

179A.54 INDIVIDUAL PROVIDERS OF DIRECT SUPPORT SERVICES.

Subdivision 1. **Definitions.** For the purposes of this section:

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

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

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

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

Subd. 2. **Rights of individual providers and participants.** For the purposes of the Public Employment Labor Relations Act, under chapter 179A, 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. Individual providers are not state employees for purposes of section 3.736. 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 to the subjects covered under section 256B.0711, subdivision 4, paragraph (c), but shall not include those subjects reserved to participants or participants' representatives by subdivision 4.

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

Subd. 5. **Legislative action on agreements.** Any agreement reached between the state and the exclusive representative of individual providers under chapter 179A shall be submitted to the legislature to be accepted or rejected in accordance with sections 3.855 and 179A.22.

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

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

Subd. 8. **Appropriate unit.** The only appropriate unit for individual providers shall be a statewide unit of all individual providers. The unit shall be treated as an appropriate unit under section 179A.10, subdivision 2. Individual providers who are related to their participant or their participant's representative shall not for such reason be excluded from the appropriate unit.

Subd. 9. **List access.** Beginning September 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 individual providers that at least 500 individual providers support such representation, the commissioner of the Bureau of Mediation Services shall provide to such organization within seven days the most recent list of individual providers compiled under section 256B.0711, subdivision 4, paragraph (f), and three subsequent monthly lists upon request. The commissioner of the Bureau of Mediation Services shall provide lists compiled under section 256B.0711, subdivision 4, paragraph (f), upon request, to any exclusive representative of individual providers. To facilitate operation of this section, the commissioner of human services shall provide all lists to the commissioner of the Bureau of Mediation Services, upon the request of the commissioner of the Bureau of Mediation Services. When the list is available to an employee organization under this subdivision, the list must be made publicly available.

Subd. 10. **Representation and election.** Beginning October 1, 2013, any employee organization wishing to represent the appropriate unit of individual providers may seek exclusive representative status pursuant to section 179A.12. Certification elections for individual providers shall be conducted by mail ballot, and such election shall be conducted upon an appropriate petition stating that among individual providers who have been paid for providing direct support services to participants within the previous 12 months, a number of individual providers equal to at least 30 percent of those eligible to vote wish to be represented by the petitioner. The individual providers eligible to vote in any such election shall be those individual providers on the monthly list of individual providers compiled under section 256B.0711, subdivision 4, paragraph (f), most recently preceding the filing of the election petition. Except as otherwise provided, elections under this section shall be conducted in accordance with section 179A.12.

History: 2013 c 128 art 2 s 1

NOTE: This section, as added by Laws 2013, chapter 128, article 2, section 1, expires June 30, 2017, if an exclusive representative has not been certified under section 179A.54, subdivision 10, by that date; provided further that the commissioner of the Bureau of Mediation Services shall process any petition under section 179A.54, subdivision 10, 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. Laws 2013, chapter 128, article 2, section 4.