

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

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

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

1.21 Subd. 4. **Family child care provider.** "Family child care provider" means an
 1.22 individual, either licensed or unlicensed, who provides legal child care services as defined
 1.23 under section 245A.03, except for providers licensed under Minnesota Rules, chapter

2.1 9503, or excluded from licensure under section 245A.03, subdivision 2, paragraph (a),
2.2 clause (5), and who provides subsidized child care services for a child or children currently
2.3 in their care under sections 119B.011, subdivisions 20 and 20a; 119B.03; and 119B.05.

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

2.5 Subdivision 1. **Right to organize; limitations.** Family child care providers shall
2.6 have the right to form, join, and participate in the activities of employee organizations of
2.7 their own choosing for the purpose of representation and meeting and negotiating with
2.8 the state. Sections 179A.06, subdivisions 3 and 6, and 179A.22 apply to family child
2.9 care providers except as otherwise provided in this section. Family child care providers
2.10 have the rights and obligations of public employees only for the purposes of meeting and
2.11 negotiating on issues specified in subdivision 7, paragraph (a), and purposes related to
2.12 meeting and conferring as provided in this section. This section does not grant family child
2.13 care providers status as public employees for any other purpose than the use of procedures
2.14 in this chapter for the right to organize, mediate, and negotiate related to the issues specified
2.15 in subdivision 7, paragraph (a), and to meet and confer as set forth in this section. This
2.16 chapter applies to the relations between the state, the exclusive representative, and family
2.17 child care providers only for purposes of this section. Family child care providers shall
2.18 have the same rights to interest arbitration provided under section 179A.16, subdivision 2,
2.19 to essential employees. Family child care providers shall not have the right to strike.

2.20 The commissioner of human services may administer section 179A.06, subdivisions
2.21 3 and 6, for the purposes of this section only.

2.22 Subd. 2. **Appropriate unit.** The only appropriate unit under this section shall be a
2.23 statewide unit of all family child care providers. The unit shall be treated as an appropriate
2.24 unit under section 179A.10, subdivision 2.

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

2.30 Subd. 4. **Compilation of list.** The commissioner of human services shall, by July 1,
2.31 2013, and monthly thereafter, compile and maintain a list of the names and addresses of
2.32 all family child care providers who have had an active registration under chapter 119B
2.33 within the previous 12 months. The list shall not include the name of any participant, or
2.34 indicate that an individual provider is a relative of a participant or has the same address as
2.35 a participant. The commissioner shall share the lists with others as needed for the state

3.1 to meet its obligations under this chapter as modified and made applicable to family
3.2 child care providers under this section, and to facilitate the representational processes
3.3 under this section.

3.4 Subd. 5. **List access.** Beginning July 1, 2013, upon a showing made to the
3.5 commissioner of the Bureau of Mediation Services by any employee organization wishing
3.6 to represent the appropriate unit of family child care providers that at least 500 family
3.7 child care providers support such representation, the commissioner of human services
3.8 shall provide to such organization within seven days the most recent list of family child
3.9 care providers compiled under subdivision 4, and subsequent monthly lists upon request
3.10 for an additional three months.

3.11 Subd. 6. **Elections for exclusive representative.** After July 31, 2013, any employee
3.12 organization wishing to represent the appropriate unit of family child care providers may
3.13 seek exclusive representative status pursuant to section 179A.12. Certification elections
3.14 for family child care providers shall be conducted by mail ballot, and such election shall
3.15 be conducted upon an appropriate petition stating that at least ten percent of the unit
3.16 wishes to be represented by the petitioner. The family child care providers eligible to
3.17 vote in any such election shall be those family child care providers on the monthly list
3.18 of family child care providers compiled under this section, most recently preceding the
3.19 filing of the election petition. Except as otherwise provided, elections under this clause
3.20 shall be conducted in accordance with section 179A.12.

3.21 Subd. 7. **Meet and negotiate.** (a) If the commissioner certifies an employee
3.22 organization as the majority exclusive representative, the state, through the commissioner
3.23 of management and budget, shall meet and negotiate in good faith with the exclusive
3.24 representative of the family child care provider unit on the following issues:

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

3.26 (2) fringe benefits, including those paid upon termination, but not retirement
3.27 contributions or benefits, and not other benefits to be paid when a person is no longer a
3.28 family child care provider; and

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

3.30 (b) This obligation does not compel the state or its representatives to agree to a
3.31 proposal or require the making of a concession. The commissioner of management and
3.32 budget is authorized to enter into agreements with the exclusive representative on issues
3.33 specified in paragraph (a).

3.34 Subd. 8. **Legislative action on agreements.** Any interest arbitration award or
3.35 negotiated agreement reached between the state and the exclusive representative of the
3.36 family child care provider unit under this chapter shall be submitted to the legislature to be

4.1 accepted or rejected in accordance with sections 3.855 and 179A.22, subject to section
4.2 179A.20, subdivisions 2 and 5.

4.3 Subd. 9. **Meet and confer.** The state has an obligation to meet and confer under this
4.4 chapter with the exclusive representative of the family child care provider unit to discuss
4.5 policies and other matters relating to their working conditions.

4.6 Subd. 10. **Exemption; federal law.** In affording family child care providers
4.7 the right to engage in collective action, select a representative, and jointly engage in
4.8 discussions with the state under the terms of this section, the state intends that the "state
4.9 action" exemption from federal antitrust laws be fully available to the state, based on
4.10 the state's active supervision of family child care providers to improve the quality,
4.11 accessibility, and affordability of early childhood education services in the state.

4.12 Subd. 11. **Rights.** Nothing in this section shall be construed to interfere with:

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

4.15 (2) the right or obligation of any state agency to communicate or meet with any
4.16 citizen, including other family child care providers, or organization concerning family
4.17 child care legislation, regulation, or policy on any topic that is not specified in subdivision
4.18 7, paragraph (a); or

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

4.20 Subd. 12. **Membership status and eligibility for subsidies.** Membership status in
4.21 an employee organization shall not affect the eligibility of a family child care provider to
4.22 receive payments under, or serve a child who receives payments under, chapter 119B.

4.23 Subd. 13. **Membership status and licensure.** Membership status in an employee
4.24 organization shall not affect the licensure of a family child care provider.

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

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

4.29 Sec. 5. **SEVERABILITY.**

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

ARTICLE 2

INDIVIDUAL PROVIDERS OF DIRECT SUPPORT SERVICES
REPRESENTATIONSection 1. [179A.54] INDIVIDUAL PROVIDERS OF DIRECT SUPPORT SERVICES.

Subdivision 1. Definitions. (a) For the purposes of this section:

(b) "Direct support services" has the meaning given to it under section 256B.0711, subdivision 1, paragraph (d).

(c) "Individual provider" has the meaning given to it under section 256B.0711, subdivision 1, paragraph (e).

(d) "Participant" has the meaning given to it under section 256B.0711, subdivision 1, paragraph (f).

(e) "Participant's representative" has the meaning given to it under section 256B.0711, subdivision 1, paragraph (g).

Subd. 2. Rights of individual providers and participants. Only for the purposes of meeting and negotiating on issues specified in subdivision 3, individual 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 individual providers as public employees for any other purpose. Chapter 179A shall apply to individual providers except as otherwise provided in this section. Notwithstanding section 179A.03, subdivision 14, paragraph (a), clause (5), chapter 179A shall apply to individual providers regardless of part-time or full-time employment status.

Subd. 3. Scope of meet and negotiate obligation. If an exclusive representative is certified pursuant to this section, the mutual rights and obligations of the state and an exclusive representative of individual providers to meet and negotiate regarding terms and conditions shall extend only to the following issues:

(1) compensation rates and payment terms and practices;

(2) fringe benefits, including those that are paid for or funded per hour of service of an individual provider, but not for state retirement payments or other benefits to be paid by the state when a person no longer intends to be an individual provider;

(3) access to training and educational opportunities, including training funds, for individual providers;

(4) orientation programs, including those for newly hired individual providers;

6.1 (5) access to job opportunities within covered programs, including referral
6.2 opportunities and practices, through the operation of public registries;

6.3 (6) access to and dissemination of information in the registry to participants and
6.4 participants' representatives; and

6.5 (7) procedures for resolving grievances regarding matters in clauses (1) to (6).

6.6 Subd. 4. **Rights of covered program participants.** No provision of any agreement
6.7 reached between the state and any exclusive representative of individual providers,
6.8 nor any arbitration award, shall interfere with the rights of participants or participants'
6.9 representatives to select, hire, direct, supervise, and terminate the employment of their
6.10 individual providers; to manage an individual service budget regarding the amounts and
6.11 types of authorized goods or services received; or to receive direct support services from
6.12 individual providers not referred to them through a state registry.

6.13 Subd. 5. **Legislative action on agreements.** Any negotiated agreement or
6.14 arbitration decision reached between the state and the exclusive representative of
6.15 individual providers under this chapter shall be submitted to the legislature to be accepted
6.16 or rejected in accordance with sections 3.855 and 179A.22, subject to section 179A.20,
6.17 subdivisions 2 and 5.

6.18 Subd. 6. **Strikes prohibited.** Individual providers shall be subject to the prohibition
6.19 on strikes applied to essential employees under section 179A.18.

6.20 Subd. 7. **Interest arbitration.** Individual providers shall be subject to the interest
6.21 arbitration procedures applied to essential employees under section 179A.16.

6.22 Subd. 8. **Appropriate unit.** The only appropriate unit for individual providers shall
6.23 be a statewide unit of all individual providers. Individual providers who are related to
6.24 their participant or their participant's representative shall not for such reason be excluded
6.25 from the appropriate unit.

6.26 Subd. 9. **List access.** Beginning September 1, 2013, upon a showing made to
6.27 the commissioner of the Bureau of Mediation Services by any employee organization
6.28 wishing to represent the appropriate unit of individual providers that at least 500
6.29 individual providers support such representation, the commissioner of mediation services
6.30 shall provide to such organization within seven days the most recent list of individual
6.31 providers compiled under section 256B.0711, subdivision 11, paragraph (g), and up to
6.32 three subsequent monthly lists upon request. The commissioner of mediation services
6.33 shall provide lists compiled under section 256B.0711, subdivision 11, paragraph (g), upon
6.34 request, to any employee organizations certified as an exclusive representative of individual
6.35 providers. The commissioner of human services shall provide the lists to the commissioner
6.36 of mediation services, upon the request of the commissioner of mediation services.

7.1 Subd. 10. **Representation and election.** Beginning October 1, 2013, any employee
7.2 organization wishing to represent the appropriate unit of individual providers may seek
7.3 exclusive representative status pursuant to section 179A.12. Certification elections
7.4 for individual providers shall be conducted by mail ballot, and such election shall be
7.5 conducted upon an appropriate petition stating that at least ten percent of the unit wishes
7.6 to be represented by the petitioner. The individual providers eligible to vote in any such
7.7 election shall be those individual providers on the monthly list of individual providers
7.8 compiled under section 256B.0711, subdivision 11, paragraph (g), most recently preceding
7.9 the filing of the election petition. Except as otherwise provided, elections under this
7.10 section shall be conducted in accordance with section 179A.12.

7.11 Subd. 11. **Fee collection prior to agreement ratification.** Any fees otherwise
7.12 required under section 179A.06, subdivision 3, shall not commence prior to the ratification
7.13 of an agreement under section 179A.22. This subdivision does not limit the availability of
7.14 voluntary dues check off under section 179A.06, subdivision 6.

7.15 Subd. 12. **Exemption; federal law.** In affording individual providers the right to
7.16 engage in collective action, select a representative, and jointly engage in discussions with
7.17 the state under the terms of this section, the state intends that the "state action" exemption
7.18 from federal antitrust laws be fully available to the state, based on the state's active
7.19 supervision of individual providers to improve the quality, accessibility, and affordability
7.20 of direct support services in the state.

7.21 Sec. 2. **[256B.0711] QUALITY CONSUMER-DIRECTED SERVICES**
7.22 **WORKFORCE.**

7.23 Subdivision 1. **Definitions.** (a) For purposes of this section:

7.24 (b) "Commissioner" means the commissioner of human services unless otherwise
7.25 indicated.

7.26 (c) "Covered program" means a program to provide direct support services funded in
7.27 whole or in part by the state of Minnesota, including the Community First Services and
7.28 Supports program; Consumer Directed Community Supports services and extended state
7.29 plan personal care assistance services available under programs established pursuant to
7.30 home and community-based service waivers authorized under section 1915(c) of the Social
7.31 Security Act and Minnesota Statutes including, but not limited to, sections 256B.0915,
7.32 256B.092, and 256B.49, and under the alternative care program, as offered pursuant to
7.33 section 256B.0913, all as modified by subdivision 9; the personal care assistance choice
7.34 program, as established pursuant to section 256B.0659, subdivisions 18 to 20, and modified
7.35 by this section; and any similar program that may provide such services in the future.

8.1 (d) "Direct support services" means personal care assistance services covered by
8.2 medical assistance under section 256B.0625, subdivisions 19a and 19c; assistance with
8.3 activities of daily living as defined in section 256B.0659, subdivision 1, paragraph (b),
8.4 and instrumental activities of daily living as defined in section 256B.0659, subdivision 1,
8.5 paragraph (i); and other similar, in-home, nonprofessional long-term services and supports
8.6 provided to an elderly person or person with a disability by the employee or the employee
8.7 of the representative to meet such person's daily living needs and ensure that such person
8.8 may adequately function in his or her home and have safe access to the community.

8.9 (e) "Individual provider" means an individual selected by and working under the
8.10 direction of a participant in a covered program, or a participant's representative, to provide
8.11 direct support services to the participant, but does not include an employee of a provider
8.12 agency, subject to the agency's direction and control commensurate with agency employee
8.13 status.

8.14 (f) "Participant" means a person who receives direct support services through
8.15 a covered program.

8.16 (g) "Participant's representative" means a participant's legal guardian or an individual
8.17 having the authority and responsibility to act on behalf of a participant with respect to the
8.18 provision of direct support services through a covered program.

8.19 **Subd. 2. Quality Consumer-Directed Services Workforce Council established.**

8.20 There is established the Quality Consumer-Directed Services Workforce Council to ensure
8.21 the quality and availability of individual providers to be selected by and work under the
8.22 direction of a participant or a participant's representative to provide direct support services.

8.23 **Subd. 3. Membership.** The council shall have 11 members and shall be composed
8.24 of the commissioner of human services or the commissioner's designee, who shall serve as
8.25 chair, and the following members, who shall be appointed by the governor:

8.26 (1) one parent or legal guardian of a minor who is a current recipient of direct
8.27 support services in covered programs;

8.28 (2) six current recipients of direct support services in covered programs, including:

8.29 (i) at least one current recipient of direct support services through consumer-directed
8.30 community supports; and

8.31 (ii) two current recipients of direct support services who are adults with a legal
8.32 guardian, who may participate with the assistance of their guardian or other support
8.33 person of their choice; and

8.34 (3) one member of the State Council on Disability under section 256.482, one
8.35 member of the Governor's Council on Developmental Disabilities, and one member of the
8.36 Minnesota Board on Aging under section 256.975.

9.1 The membership of the council shall be geographically representative of the
9.2 participants in covered programs and reflect the diversity of direct support service
9.3 participants with respect to race, age, and disability. No member, other than the chair, shall
9.4 be an employee of the Department of Human Services or the Department of Management
9.5 and Budget and no member shall be an individual provider.

9.6 **Subd. 4. Appointments; membership terms; compensation; removal; vacancies.**
9.7 All appointments to the council and filling of vacancies shall be made as provided
9.8 in section 15.0597. Membership terms, compensation, and removal of members are
9.9 as provided in section 15.059. Members shall also be reimbursed for reasonable and
9.10 necessary travel and personal assistance services expenses that allow for performing
9.11 council duties and attending authorized meetings.

9.12 **Subd. 5. Quorum.** A majority of the members appointed and serving shall
9.13 constitute a quorum for the transaction of any business.

9.14 **Subd. 6. Initial appointments.** The governor shall make all initial appointments
9.15 to the council by July 1, 2013. The governor shall designate five members whose terms
9.16 will expire on the first Monday in January 2017, and five members whose terms will
9.17 expire on the first Monday in January 2019.

9.18 **Subd. 7. Meetings.** (a) Notwithstanding section 13D.01, the Quality
9.19 Consumer-Directed Services Workforce Council may conduct a meeting of its members
9.20 by telephone or other electronic means so long as the following conditions are met:

9.21 (1) all members of the council participating in the meeting, wherever their physical
9.22 location, can hear one another and can hear all discussion and testimony;

9.23 (2) members of the public present at the regular meeting location of the council can
9.24 hear all discussion and all votes of members of the council and participate in testimony;

9.25 (3) at least one member of the council is physically present at the regular meeting
9.26 location;

9.27 (4) all votes are conducted by roll call, so each member's vote on each issue can
9.28 be identified and recorded; and

9.29 (5) accommodations are made for members with communication barriers so that all
9.30 members are able to actively participate.

9.31 (b) Each member of the council participating in a meeting by telephone or other
9.32 electronic means is considered present at the meeting for purposes of determining a
9.33 quorum and participating in all proceedings.

9.34 (c) If telephone or another electronic means is used to conduct a meeting, the council,
9.35 to the extent practical, shall allow a person to monitor the meeting electronically from a

10.1 remote location. The council may require the person making such a connection to pay for
10.2 documented marginal costs that the council incurs as a result of the additional connection.

10.3 (d) If telephone or another electronic means is used to conduct a regular, special, or
10.4 emergency meeting, the council shall provide notice of the regular meeting location, of
10.5 the fact that some members may participate by electronic means, and of the provisions of
10.6 paragraph (c). The timing and method of providing notice is governed by section 13D.04.

10.7 Subd. 8. **Duties of council.** The council, in consultation with the commissioner, has
10.8 the following ongoing advisory duties and responsibilities relating to ensuring the quality,
10.9 stability, and availability of the individual provider workforce:

10.10 (1) assess the size, quality, and stability of the individual provider workforce in
10.11 Minnesota and the ability of the existing workforce to meet the growing and changing
10.12 needs of both elderly participants and participants with disabilities;

10.13 (2) assess and propose strategies to identify, recruit, and retain prospective individual
10.14 providers to be available for employment by participants or participants' representatives;

10.15 (3) advise the commissioner regarding the development of orientation programs,
10.16 training and educational opportunities, and the maintenance of one or more public
10.17 registries as described in subdivision 11;

10.18 (4) advise the commissioner and other relevant state agencies in assessing existing
10.19 mechanisms for preventing abuse and neglect of participants and recommending
10.20 improvements to those protections;

10.21 (5) advise the commissioner in determining standards for compensation, including
10.22 benefits, and other conditions of employment for individual providers sufficient to attract
10.23 and maintain a qualified workforce; and

10.24 (6) otherwise advise and advocate regarding appropriate means of expanding access
10.25 to quality, self-directed direct support services.

10.26 Subd. 9. **Operation of covered programs.** All covered programs shall operate
10.27 consistent with this section, including by affording participants and participants'
10.28 representatives within the programs the option of receiving services through individual
10.29 providers as defined in subdivision 1, paragraph (e), notwithstanding any inconsistent
10.30 provisions of section 256B.04, subdivision 16, or 256B.0659.

10.31 Subd. 10. **Use of agency workforce.** This requirement shall not restrict the state's
10.32 ability to afford to participants and participants' representatives within covered programs
10.33 who chose not to employ an individual provider, or are unable to do so, the option of
10.34 receiving similar services through the employees of provider agencies rather than through
10.35 an individual provider.

11.1 Subd. 11. Duties of the Department of Human Services. (a) The commissioner
11.2 shall afford to all participants within a covered program the option of employing an
11.3 individual provider to provide direct support services.

11.4 (b) The commissioner shall ensure that all employment of individual providers is
11.5 in conformity with this section and section 179A.54, including by modifying program
11.6 operations as necessary to ensure proper classification of individual providers to require
11.7 that all relevant vendors within covered programs assist and cooperate as needed in the
11.8 efforts, including providers of fiscal support, fiscal intermediary, financial management,
11.9 or similar services to provide support to participants and participants' representatives
11.10 with regard to employing individual providers, and to otherwise fulfill the requirements
11.11 of this section, including paragraph (g).

11.12 (c) The commissioner shall, in consultation with the council:

11.13 (1) establish compensation rates, payment terms and practices, and any benefit
11.14 terms for all individual providers;

11.15 (2) provide for required orientation programs within three months of hire for all
11.16 individual providers hired on or after January 1, 2015, regarding their employment within
11.17 the covered programs through which they provide services;

11.18 (3) have the authority to provide for relevant training and educational opportunities
11.19 for individual providers, as well as for participants and participants' representatives
11.20 who receive services from individual providers, including opportunities for individual
11.21 providers to obtain certification documenting additional training and experience in areas
11.22 of specialization;

11.23 (4) have the authority to provide for the maintenance of one or more public registries
11.24 of individuals who have consented to be included to:

11.25 (i) provide routine, emergency, and respite referrals of qualified individual providers
11.26 to participants and participants' representatives;

11.27 (ii) enable participants and participants' representatives to gain improved access
11.28 to, and choice among, prospective individual providers, including by having access
11.29 to information about individual providers' training, educational background, work
11.30 experience, and availability for hire; and

11.31 (iii) provide for appropriate employment opportunities for individual providers and a
11.32 means by which they may more easily remain available to provide services to participants
11.33 within covered programs; and

11.34 (5) establish other appropriate terms and conditions of employment governing the
11.35 workforce of individual providers.

12.1 (d) The commissioner shall ensure that appropriate background studies under
12.2 chapter 245C are performed on all individual providers included on any registry as
12.3 described in paragraph (c), clause (4).

12.4 (e) The commissioner's authority regarding issues specified in section 179A.54,
12.5 subdivision 3, is subject to the state's obligations to meet and negotiate with an exclusive
12.6 representative over those issues, and is subject to any agreements entered into covering
12.7 issues specified in section 179A.54, subdivision 3. Except as otherwise provided by law,
12.8 the commissioner shall not undertake activities in paragraph (c), clauses (3) and (4), prior
12.9 to July 1, 2015, unless included in a negotiated agreement and an appropriation has been
12.10 provided by the legislature to the commissioner to perform this work.

12.11 (f) The commissioner shall cooperate in the implementation of section 179A.54
12.12 with the commissioner of management and budget in the same manner as would be
12.13 required of an appointing authority under section 179A.22 with respect to any negotiations
12.14 between the executive branch of the state and the exclusive representative of individual
12.15 providers, as authorized under sections 179A.22 and 179A.54, regarding issues specified
12.16 in section 179A.54, subdivision 3. Any entity providing relevant services within covered
12.17 programs, including providers of fiscal support, fiscal intermediary, financial management,
12.18 or similar services to provide support to participants and participants' representatives with
12.19 regard to employing individual providers, shall assist and cooperate with the council and
12.20 commissioner of human services in the operations of this section, including with respect
12.21 to the commissioner's obligations under paragraphs (b) and (g).

12.22 (g) The commissioner shall, no later than September 1, 2013, and then monthly
12.23 thereafter, compile and maintain a list of the names and addresses of all individual providers
12.24 who have been paid for providing direct support services to participants within the
12.25 previous six months. The list shall not include the name of any participant or indicate that
12.26 an individual provider is a relative of a participant or has the same address as a participant.
12.27 The commissioner shall share the lists with the Quality Self-Directed Services Workforce
12.28 Council and with others as needed for the state to meet its obligations under chapter 179A
12.29 as modified and made applicable to individual providers under section 179A.54, and to
12.30 facilitate the representational processes under section 179A.54, subdivisions 9 and 10. In
12.31 order to effectuate this section and section 179A.54, questions of employee organization
12.32 access to other relevant data on individual providers relating to their employment or
12.33 prospective employment within covered programs shall be governed by chapter 179A and
12.34 section 13.43 and shall be treated the same as labor organization access to personnel
12.35 data under section 13.43, subdivision 6. This shall not include access to private data on

13.1 participants or participants' representatives. Nothing in this section or section 179A.54
13.2 shall alter the access rights of other private parties to data on individual providers.

13.3 (h) The commissioner shall immediately commence all necessary steps to ensure
13.4 that services offered under all covered programs are offered in conformity with this
13.5 section, to gather all information that may be needed for promptly compiling required lists
13.6 under this section, including information from current vendors within covered programs,
13.7 and to complete any required modifications to currently operating covered programs by
13.8 September 1, 2013.

13.9 (i) Beginning January 1, 2014, the commissioner of human services shall specifically
13.10 require that any fiscal support, fiscal intermediary, financial management, or similar entities
13.11 providing payroll assistance services with respect to individual providers shall make all
13.12 needed deductions, on behalf of the state, of dues check off amounts or fair share fees for the
13.13 exclusive representative, pursuant to section 179A.06, subdivisions 3 and 6. All contracts
13.14 with entities for the provision of payroll-related services must include this requirement.

13.15 **Sec. 3. SEVERABILITY.**

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

13.20 **Sec. 4. EFFECTIVE DATE.**

13.21 This act is effective the day following final enactment.

13.22 **ARTICLE 3**

13.23 **APPROPRIATIONS**

13.24 **Section 1. HUMAN SERVICES.**

13.25 \$1,476,000 is appropriated to the commissioner of human services from the general
13.26 fund in fiscal year 2014 and \$1,287,000 is appropriated to the commissioner of human
13.27 services from the general fund in fiscal year 2015 to implement articles 1 and 2 of this
13.28 act. The base for this appropriation is \$2,901,000 in fiscal year 2016 and \$1,823,000
13.29 in fiscal year 2017.

13.30 **Sec. 2. MANAGEMENT AND BUDGET.**

13.31 \$235,000 is appropriated from the general fund to the commissioner of management
13.32 and budget in fiscal year 2014 and \$235,000 is appropriated from the general fund to

14.1 the commissioner of management and budget in fiscal year 2015 to implement articles
14.2 1 and 2 of this act. The base for this appropriation is \$118,000 in fiscal year 2016 and
14.3 \$118,000 in fiscal year 2017.

14.4 Sec. 3. **MEDIATION SERVICES.**

14.5 \$207,000 is appropriated from the general fund in fiscal year 2014 to the
14.6 commissioner of mediation services to implement articles 1 and 2. This is a onetime
14.7 appropriation.

APPENDIX
Article locations in H0950-5

ARTICLE 1	FAMILY CHILD CARE PROVIDERS REPRESENTATION ACT	Page.Ln 1.7
	INDIVIDUAL PROVIDERS OF DIRECT SUPPORT SERVICES	
ARTICLE 2	REPRESENTATION	Page.Ln 5.1
ARTICLE 3	APPROPRIATIONS	Page.Ln 13.22