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

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

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

§ 8308. Family child care provider representation

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

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

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

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

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

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

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

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

D. In determining the initial bargaining agent for family child care providers pursuant to Title 26, section 967, the Maine Labor Relations Board shall certify as the bargaining agent the provider organization certified in October 2007 as the majority representative in an election held among all family child care providers in the State, and that provider organization must be recognized as the sole and exclusive bargaining agent for the appropriate bargaining unit of family child care providers.

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

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

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

SUMMARY

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