

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Angelo M. Scaccia

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relating to improving quality in early education and care by family child care providers.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Angelo M. Scaccia

14th Suffolk

Joan M. Menard

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATING TO IMPROVING QUALITY IN EARLY EDUCATION AND CARE BY FAMILY CHILD CARE PROVIDERS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 *Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to establish
2 forthwith a system for improving the quality of family child care services in the commonwealth and to
3 provide collective bargaining rights for providers of such services, therefore it is hereby declared to be an
4 emergency law, necessary for the immediate preservation of the public convenience.

5

6 *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the*
7 *authority of the same, as follows:*

8

9 SECTION 1. Section 1 of Chapter 15D of the General Laws, amended by chapter 215 of the acts of 2008,
10 is hereby further amended by adding the following paragraph: -

11 Subject to appropriations and notwithstanding any general or special law to the contrary, it is the
12 intention of the commonwealth to assure quality early education and care for children by family child care
13 providers. It is also the intention of the commonwealth that family child care providers and the
14 commonwealth work jointly to establish a quality early education and care program that serves eligible
15 low income families through providers who have the requisite skills and training.

16 SECTION 2. Said chapter 15D is hereby further amended by adding the following 3 sections:

17 Section 17. As used in section 17 to 19, inclusive, the following terms shall have the following
18 meanings:

19 “Division”, the division of labor relations established by section 9O of chapter 23.

20 “Employee organization”, an employee organization as defined in section 1 of chapter 150E.

21 “Family child care services”, child care services provided for less than 24 hours per day in a private
22 residence, including the residence of the provider or the home of the child, on behalf of low-income and
23 other at risk children, for which payment from the commonwealth is made pursuant to a rate structure for
24 voucher and contracted payments developed by the department.

25 “Family child care provider”, a person who provides family child care services on behalf of low-income
26 and other at risk children and who receives payment from the commonwealth for such services pursuant
27 to a rate structure for voucher and contracted payments developed by the department.

28 Section 18. (a) Family child care providers shall be considered public employees, as defined by
29 and solely for the purposes of, chapter 150E and section 17J of chapter 180. Said chapter 150E shall
30 apply to family child care providers except to the extent that chapter 150E is inconsistent with this
31 section, in which case this section shall control. In addition, family child care providers shall be treated
32 as state employees solely for the purposes of sections 17A and 17G of chapter 180. Family child care
33 providers shall not be considered public employees or state employees for any purpose other than those
34 set forth in this paragraph. The commonwealth, acting through the commissioner of administration, shall
35 be the employer, as defined by and solely for the purposes of said chapter 150E and sections 17A, 17G
36 and 17J of said chapter 180 and deductions under said sections 17A, 17G and 17J may be made by any
37 entity authorized by the commonwealth to compensate family child care providers pursuant to a rate
38 structure for voucher and contracted payments developed by the department. Family child care providers
39 shall not be eligible for benefits through the group insurance commission, the state board of retirement or
40 the state employee workers' compensation program.

41 (b) Family child care providers who are employees of the commonwealth under this section are
42 not, for that reason, public employees or employees of the commonwealth for any other purpose. Nothing
43 in this chapter shall alter the obligations of the commonwealth or the parent or legal guardian of the child
44 receiving family child care services to provide their share of social security, federal and state
45 unemployment taxes, Medicare and workers' compensation insurance under the Federal Insurance

46 Contributions Act, federal and state unemployment law, the Massachusetts Workers' Compensation Act,
47 or vicarious liability in tort.

48 (c) Consistent with section 9A of chapter 150E, no family child care provider shall engage in a
49 strike and no family child care provider shall induce, encourage or condone any strike, work stoppage,
50 slowdown or withholding of services by any family child care provider.

51 (d) The only appropriate bargaining unit for family child care providers shall consist of all family
52 child care providers in the commonwealth who are on the most current list provided by the commissioner
53 of early education and care, regardless of the number of hours of care such family child care providers
54 have worked.

55 (e) An employee organization seeking to represent family child care providers shall file with the
56 division either a representation petition accompanied by a showing of interest of 30 per cent or a petition
57 for certification by written majority authorization

58 (f) The mandatory subjects as to which the commonwealth and an employee organization
59 certified by the division as the bargaining representative of family child care providers shall bargain shall
60 include training for family child care providers, monitoring and evaluation criteria, improvement of
61 recruitment and retention of qualified providers, the quality of early education provided, and payment
62 procedures. Nothing in this legislation shall inhibit the parties from discussing other permissive subjects
63 of bargaining, including without limitation the rate structure for family child care providers.

64 (g) In addition to the mandatory subjects set forth above in clause (f), the commonwealth and an
65 employee organization certified by the division as the bargaining representative of family child care
66 providers shall bargain about the rate structure for voucher and contracted payments for family child care
67 services on behalf of low-income and other at risk children.

68 (h) Nothing in this section shall modify any right of a parent or legal guardian to choose,
69 terminate the services of, or otherwise supervise a family child care provider.

70 Section 19. Collective bargaining and related activity by providers, as authorized pursuant to this
71 chapter, shall qualify for the state action exemption to the federal anti-trust laws.

72 SECTION 3. Clause (g) of section 18 of chapter 15D, as set forth in section 2 of this act, shall take effect
73 on January 1, 2011.

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