

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION-2008

Legislative Document

No. 2095

H.P. 1481

House of Representatives, December 27, 2007

An Act To Ensure the Freedom of Family Child Care Providers To Jointly Negotiate with the State

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Labor suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Speaker CUMMINGS of Portland.
Cosponsored by President EDMONDS of Cumberland and
Representatives: CAIN of Orono, CAREY of Lewiston, CONOVER of Oakland, PINGREE of
North Haven, RAND of Portland, SILSBY of Augusta, Senator: MITCHELL of Kennebec.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA §8308** is enacted to read:

3 **§8308. Family child care provider representation**

4 **1. Definition.** As used in this section, the following terms have the following
5 meanings.

6 **A. "Family child care provider" or "provider" means:**

7 (1) A family child care provider as defined in section 8301-A, subsection 1-A,
8 paragraph C and subject to certification pursuant to section 8301-A, subsection 3;
9 or

10 (2) A family child care provider who is legally exempt from certification as
11 defined in section 8301-A, subsection 1-A, paragraph C and subject to the
12 requirements of section 8302-B.

13 **2. Public employee, employer relationship for collective bargaining only.** Solely
14 for the purposes of Title 26, section 629 and Title 26, chapter 9-A, a family child care
15 provider is deemed to be a public employee, and the State, acting through the Governor
16 or designees of the Governor, is deemed to be the public employer of providers only for
17 the purpose of collective bargaining pursuant to this section, subject to the following
18 exceptions.

19 A. Notwithstanding Title 26, section 965, subsection 1, paragraph C, the public
20 employer and the bargaining agent of providers are obligated to confer and negotiate
21 in good faith only with regard to subsidy reimbursement rates and procedures; access
22 to health care insurance and other benefits; training and education opportunities for
23 providers; mechanisms for improving the quality of care and the enforcement of
24 regulations affecting the licensing of family child care providers; and governing the
25 participation of providers in the child care subsidy program.

26 B. Cost items negotiated between the bargaining agent and the public employer must
27 be submitted for inclusion in the Governor's next operating budget within 10 days
28 after the date on which the agreement is ratified by the parties. If the Legislature
29 rejects any of the cost items submitted to it, all cost items submitted must be returned
30 to the parties for further bargaining.

31 C. In determining the appropriate bargaining unit for purposes of family child care
32 representation pursuant to Title 26, section 966, the Maine Labor Relations Board
33 shall apply the following principle: Only one unit of providers may exist for
34 purposes of this section, and that unit consists of all family child care providers in the
35 State.

36 D. In determining the initial bargaining agent for family child care providers
37 pursuant to Title 26, section 967, the Maine Labor Relations Board shall certify as the
38 bargaining agent the provider organization certified in October 2007 as the majority
39 representative in an election held among all family child care providers in the State.

1 and that provider organization must be recognized as the sole and exclusive
2 bargaining agent for the appropriate bargaining unit of family child care providers.

3 E. The bargaining agent of family child care providers and the public employer may
4 agree through negotiations that authorized deductions may be made from subsidy
5 payments to family child care providers. Solely for the purpose of Title 26, section
6 629, subsection 4, subsidy payments made to family child care providers by the State
7 must be considered pay.

8 **3. Status of providers.** Family child care providers are deemed to be self-employed
9 and may not be deemed to be public employees or employees of the State for any purpose
10 except as designated in this chapter.

11 **4. State action exemption.** It is the intent of the Legislature that the state action
12 exemption to the application of federal and state antitrust laws be fully available to the
13 extent that the activities of family child care providers and their representatives are
14 authorized under this chapter.

15 **SUMMARY**

16 This bill provides for collective bargaining between the State and family child care
17 providers in order to improve the quality of child care services in the State.