
Commerce & Labor Committee

HB 2111

Brief Description: Making the governor the public employer of adult family home providers.

Sponsors: Representatives Williams, Conway, Wood, Green, Moeller, Darneille, Miloscia, Dickerson, P. Sullivan, Morrell, McDermott, Grant, Hudgins, Simpson and Ormsby.

Brief Summary of Bill

- Makes the Public Employees' Collective Bargaining Act (PECBA) applicable to the Governor with respect to adult family home providers.
- Specifies that the PECBA shall govern collective bargaining between the Governor and the adult family home providers' exclusive bargaining representative.

Hearing Date: 2/23/07

Staff: Jill Reinmuth (786-7134).

Background:

Adult Family Homes

Adult family homes are licensed by the state to provide residential care for up to six persons in a home-like setting. The residents in adult family homes are persons who are elderly or who have physical or developmental disabilities. They generally require supervision or assistance with activities of daily living and/or health-related services and are unable to live alone. The Department of Social and Health Services (Department) licenses adult family homes. The Department also regulates adult family homes through rules overseen by the Aging and Adult Services Administration.

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 (Commission). Individual

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providers (home care workers) and family child care providers 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 bargaining: grievance procedures and personnel matters, including wages, hours, and working conditions. For uniformed personnel, the PECBA recognizes the public policy against strikes as a means of settling labor disputes. To resolve impasses over contract negotiations involving these uniformed personnel, the PECBA requires binding arbitration if negotiations for a contract reach impasse and cannot be resolved through mediation.

Summary of Bill:

The Public Employees' Collective Bargaining Act (PECBA) is amended to apply to the Governor with respect to adult family home 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, adult family home providers are "public employees." Adult family home providers are persons who are licensed by the Department of Social and Health Services to operate an adult family home. Adult family homes are residential homes in which persons provide personal care, room, and board to no more than six adults. Solely for purposes of collective bargaining, the Governor is the "public employer."

Bargaining Units and Representatives

For purposes of collective bargaining, the only appropriate unit is a statewide unit of all adult family home providers.

The representative of the adult family home providers is the representative recognized by the state, upon verification by the Public Employment Relations Commission that a majority of providers have designated an exclusive representative.

Mandatory Subjects of Bargaining

The exclusive bargaining representative of the adult family home providers and the Governor have a mutual obligation to negotiate in good faith over specified mandatory subjects of bargaining. For public employees generally, mandatory subjects are: grievance procedures and personnel matters, including wages, hours, and working conditions. For adult family home providers, mandatory subjects are:

- economic compensation, such as manner and rate of reimbursement, including tiered reimbursements;
- benefits, including health and welfare upgrading;
- expanded options for training beyond certification requirements;
- provider safety and liability, including liability insurance;
- terms and conditions of the current contract;
- comprehensive assessment reporting evaluation assessment procedures;
- grievance procedures; and

- other matters that would affect the provision of services in adult family homes or the livelihood of providers.

Requests for Funds and Legislative Changes

The Governor must submit a request to the Legislature for any funds and legislative changes necessary to implement a collective bargaining agreement covering adult family home 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

Adult family home providers are subject to mediation and binding interest arbitration if an impasse occurs in negotiations. For uniformed personnel subject to this requirement, the interest arbitration panel must consider: the employer's authority, the parties' stipulations, comparisons of wages, hours, and conditions of employment of like personnel of like employers, and the cost of living. For adult family home providers, the interest arbitration panel must also consider the financial ability of the state to pay for the compensation and benefit provisions of the agreement. 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.

Union Dues

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

State Action Immunity The Legislature intends to provide state action immunity under antitrust laws for the joint activities of adult family home providers and their representative.

Other Provisions

Residents, parents, and legal guardians have the right to choose and terminate the services of licensed adult family home providers.

Laws governing background checks and adverse licensing actions are not modified.

Rules Authority: The bill also specifies that rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

Appropriation: None.

Fiscal Note: Requested on February 14, 2007.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.