

# SENATE BILL REPORT

## E2SHB 2353

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As Reported By Senate Committee On:  
Labor, Commerce, Research & Development, February 23, 2006  
Ways & Means, February 24, 2006

**Title:** An act relating to improving access to and the stability of quality child care through providing collective bargaining and other representation rights for family child care providers and licensees.

**Brief Description:** Providing collective bargaining for family child care providers.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Pettigrew, Shabro, Kessler, Priest, Cox, Conway, Haler, P. Sullivan, Appleton, Walsh, Kenney, Green, Armstrong, Hasegawa, Kagi, Hunt, McCoy, Buri, Fromhold, Strow, Curtis, McDermott, Williams, Hudgins, Moeller, Sells, Lantz, Kilmer, Chase, McDonald, Morrell, Murray, Linville, Santos, Springer, Wallace, Dickerson, Roberts, Cody, B. Sullivan, Simpson, Ericks, Upthegrove, Campbell, Ormsby and O'Brien).

**Brief History:** Passed House: 2/10/06, 84-14.

**Committee Activity:** Labor, Commerce, Research & Development: 2/20/06, 2/23/06[DPA-WM, w/oRec].

Ways & Means: 2/24/05, 2/24/06 [DPA(LCRD), w/oRec].

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### SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

**Majority Report:** Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Kohl-Welles, Chair; Franklin, Vice Chair; Brown, Keiser and Prentice.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Parlette, Ranking Minority Member and Honeyford.

**Staff:** Alison Mendiola (786-7483)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass as amended by Committee on Labor, Commerce, Research & Development.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Doumit, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Fairley, Kohl-Welles, Pridemore, Rasmussen, Regala, Rockefeller and Thibaudeau.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Brandland, Parlette, Pflug and Schoesler.

**Staff:** Chelsea Buchanan (786-7446)

### **Background: Child Care Services**

The state, through the Department of Social and Health Services' (DSHS) Division of Child Care and Early Learning, licenses child care homes and centers. The state also subsidizes part of the child care costs for children from low-income families with parents who are working, going to school, homeless, or otherwise eligible. In accordance with federal regulations, the state ties child care subsidy rates to a local market rate survey of child care market rates conducted at least every two years.

In fiscal year 2004, the state subsidized the child care for approximately 67,000 children per month. These children received subsidized care in a variety of ways: in licensed centers, family homes, or from license-exempt providers. Licensed family home providers care for about 25 percent of state-subsidized children. Another 20 percent received subsidized care either in their own home or in the home of a relative.

### **Public Employee Collective Bargaining**

Employees of cities, counties, and other political subdivisions of the state bargain their wages and working conditions under the Public Employees' Collective Bargaining Act (PECBA) administered by the Public Employment Relations Commission (PERC). Individual providers (home care workers) also have collective bargaining rights under the PECBA.

Under the PECBA, the employer and exclusive bargaining representative have a mutual obligation to negotiate in good faith over specified mandatory subjects of collective bargaining: grievance procedures and personnel matters, including wage, hours, and working conditions.

**Summary of Amended Bill:** The Public Employees' Collective Bargaining Act (PECBA) is amended to apply to the Governor with respect to family child care providers, and to govern collective bargaining between the Governor and the providers' exclusive bargaining representative.

### **Public Employees and Employer**

Solely for purposes of collective bargaining, family child care providers are "public employees." Family child care providers are persons who: regularly care for one or more children in their home or the children's home; receive child care subsidies from the state; and are licensed, or exempt from licensing. Solely for purposes of collective bargaining, the Governor is the "public employer."

### **Bargaining Unit and Representative**

For purposes of collective bargaining, the only appropriate unit is a statewide unit of all family child care providers. The representative of the family child care providers is determined in the manner specified in the PECBA, except that, if none of the choices receives a majority of the votes cast in the initial election, there is a run-off election.

### **Mandatory Subjects of Bargaining**

Negotiating is to commence initially upon certification of the exclusive bargaining unit, and by February 1st of any even-numbered year thereafter.

The scope of collective bargaining for family child care providers is limited solely to: (1) economic compensation, such as manner and rate of subsidy and reimbursement, including tiered reimbursements; (2) health and welfare benefits; (3) professional development and

training; (4) labor-management committees; (5) grievance procedures; and (6) other economic matters.

Retirement benefits are not subject to collective bargaining.

#### Requests for Funds and Legislative Changes

A request for funds necessary to implement the compensation and benefit provisions of a collective bargaining agreement must be submitted to the Director of the Office of Financial Management (OFM) by October 1st before the legislative session at which the request is to be considered, except that for initial negotiations, the request must be submitted by November 15, 2006. If OFM determines that the request is financially feasible, the Governor must submit a request to the Legislature for any funds and legislative changes necessary to implement a collective bargaining agreement covering family child care providers. The Legislature may approve or reject the submission of the request for funds only as a whole. If the Legislature rejects or fails to act on the submission, the collective bargaining agreement will be reopened solely for the purpose of renegotiating the funds necessary to implement the agreement.

#### Mediation and Arbitration; No Right to Strike

Family child care providers are subject to mediation and binding interest arbitration if an impasse occurs in negotiations. The interest arbitration panel's decision is not binding on the Legislature, and if the Legislature does not approve the decision, it is not binding on the state.

Family child care providers do not have the right to strike.

#### Union Dues

The state must deduct monthly union dues from a family child care provider's payments upon written authorization of the family child care provider and after certification or recognition of an exclusive bargaining representative of the family child care providers.

If a union security clause is included in the agreement, the state must deduct the dues or equivalent fees from the payments made to all family child care provider bargaining unit members.

If a union security clause is included in the agreement, the agreement must contain a process, to be administered by the exclusive bargaining unit representative, for hardship dispensation for license-exempt family child care providers who are also temporary assistance for needy families recipients or WorkFirst participants.

#### Negotiated Rulemaking

For purposes of negotiated rule-making, the only appropriate unit is a statewide unit of all family child care licensees. Family child care licensees are persons who: regularly care for one or more children in their home; are licensed; and do not receive child care subsidies from the state. The representative of the family child care licensees is initially selected in elections held in accordance with a directive of the Governor to the Secretary of DSHS dated September 16, 2005. Thereafter, the representatives are selected in an election conducted by the American Arbitration Association.

#### State Action Immunity

The Legislature intends to provide state action immunity under antitrust laws for the joint activities of: (1) family child care providers and their representative; and (2) family child care licensees and their representative.

#### Other Provisions

Parents and legal guardians have the right to choose and terminate the services of family child care providers.

The Secretary of DSHS has the right to adopt rules, other than rules related to grievance procedures and collective negotiations on personnel matters.

The Legislature has the right to modify the delivery of state child care services, including the standards for eligibility of parents, legal guardians, and family child care providers and the nature of the services.

Laws governing investigations of child abuse or neglect, background checks, and adverse licensing actions are not modified.

**Amended Bill Compared to Original Bill:** The definition of collective bargaining is amended and specifies that retirement benefits are not subject to collective bargaining, negotiating is to commence initially upon certification of an exclusive bargaining representative, and thereafter by February 1st of any even-numbered year thereafter. If a union security clause is included in the collective bargaining agreement, the agreement must contain a process, to be administered by the exclusive bargaining unit representative, for hardship dispensation for license-exempt family child care providers who are also temporary assistance for needy families recipients or WorkFirst participants.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed, except for sections 1 through 5, which take effect immediately.

**Testimony For:** Times have changed. A generation ago, mothers stayed home to raise their children; today, 2-parent working families are common, out of necessity or choice. With this reality and the fact that half of the children who enter kindergarten are not prepared for school, we need to take the time and money to invest in child care providers. Family child care providers have extremely low wages (averaging somewhere around \$3 per hour); they are taking care of our children and deserve to be paid a fair wage and receive health care benefits. Also, the regulations imposed by DSHS can be burdensome, requiring providers to alter their homes, although the rules don't seem to be enforced fairly and the changes are made without any sort of reimbursement. Whether changes must be made seems to depend on who the licensor is. Higher reimbursement rates will help improve quality and keep providers in the profession longer. As it is now, many go out of business due to the low reimbursement rates. For example, there used to be a differential rate for evening care or for taking an infant, but those differentials are no longer available. A few years ago individual providers were allowed the opportunity to collectively bargain; family child care providers who have the important

task of caring for our children while the parents are at work or school deserve the same respect.

**Testimony Against:** None.

**Testimony Other:** Initially there was concern with the Legislature accepting the SEIU election. There is a concern over the run-off election language. The election should require a majority of the bargaining unit (per 41.56), like the Senate bill requires, as opposed to a majority of the votes cast, so there is no attempt to benefit one union over the other.

**Who Testified:** PRO: Representative Pettigrew, Prime Sponsor; Representative Shabro; Nancy Gerber, SEIU 925; Kim Cook, SEIU 925; Sisi Harry, SEIU 925; Agda Burchard, WAEYC; Sarah Cherin, Children's Alliance; George Scarolla, League of Education Voters; and Donna Horne, WSFCC.

OTHER: Greg Devereux, WFSE.