

Testimony of Daniel E. Livingston in Support of *Raised Bills No. 352 and 5433* --
March 13, 2012

Senator Prague, Representative Zalaski and members of the Committee.

Thank you for hearing our testimony today on two bills which come out of the governor's working groups on collective bargaining for personal care assistants funded through Medicaid waivers, and for family child care providers in the state-funded Care for Kids program. The bills before you are based on the principles and recommendations set forth in those working group reports. We did submit some proposed substitute language in concert with the Malloy administration so that it more accurately reflects the working group recommendations. I won't cover all the proposed changes here as I've attached an explanatory section to my written testimony. Suffice to say that these changes make abundantly clear that key sections of contracts or awards are submitted to the General Assembly for your full review, and that any improvements made as result of collective bargaining take place when the General Assembly appropriates money for those improvements, and may not be paid for by cutting services.

As someone who has spent a lifetime in the labor movement, I am privileged to work with unions in both the public and private sector who are fighting to make sure that working people have a voice on behalf of themselves and the people that they care for. I have rarely been as certain when testifying for a bill that when we look back a decade from now, we will be so proud of what we have accomplished by passing this legislation.

To truly understand what's at stake today, you need to understand and believe in only three simple propositions:

First, that workers deserve a voice in their work and an opportunity use that voice to better conditions for themselves, their families, and their communities;

Second, that when caregivers -- whether they care for the elderly, the disabled, or children, have a voice, they stand up not just for themselves, but for the people they care for.

Third, that when caregivers have a voice, when they stand up and fight for themselves and the people they care for, they can join with others, with consumers, and parents, and advocates and dedicated public officials, to make things better for all of us.

These propositions are simple, they are basic to how we've made progress in this country since the 1930s, and as you've heard, you don't need to take them on faith. We can study the experience of other states, just as the governor's working groups did, just as you've already heard testimony about. We can make things better.

And we need to make things better, because the *status quo* isn't working. I know from personal experience how hard it can be to find a personal care attendant to care for an aging family member, especially one like my late father who was also disabled. I

know from personal experience how hard it can be to find quality affordable daycare for children, daycare where children can learn as well as be cared for. And I earn a decent living. How much harder is it for the consumers covered by the state programs involved in bills 5433 and 382 who are by definition struggling to make ends meet? From the caregiver's perspective, we know how hard it is even for the most dedicated personal care attendant or family child care provider to make a living, to get health coverage for themselves or their families, to find skills or safety training, even to take a day off due to illness or just to recharge. Our state's desperate need for these workers will only continue to grow, and unless we do something, the supply of quality trained workers will only continue to shrink. We have a chance to turn this disastrous negative trend into something exciting and positive for our communities.

Let's make no mistake about it. There is some loud opposition to these bills. A little of it is from well-meaning but uninformed opponents who just don't understand our nation's history of collective bargaining and how it can create powerful alliances between caregivers and the people they serve. I respect them, and I'm confident that a decade from now, most of them will be joining the supportive consumers and caregivers you have heard today in cheering the passage of these bills. But the loudest opposition is from anti-worker politicians, people who have made a career out of fighting against working families having any voice, any means of standing up for themselves and their communities. People who now pretend to be allied with consumers and workers, but have fought their entire careers to gut the very safety net they now pretend to be defending, and to silence the voices of the very people they now claim to represent.

We thank this committee for recognizing that when we give caregivers a voice, all of us benefit. Thank you.

Explanation of Substitute Language in RBs 352 and 5433:

Common suggested changes in both bills:		5433	352
1	Emphasized that covered workers are not state employees and are exempt from state employee benefits by placing that language at the top of the collective bargaining sections	137 and 173-176	15 and 48-51
2	Made clear that consumers/families can require their own training and made technical changes in bargaining rules further emphasizing that any improvements requiring additional funding must be funded by additional appropriations not by reductions in covered services	142-169	19-44
3	Emphasized that strikes are prohibited	176	47
4	Technical changes in bargaining process	177, 204-8	77, 82
5	Removed provision making contracts or awards automatically approved unless affirmatively rejected. Replaced with provision requiring affirmative legislative approval of any provision that would supersede state law or regulation, and subjecting any provision requiring additional appropriations to the full normal budgetary processes including affirmative legislative approval.	211-215	115-118
Changes in FCW bill only:			
1	Technical changes in definition section		4-14
2	Addition of technical provision requiring state agencies to cooperate in implementing agreements		131
Changes in PCA bill only*:			
1	Technical changes in make-up of counsel to among other things, assure that cover could choose the chair, and that appointees could be consumers, surrogates, or their advocates	30-66	
2	Technical changes to emphasize that if PCA's have chosen union representation, the Workforce Council will work jointly with the union to improve retention and recruitment of PCA's, and will work within existing appropriations	71, 85	
3	Technical changes in functioning of Workforce Counsel and fiscal intermediary	116-125	

*Suggested change in title of Personal Care Attendant Quality Home Care Workforce Council to shorten the name appears throughout the bill and are not listed here.



General Assembly Raised Bill No. 352

February Session, 2012

LCO No. 1881

01881 _____ LAB

Referred to Committee on Labor and Public Employees

Introduced by:
(LAB)

AN ACT CREATING A PROCESS FOR FAMILY CHILD CARE PROVIDERS TO COLLECTIVELY BARGAIN WITH THE STATE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (Effective July 1, 2012) For purposes of this section
2 and sections 2 and 3 of this act:

3 (1) "Parent" means parent or legal guardian;

4 (2) "Family child care providers" means persons who provide child

5 care services under the child care subsidy program established

6 pursuant to section 17b-749 of the general statutes (A) in a family day

7 care home; or (B) in a home exempt from licensing requirements pursuant to
subdivision (4) of subsection (b) of section 19a-77 of the general statutes. ~~in an~~
~~informal arrangement among neighbors and~~

8 ~~formal or informal arrangements among relatives in their own homes,~~

9 ~~provided the relative is limited to any of the following degrees of~~
10 ~~kinship by blood or marriage to the child being cared for or to the~~
11 ~~child's parent: child, grandchild, sibling, niece, nephew, aunt, uncle or~~
12 ~~child of one's aunt or uncle; and~~

13 (3) ~~"Family day care home" means family day care home, as defined~~
14 ~~in section 19a-77 of the general statutes.~~

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15 Sec. 2. (NEW) (Effective July 1, 2012) (a) A family child care provider shall not be considered a state employee and shall be exempt from any and all provisions of the General Statutes creating rights, obligations, privileges, or immunities to state employees as a result of or incident to their state service.

(B) Family child care providers

16 shall have the right to bargain collectively, and shall have such other
17 rights and obligations incident thereto as are created by sections 5-270
18 to 5-279, inclusive, of the general statutes except as modified by this Act.
19 Those modifications shall be in addition to those set forth in paragraphs (b), (c),
20 (d), (e) and (f) of this section:

19 (1) ~~The following Any: (A) The~~
20 ~~application of state employee benefits to family child care providers,~~
21 ~~including, but not limited to, health benefits and pensions; (B) Any proposal~~
22 ~~that would interfere with a~~

22 parent's right to (a) recruit, (b) select, (c) direct the activities of, or
23 (d) terminate the
24 services of any family child care provider shall be deemed a prohibited subject
25 of bargaining, including any proposal that would provide; and (C) a procedure for
26 grievance arbitration against any parent;

25 (2) No provision of any contract or award shall provide for a
26 reduction in the services provided by family child care providers to
27 children under section 17b-749 of the general statutes;

28 (3) Any provision in any contract or award which would require an additional
29 appropriation in order to maintain the levels of services provided by existing
30 appropriations shall be presented to the general assembly for approval in
31 accordance with the normal budgetary processes as set forth in subsection (d) (7) of
32 this section; (4) It shall be a prohibited subject of bargaining to demand the
33 application of state employee benefits system, including but not limited to state
34 employee health benefits and pension;

(5) The provisions of section 5-280 of the general statutes shall not
29 apply to family child care providers. A contract or award reached
30 pursuant to this section may include provisions calling for the state or
31 its fiscal intermediary to deduct from reimbursement payments
32 regular dues and initiation fees, and nonmember service fees limited to
33 the lesser of regular dues, fees, and assessments that a member is
34 charged or the proportionate share of expenses incident to collective
35 bargaining;

36 (46) The provisions of sections 5-276a and 5-276b of the general
37 statutes, and subsections (e) to (g), inclusive, of section 5-278 of the
38 general statutes shall not apply to collective bargaining involving
39 family child care providers. Any impasse between the parties shall be
40 resolved in accordance with subsection (c) of this section;

41 (57) In any proceeding which may be filed under section 5-272 of the
42 general statutes, the State Board of Labor Relations shall be without
43 jurisdiction to consider any complaint against, or issue any remedy
44 against, any parent;

45 (68) Any election required in order to resolve any question
46 concerning representation involving family child care providers shall
47 be conducted by mail ballot. ~~and~~

No provision of this section shall grant family child care providers a right to strike and such strikes are prohibited.

~~48 (7) A family child care provider shall not be considered a state
49 employee and shall be exempt from any and all provisions of the
50 general statutes creating rights, obligations, privileges or immunities to
51 state employees as a result of or incident to their state service.~~

52 (b) On or after July 1, 2012, and monthly thereafter, the
53 Commissioner of Social Services shall compile a list of the names of
54 family child care providers who have participated in the child care
55 subsidy program established pursuant to section 17b-749 of the general
56 statutes within the previous six calendar months. Such list shall be
57 considered a public record, as defined in section 1-200 of the general
58 statutes.

59 (c) (1) The Commissioner of Social Services shall have the authority
60 and obligation to bargain and enter into agreements with an
61 organization representing family child care providers that has been
62 designated by the State Board of Labor Relations, pursuant to section
63 5-275 of the general statutes, as the exclusive bargaining agent of such
64 providers to establish the terms and conditions of participation of
65 family child care providers in the program covered by this section,
66 including, but not limited to, state reimbursement rates, benefits,
67 payment procedures, contract grievance arbitration, and training,
68 professional development and other requirements and opportunities
69 appropriate for family child care providers.

70 (2) For purposes of section 5-270 of the general statutes and
71 subsections (a) and (b) of section 5-278 of the general statutes, the
72 Department of Social Services shall be considered an executive branch
73 employer and the Commissioner of Social Services, or the
74 commissioner's designee, shall be considered the employer's chief
75 executive officer. Should a unit be designated by the State Board of
76 Labor Relations that involves programs over which ~~with~~ more than one

77 department ~~having~~ has cognizance, the Governor shall determine the
78 manner in which the commissioners of those departments cooperate in
79 performing the functions required of employers under subsections (a)
80 and (b) of section 5-278 of the general statutes.

81 (d) (1) If the organization representing family child care providers
82 and the ~~chief executive officer~~ Department of Social Services do not reach an
agreement not later than
83 one hundred fifty days after negotiations have begun, the parties shall
84 jointly select an arbitrator. The arbitrator selected shall have experience
85 as an impartial arbitrator of labor-management disputes, and shall not
86 be an individual employed as an advocate or consultant for labor or
87 management in labor-management disputes. If the parties fail to agree
88 on an arbitrator not later than one hundred sixty days after
89 negotiations have begun, the selection of the arbitrator shall be made
90 using the procedures under the voluntary labor arbitration rules of the
91 American Arbitration Association.

92 (2) Each party shall submit to the arbitrator, and to each other, a
93 proposal setting forth such party's position on how each of the
94 unresolved issues shall be resolved.

95 (3) The arbitrator shall convene a hearing to allow the parties to
96 provide evidence and argument to the arbitrator. The parties shall
97 have the right to submit written briefs to the arbitrator. The arbitration
98 record shall be officially closed at the close of the hearing, or the
99 arbitrator's receipt of briefs, whichever is later.

100 (4) The arbitrator's authority is limited to selecting the complete
101 proposal of one party or the other on any unresolved issue. The
102 arbitrator shall issue an award not later than forty-five days after the
103 close of the record.

104 (5) The factors to be considered by the arbitrator in arriving at a
105 decision are: (A) The nature and needs of the family child care
106 program and the needs and welfare of parents and children served by
107 that program, including interests in better recruitment, retention and

108 quality with respect to the covered family child care provider; (B) the
109 history of negotiations between the parties including those leading to
110 the instant proceeding; (C) the existing conditions of employment of
111 similar groups of workers; (D) changes in the cost of living; and (E) the
112 interests and welfare of the covered family child care providers.

113 (6) The costs of the arbitrator and any fees associated with the
114 arbitration proceeding shall be shared equally by the parties.

115 (7) Any contract or award reached pursuant to this Act shall be presented to the
General Assembly for approval by filing the contract or award with the clerks of
the House and Senate. No provision of any contract or award resulting from the
collective bargaining process which would require supersedence of any law or
regulation shall take effect without affirmative legislative approval.

(8) Notwithstanding any other provision of this act, any provision in any contract
or award which would require an additional appropriation in order to maintain the
levels of services provided by existing appropriations shall be presented to the
general assembly for approval in accordance with the normal budgetary processes
applicable to appropriations, including but not limited to affirmative legislative
approval. Other provisions of the agreement or award shall be deemed approved
unless affirmatively rejected by a majority of either house within 30 days of the
filing with the clerk of that chamber, provided that the thirty-day period shall
not begin or expire unless the General Assembly is in regular session. Once
approved by the General Assembly, any provision of an agreement or award need not
be resubmitted by the parties to such agreement or award as part of a future
contract approval process unless changes in the language of such provision are
negotiated by the parties. Any contract or award reached pursuant to this section
shall be

~~116 reduced to writing and submitted to the General Assembly pursuant
117 to the provisions of subsection (b) of section 5-278 of the general
118 statutes.~~

119 (e) The only bargaining unit of family child care providers
120 appropriate for the purpose of collective bargaining shall be a state
121 wide unit of all family child care providers.

122 (f) Any provider organization certified as the majority
123 representative of family child care providers in any election held prior
124 to the effective date of this section pursuant to Executive Order
125 Number 9 of Governor Dannel P. Malloy may provide proof of such
126 certification to the State Board of Labor Relations and the State Board
127 of Labor Relations shall certify such majority representative as the
128 exclusive bargaining agent for such providers without the requirement
129 of an additional election unless and until such time as a question
130 concerning representation is appropriately raised under this section
131 and section 1 of this act.

Sec. 3. (NEW) (Effective July 1, 2012) (a) The Department of Social Services, other
state agencies, and agents of the state shall cooperate in the implementation of
sections 1 to 2, inclusive, of this act and with any agreements reached as a result
of the collective bargaining process created by this act.

This act shall take effect as follows and shall amend the following
sections:

Section 1 July 1, 2012 New section

Sec. 2 July 1, 2012 New section

Raised Bill No. 352

Statement of Purpose:

To provide a process for family child care providers to collectively bargain with the state.

[Changes are tracked against LCO No. 1881. Additions are in **bold and underlined**. Deletions are in ~~striketrough~~]

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General Assembly Raised Bill No. 5433

February Session, 2012

LCO No. 1852

01852_____LAB

Referred to Committee on Labor and Public Employees

Introduced by:
(LAB)

AN ACT CREATING A PROCEDURE FOR PERSONAL CARE
ATTENDANTS TO COLLECTIVELY BARGAIN WITH THE STATE.

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) (Effective July 1, 2012) (a) For purposes of this
2 section and sections 2 to 4, inclusive, of this act:

3 (1) "Consumer" means a person who receives services from a
4 personal care attendant under a state-funded program, including, but
5 not limited to, (A) the program for individuals with acquired brain
6 injuries, established pursuant to section 17b-260a of the general
7 statutes, (B) the personal care assistance program, established pursuant
8 to section 17b-605a of the general statutes, (C) the Connecticut home
9 care program for the elderly, established pursuant to section 17b-342 of
10 the general statutes, (D) the pilot program to provide home care
11 services to disabled persons, established pursuant to section 17b-617 of
12 the general statutes, (E) the individual and family support waiver
13 program administered by the Department of Developmental Services,
14 (F) the comprehensive waiver program administered by the

15 Department of Developmental Services, and (G) any state-funded
16 program that provides services from a personal care attendant;

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17 (2) "Surrogate" means a consumer's legal guardian or a person
18 identified in a written agreement as having responsibility for the care
19 of a consumer;

20 (3) "Personal care attendants" means persons employed by a
21 consumer or surrogate to provide personal care assistance to a
22 consumer; and

23 (4) "Personal care assistance" means supportive home care, personal
24 care or another nonprofessional service provided to a person with a
25 disability or an elderly person who requires assistance to (A) meet
26 such person's daily living needs, (B) ensure such person may
27 adequately function in such person's home, or (C) provide such person
28 with safe access to the community.

29 Sec. 2. (NEW) (Effective July 1, 2012) (a) There is established the
30 Personal Care Attendant ~~Quality Home Care~~ Workforce Council to
31 ensure the quality of long-term personal home care. Said council shall
32 be composed of nine members, which shall include: (1) The
33 Commissioner of Social Services, or the commissioner's designee; (2)
34 the Commissioner of Developmental Services, or the commissioner's
35 designee; (3) the Healthcare Advocate or the Healthcare Advocate's
36 designee; (4) the Secretary of the Office of Policy and Management or the
secretary's designee; (5)
37 one member appointed by the Governor; and (6) four members who
38 shall each be a consumer, ~~or~~ surrogate, or advocate for consumers, one of whom
shall be appointed
39 by the speaker of the House of Representatives, one of whom shall be
40 appointed by the president pro tempore of the Senate, one of whom
41 shall be appointed by the minority leader of the House of
42 Representatives, and one of whom shall be appointed by the minority
43 leader of the Senate. All initial appointments to the ~~Personal Care~~
44 Attendant ~~Quality Home Care~~ Workforce ~~C~~council shall be made not
45 later than August 1, 2012. The chairperson of the ~~Personal Care~~
46 Attendant ~~Quality Home Care~~ Workforce ~~C~~council shall be the member
47 appointed by the Governor. The chairperson shall convene the first
48 meeting of the council not later than September 1, 2012. ~~Subsequent~~

~~49 meetings shall be held at times determined by the chairperson of the
50 Personal Care Attendant Quality Home Care Workforce Council or
51 upon the written request of any five members of said council to the
52 chairperson. Members of the council shall may serve three-year terms from the
date of
53 their appointment or until successors are appointed, except (A) the
54 initial appointees of the speaker of the House of Representatives coterminiously
with, and at the pleasure of, the appointing authority in accordance with Section
4-1a of the General Statutes.
55 the president pro tempore of the Senate shall serve two-year terms,
56 and (B) the initial appointees of the majority leader of the House of
57 Representatives and the majority leader of the Senate shall serve one58
year terms. A majority of the members of the Personal Care Attendant
59 Quality Home Care Workforce Council shall constitute a quorum for
60 the transaction of any business. Vacancies shall be filled by the
61 appointing authority for the expiration of the term of the member
62 being replaced not later than thirty days after the date of the vacancy.
63 Members of the Personal Care Attendant Quality Home Care
64 Workforce Council shall receive no compensation for their service but
65 shall be reimbursed for actual expenses necessarily incurred in
66 performance of their duties. The council shall be within the Department of
Social Services for administrative purposes only.~~

~~67 (b) The Personal Care Attendant Quality Home Care Workforce
68 Council, with the assistance of the Department of Social Services, shall
69 have the following duties and responsibilities relating to personal care
70 attendants: (1) Study issues relating to the recruitment, retention and
71 adequacy of personal care attendants; and, in consultation with the exclusive
bargaining agent for personal care attendants as described in this section, if any
has been designated (2) develop a plan to
72 improve the quality, stability and availability of personal care
73 attendants by (A) developing a means to identify and recruit personal
74 care attendants, (B) developing training and educational opportunities
75 for personal care attendants and consumers, (C) developing one or
76 more registries to (i) provide routine, emergency and respite referrals
77 of qualified personal care attendants to consumers and surrogates who
78 are authorized to receive long-term, in-home personal care services by
79 a personal care attendant, (ii) enable consumers and surrogates to
80 access information about prospective personal care attendants such as
81 their training, educational background and work experience, and (iii)
82 provide appropriate employment opportunities for personal care~~

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83 attendants, and (D) establishing standards for wages, benefits and
84 conditions of employment for personal care attendants.

85 (c) ~~Commencing July 1, 2013, the Personal Care Attendant Quality~~
~~86 Home Care Workforce C~~Subject to available appropriations, the council shall have
the authority to (1) recruit
87 prospective personal care attendants, (2) provide training and
88 education to personal care attendants and consumers, and (3) establish
89 or operate the registries described in subsection (b) of this section. The
90 council may contract with the Department of Social Services or any
91 other entity for the purposes of this subsection.

92 (d) (1) ~~The Personal Care Attendant Quality Home Care Workforce~~
93 Ccouncil shall have the authority to bargain and enter into agreements
94 with an organization representing personal care attendants that has
95 been designated by the State Board of Labor Relations, pursuant to
96 section 5-275 of the general statutes, as the exclusive bargaining agent
97 of such personal care attendants to establish the terms and conditions
98 of participation of personal care attendants in the programs covered by
99 this section and section 1 of this act, including, but not limited to, state
100 reimbursement rates, benefits, payment procedures, contract grievance
101 arbitration, and training, professional development and other
102 requirements and opportunities appropriate for such personal care
103 attendants.

104 (2) For purposes of section 5-270 of the general statutes and
105 subsections (a) and (b) of section 5-278 of the general statutes, the
106 ~~Personal Care Attendant Quality Home Care Workforce C~~council shall
107 be considered an executive branch employer and the chairperson of
108 said council shall be considered the employer's chief executive officer.

109 (3) No provision of any agreement or award which may be reached
110 pursuant to collective bargaining between the ~~Personal Care Attendant~~
~~111 Quality Home Care Workforce C~~council and any organization
112 representing personal care attendants shall interfere with the right of a
113 consumer or surrogate to hire, refuse to hire, supervise, direct the
114 activities of, or terminate the employment of any personal care

115 attendant.

116 (e) (1) Not later than October 1, 2012, and monthly thereafter, the
117 ~~Personal Care Attendant Quality Home Care Workforce Council~~ shall
118 compile and maintain a list of the names and addresses of all personal
119 care attendants who have been paid through a ~~state-funded program~~
120 ~~that provides personal care services administered by the Department~~
121 ~~of Social Services or Developmental Services~~ the state-funded programs
122 identified in Section 1(a)(1) of this Act within the previous six
123 calendar months. The list shall not include the name of any consumer,
124 or indicate that a personal care attendant is a relative of a consumer or
125 has the same address as a consumer. Any ~~vendor or contractor~~ fiscal
126 intermediary that
127 provides ~~personal care~~ administrative services to the state concerning such
128 state-funded programs shall assist and cooperate with said
129 council in compiling and maintaining such list. The ~~Personal Care~~
130 ~~Attendant Quality Home Care Workforce Council~~ shall utilize such list
131 for the purposes of this ~~act~~ section. Such list shall be a public record, as
132 defined in section 1-200 of the general statutes.

133 (2) Not later than seven days after receiving a request from an
134 employee organization, as defined in subsection (d) of section 5-270 of
135 the general statutes, that is interested in representing an appropriate
136 unit of personal care attendants, the ~~Personal Care Attendant Quality~~
137 ~~Home Care Workforce Council~~ shall provide to the employee
138 organization the most recent list of personal care attendants compiled
139 pursuant to subdivision (1) of this subsection.

140 Sec. 3. (NEW) (Effective July 1, 2012) (a) A personal care attendant shall not
141 be considered a state employee and shall be exempt from any and all provisions of
142 the General Statutes creating rights, obligations, privileges, or immunities to
143 state employees as a result of or incident to their state service. Personal care
144 attendants

145 shall have the right to bargain collectively, and shall have such other
146 rights and obligations incident thereto as are created by sections 5-270
147 to 5-279, inclusive, of the general statutes, except as modified by this Act.
148 Those modifications+

149 (1) The following shall be in addition to those set forth in paragraphs
150 (b), (c), and pensions, ~~(B)~~(e) of this section: (1) Any proposal that would
151 interfere with prohibited subjects of bargaining: ~~(A)~~

152 ~~Application of state employee benefits to personal care attendants,~~
153 ~~including, but not limited to, health benefits and pensions,~~ ~~(B)~~ a

154 consumer or surrogate's right to (a) hire or refuse to hire, (b)
155 supervise, (c) direct,
156 the activities of, or (d) terminate the employment of any personal care
157 attendant, ~~(C)~~ shall be deemed a prohibited subject of bargaining, including
158 any proposal that would (i) prevent consumers or their surrogates from hiring

147 personal care attendants not identified on the registry referenced in Section 1
148 of this act, (ii) any proposal that would prevent consumers or their surrogates
149 from requiring training in addition to that referenced in Section 1 of this act, or
150 (iii) any proposal that would provide for the list described in
151 subsection (e) of this section, and (D) a procedure for grievance
152 arbitration against any consumer or surrogate.

150 (2) No provision of any contract or award shall provide for a
151 reduction in the services provided by personal care attendants to
152 consumers or a reduction in Medicaid funds provided to the state. Nor shall
153 any provision or award provide for a reduction in the services of personal care
154 attendants to consumers. Any provision in any contract or award which would
155 require an additional appropriation in order to maintain the levels of services
156 provided by existing appropriations shall be presented to the general assembly for
157 approval in accordance with the normal budgetary processes as set forth in
158 subsection (b) (7) of this section. (3) It shall be a prohibited subject of
159 bargaining to demand the application of state employee benefits systems, including
160 but not limited to state employee health benefits and pension systems.

153 ~~(3)~~ (4) The provisions of section 5-280 of the general statutes shall not
154 apply to personal care attendants. A contract or award reached
155 pursuant to this act may include provisions calling for the state or its
156 fiscal intermediary to deduct from reimbursement payments the
157 regular dues, fees and assessments that a member is charged and
158 nonmember service fees limited to the lesser of dues and initiation fees
159 required of members or the proportionate share of expenses incident to
160 collective bargaining;

161 ~~(4)~~ (5) The provisions of sections 5-276a and 5-276b of the general
162 statutes and subsections ~~(e) to (g)~~, inclusive, of section 5-278 of the
163 general statutes shall not apply to collective bargaining involving
164 personal care attendants. Any impasse between the parties shall be
165 resolved in accordance with subsection (b) of this section;

166 ~~(5)~~ (6) In any proceeding which may be filed under section 5-272 of the
167 general statutes, the State Board of Labor Relations shall be without
168 jurisdiction over, or authority to issue any remedy against, any
169 consumer or surrogate;

170 ~~(6)~~ (7) Any election required in order to resolve any question
171 concerning representation involving personal care attendants shall be
172 conducted by mail ballot, and
173 No provision of this section shall grant personal care attendants a right to strike
174 and such strikes are prohibited.

173 ~~(7)~~ A personal care attendant shall not be considered a state
174 employee and shall be exempt from any and all provisions of the
175 general statutes creating rights, obligations, privileges or immunities to
176 state employees as a result of or incident to their state service.

Raised Bill No. 5433

177 (b) (1) If the organization representing personal care attendants and
178 the ~~chief executive officer~~ Personal Care Attendant Workforce Council created
pursuant to Section 2 of this act do not reach an agreement within one
179 hundred fifty days after negotiations have begun, the parties shall
180 jointly select an arbitrator. The arbitrator selected shall have experience
181 as an impartial arbitrator of labor-management disputes, and shall not
182 be an individual employed as an advocate or consultant for labor or
183 management in labor-management disputes. If the parties fail to agree
184 on an arbitrator within one hundred sixty days after the negotiations
185 have begun, the selection shall be made using the procedures under
186 the voluntary labor arbitration rules of the American Arbitration
187 Association.

188 (2) Each party shall submit to the arbitrator, and to the other party, a
189 proposal setting forth such party's position on how each of the
190 unresolved issues shall be resolved.

191 (3) The arbitrator shall convene a hearing to allow each party to
192 provide evidence and argument to the arbitrator. Each party shall have
193 the right to submit written briefs to the arbitrator. The arbitration
194 record shall be officially closed at ~~the later of~~ the close of the hearing or
195 the arbitrator's receipt of briefs, whichever is later.

196 (4) The arbitrator's authority is limited to selecting the complete
197 proposal of one party or the other's on any unresolved issue. The
198 arbitrator shall issue an award not later than forty-five days after the
199 close of the record.

200 (5) The factors to be considered by the arbitrator in arriving at a
201 decision are: (A) The nature and needs of the personal care assistance
202 program and the needs and welfare of consumers, including interests
203 in better recruitment, retention and quality with respect to the covered
204 personal care attendants; (B) the history of negotiations between ~~each~~
~~205 party~~ the parties including those leading to the proceeding; (C) the existing
206 conditions of employment of similar groups of workers ~~personal-care~~
~~207 attendants~~; (D) changes in the cost of living; and (E) the interests and
208 welfare of the covered personal care attendants.

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209 (6) The costs of the arbitrator and any fees associated with the
210 arbitration proceeding shall be shared equally by each party.

211 (7) Any contract or award reached pursuant to this act ~~section~~ shall be
212 presented to the General Assembly for approval by filing the contract or award
with the clerks of the House and Senate. No provision of any contract or award
resulting from the collective bargaining process which would require supersedence
of any law or regulation shall take effect without affirmative legislative
approval.

(8) Notwithstanding any other provision of this act, any provision of any agreement
or award requiring the appropriation of additional funds shall be subject to the
state's regular budgetary approval process, subject to funds being made available,
and subject to affirmative legislative approval. Other provisions of the agreement
or award shall be deemed approved unless affirmatively rejected by a majority of
either house within 30 days of the filing with the clerk of that chamber, provided
that the thirty-day period shall not begin or expire unless the General Assembly is
in regular session. Once approved by the General Assembly, any provision of an
agreement or award need not be resubmitted by the parties to such agreement or
award as part of a future contract approval process unless changes in the language
of such provision are negotiated by the parties.

~~reduced to writing and submitted to the General Assembly pursuant
213 to the provisions of subsection (b) of section 5-278 of the general
214 statutes.~~

215 (c) The provisions of this section shall not alter the obligations of the
216 state or the consumer to provide the state's or the consumer's share of
217 Social Security, federal and state unemployment contributions,
218 Medicare or workers' compensation insurance.

219 (d) The bargaining units of personal care attendants appropriate for
220 the purpose of collective bargaining shall be (1) a state-wide unit of all
221 personal care attendants, (2) a state-wide unit of personal care
222 attendants who provide services under programs administered by the
223 Department of Social Services, or (3) a state-wide unit of personal care
224 attendants who provide services under programs administered by the
225 Department of Developmental Services. Personal care attendants who
226 are members of the consumer's or surrogate's family shall not be
227 excluded from the bargaining unit ~~solely~~ because of such personal care
228 attendant's familial relationship to a consumer or surrogate.

229 (e) Any organization certified as the majority representative of
230 personal care attendants in any election held prior to the effective date
231 of this section pursuant to Executive Order Number 10 of Governor
232 Dannel P. Malloy may provide proof of such certification to the State
233 Board of Labor Relations and the State Board of Labor Relations shall
234 certify such majority representative as the exclusive bargaining
235 representative for such personal care attendants without the
236 requirement of an additional election unless and until such time as a
237 question concerning representation is appropriately raised under this
238 section and section 2 of this act.

239 Sec. 4. (NEW) (Effective July 1, 2012) The Commissioners of Social

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240 Services and Developmental Services shall submit any application for a
241 waiver of federal law necessary to effectuate the provisions of sections
242 1 to 3, inclusive, of this act, in accordance with the provisions of section
243 17b-8 of the general statutes. The Commissioners of Social Services and
244 Developmental Services and any other department or agency of the
245 state shall take all actions reasonably necessary to obtain approval for
246 any such waiver and to ensure the continuation of necessary federal
247 funding.

This act shall take effect as follows and shall amend the following sections:

Section 1 July 1, 2012 New section

Sec. 2 July 1, 2012 New section

Sec. 3 July 1, 2012 New section

Sec. 4 July 1, 2012 New section

Statement of Purpose:

To provide a process for personal care attendants to collectively bargain with the state via the Personal Care Attendant Quality Home Care Workforce Council.

[Changes are tracked against LCO No. 1852. Additions are in **bold and underlined**. Deletions are in ~~strikethrough~~]

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