

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2005

A N A C T

**RELATING TO HUMAN SERVICES -- AUTHORIZING PROVIDERS TO NEGOTIATE
JOINTLY WITH THE DEPARTMENTS OF HUMAN SERVICES AND CHILDREN YOUTH
AND FAMILIES**

Introduced By: Senators Paiva-Weed, Pichardo, Ruggerio, Alves, and Goodwin

Date Introduced: February 17, 2005

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 40 of the General Laws entitled "Human Services" is hereby amended
2 by adding thereto the following chapter:

3 CHAPTER 6.6

4 FAMILY CHILD CARE PROVIDERS BUSINESS OPPORTUNITY ACT

5 **40-6.6-1. Short title.** – This chapter shall be known and may be cited as the "Rhode
6 Island Family Child Care Providers Business Opportunity Act of 2005."

7 **40-6.6-2. Legislative findings.** – The general assembly hereby finds and declares as
8 follows:

9 (1) Child care has become a fundamental need for Rhode Island families, with sixty-two
10 percent (62%) of children under the age of six (6) having both of their parents or their parent in
11 the workforce.

12 (2) Quality child care is critical to children's future success in school and life, improving
13 children's capacity to learn, develop and cope with stress, and improving their school readiness
14 and their future earning potential.

15 (3) A report published by Bryant University and funded by the department of human
16 services documents that child care subsidies are an economic development investment that pays
17 for itself in real dollars, returned to the government through taxes on earnings, employment, and
18 the child care industry, such that every dollar invested in child care provides one dollar and

1 seventy-five cents (\$1.75) to the economy.

2 (4) Family child care providers play a crucial role in providing quality and affordable
3 child care for young children and working parents. Wages and training opportunities, however
4 need to be increased in order to attract sufficient numbers of these providers.

5 (5) To preserve freedom of choice for parents selecting child care services through the
6 state's Starting RIght Child Care Assistance Program, the state must be able to ensure the
7 availability of child care services on terms that will attract and retain sufficient number of child
8 care providers in all available settings.

9 (6) Families receiving assistance through the state's Starting RIght Child Care Assistance
10 Program do not control the economic and other terms of the delivery of services and, therefore,
11 cannot effectively address concerns common to family child care providers throughout the state.

12 (7) Currently under the state's Starting RIght Child Care Assistance Program, individual
13 family child care providers must accept the terms imposed upon them as they are unable to
14 effectively voice their common concerns about the program, their role, and the terms and
15 conditions of their provision of services under the program as it pertains to family child care
16 providers.

17 (8) It is essential for the state to receive input from child care providers in order to
18 improve the delivery of services under the state's Starting RIght Child Care Assistance Program.

19 (9) Empowering family child care providers to negotiate jointly with the departments
20 will strengthen the market for child care services, thereby providing benefits for parents and the
21 community.

22 (10) Allowing family child care providers to negotiate jointly with the departments of
23 human services and children, youth and families will improve the efficiency and effectiveness of
24 communication between family child care providers and the departments.

25 (11) This act is necessary, proper, and constitutes an appropriate exercise of the authority
26 of this state to regulate child care services in order to ensure the safety of the children of Rhode
27 Island.

28 **40-6.6-3. Definitions.** – The following words and phrases when used in this act shall
29 have the meanings given to them in this section unless the context clearly indicates otherwise:

30 (1) "Board" means the labor relations board created by section 28-7-4.

31 (2) "CCAP" means the Starting RIght Child Care Assistance Program established
32 pursuant to Chapter 6.2 of Title 40.

33 (3) "Certified family child care provider" means a family child care provider that has
34 been certified by the department of children youth and families to provide child care services.

1 (4) "Department of human services" means the department of humans services of the
2 state.

3 (5) "Department of children, youth and families (DCYF)" means the department of
4 children, youth and families of the state.

5 (6) "Departments" means the departments of human services and children, youth and
6 families.

7 (7) "Family child care provider" or "provider" means a provider of child care services in
8 the provider's home or the home of the parent and includes certified and noncertified family child
9 care providers that participate in the CCAP.

10 (8) "Joint negotiation representative" means a representative designated by CCAP
11 providers as provided in section 40-6.6-6.

12 (9) "Noncertified family child care provider" means a family child care provider who is
13 not required by law to obtain DCYF certification but is legally authorized to participate in the
14 CCAP.

15 **40-6.6-4. Negotiations regarding CCAP provider agreements.** – Certified and
16 noncertified family child care providers who participate in the CCAP may jointly negotiate with
17 the departments and engage in related joint activity, as provided in this chapter concerning all
18 terms and conditions of the provision of child care provider services under the state's child care
19 assistance program and/or under state regulations.

20 **40-6.6-5. Conduct of joint negotiations.** – (a) Providers shall designate a joint
21 negotiation representative as the sole party authorized to negotiate with the departments on behalf
22 of the providers. The designation shall be made as provided in section 40-6.6-6.

23 (b) After selecting a joint negotiation representative, providers may communicate with
24 each other and their joint negotiation representative regarding matters to be negotiated with the
25 departments.

26 (c) The joint negotiation representative may present to the departments a proposal
27 concerning the terms and conditions of family child care provider services, and the parties shall
28 thereafter engage in good faith negotiations, subject to paragraph (d) of this section. The parties
29 agree to be bound by the terms and conditions arrived at through these negotiations.

30 (d) To the extent that the terms or conditions agreed upon by the departments and the
31 joint negotiation representative on behalf of the providers would require modification of existing
32 regulations, the departments shall issue notice promptly of proposed rule-making according to the
33 procedures set forth in the Administrative Procedures Act, Section 42-35-3(a), to receive public
34 comment prior to reaching final agreement on the proposed rule changes. The public comment

1 received as part of the rule-making process shall be considered by both parties in reaching a final
2 agreement.

3 **40-6.6-6. Selection of joint negotiation representative.** – (a) An organization or
4 individual may request that the board conduct an election to certify the organization or individual
5 as a joint negotiation representative upon a showing that the organization or individual has
6 written authorization from at least thirty percent (30%) of CCAP providers selecting the
7 organization or individual to serve as such representative.

8 (b) The board shall verify the showing of interest and shall thereafter conduct a secret
9 mail ballot election in accordance with its rules and regulations and determine whether a majority
10 of the CCAP providers wish to be represented by the petitioner. If the election determines that a
11 majority of the CCAP providers casting ballots wish to be represented by the petitioner, the board
12 shall certify it as the joint negotiation representative.

13 (c) A certified representative shall be authorized to collect a monthly fee from each
14 CCAP provider to cover the costs of its preparation for participation in joint negotiations and
15 representation of the family child care providers. Upon the request of any family child care
16 provider, the departments shall deduct any such fee from the payments to family child care
17 providers and remit the fees monthly to the certified representatives.

18 (d) The state, its departments, agencies, and employees shall not interfere with the right
19 of a provider to select a representative and shall not retaliate or discriminate against a family
20 provider for exercising that right.

21 **40-6.6-7. Removal of joint representative.** – A petition to decertify a joint
22 representative may be filed with the board and acted upon in accordance with the provisions of
23 Chapter 7 of Title 28 and the board's rules and regulations; provided, however, that following the
24 first certification of a joint negotiation representative, the board shall not entertain any
25 decertification petition for at least two (2) years thereafter; and provided, further, that any such
26 petition must be supported by thirty percent (30%) or more of the providers. The board shall
27 conduct a secret mail ballot election with respect to a validly submitted decertification petition.

28 **40-6.6-8. Good faith negotiations.** – It shall be unlawful for either party to a negotiation
29 to refuse or fail to meet and negotiate in good faith. Any alleged violation of this provision or of
30 section 40-6.6-6(3) may be filed with the board as an unfair labor practice and considered and
31 ruled upon in accordance with Chapter 7 of Title 28 of the general laws and the board's rules and
32 regulations.

33 **40-6.6-9. Independent contractor status.** – Nothing in this chapter shall be construed to
34 make family child care providers employees of the state for any purpose.

1 **40-6.6-10. Strikes not authorized.** – No provision of this chapter shall be construed to
2 authorize family child care providers to engage in a consented strike, boycott, or cessation of the
3 delivery of child care services.

4 **40-6.6-11. Exception to anti-trust laws.** – Joint negotiations and related joint activity by
5 family child care providers, as authorized pursuant to this chapter, shall qualify for the state-
6 action exemption to the federal anti-trust laws.

7 **40-6.6-12. Jurisdiction.** – The labor relations board shall have jurisdiction over
8 negotiations provided for in this chapter.

9 SECTION 2. This act shall take effect upon passage.

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LC02205/SUB A/2
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HUMAN SERVICES -- AUTHORIZING PROVIDERS TO NEGOTIATE
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- 1 This act would authorize family child care providers to engage in collective negotiations
- 2 with DHS and DCYF.
- 3 This act would take effect upon passage.

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LC02205/SUB A/
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