



General Assembly

February Session, 2012

**Raised Bill No. 352**

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 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.

15       Sec. 2. (NEW) (*Effective July 1, 2012*) (a) 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:

19       (1) The following shall be prohibited subjects of bargaining: (A) The  
20 application of state employee benefits to family child care providers,  
21 including, but not limited to, health benefits and pensions; (B) a  
22 parent's right to recruit, select, direct the activities of, or terminate the  
23 services of any family child care provider; and (C) a procedure for  
24 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) 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       (4) The provisions of sections 5-276a and 5-276b of the general  
37 statutes, and subsections (c) 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       (5) 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 (6) 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

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 with more than one

77 department having 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 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 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.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2012</i>	New section
Sec. 2	<i>July 1, 2012</i>	New section

**Statement of Purpose:**

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

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*