

1 **HB 1777** - H AMD

2 By Representative Carrell

3 On page 12, after line 2, insert the following:

4 "Sec. 5. RCW 74.39A.270 and 2002 c 3 s are each amended to
5 read as follows:

6 (1) Solely for the purposes of collective bargaining, the
7 authority is the public employer, as defined in chapter 41.56 RCW,
8 of individual providers, who are public employees, as defined in
9 chapter 41.56 RCW, of the authority.

10 (2) Chapter 41.56 RCW governs the employment relationship
11 between the authority and individual providers, except as otherwise
12 expressly provided in chapter 3, Laws of 2002 and except as
13 follows:

14 (a) The only unit appropriate for the purpose of collective
15 bargaining under RCW 41.56.060 is a statewide unit of all
16 individual providers;

17 (b) The showing of interest required to request an election
18 under RCW 41.56.060 is ten percent of the unit, and any intervener
19 seeking to appear on the ballot must make the same showing of
20 interest;

21 (c) The mediation and interest arbitration provisions of RCW
22 41.56.430 through 41.56.470 and 41.56.480 apply;

23 (d) Individual providers do not have the right to strike; and

24 (e) Individual providers who are related to, or family members
25 of, consumers or prospective consumers are not, for that reason,
26 exempt from chapter 3, Laws of 2002 or chapter 41.56 RCW.

27 (3) Individual providers who are employees of the authority
28 under subsection (1) of this section are not, for that reason,
29 employees of the state for any purpose.

30 (4) Consumers and prospective consumers retain the right to
31 select, hire, supervise the work of, and terminate any individual
32 provider providing services to them. Consumers may elect to

1 receive long-term in-home care services from individual providers
2 who are not referred to them by the authority.

3 (5) In implementing and administering chapter 3, Laws of 2002,
4 neither the authority nor any of its contractors may reduce or
5 increase the hours of service for any consumer below or above the
6 amount determined to be necessary under any assessment prepared by
7 the department or an area agency on aging.

8 (6)(a) The authority, the area agencies on aging, and the
9 department of social and health services, or their contractors
10 under chapter 3, Laws of 2002, may not be held ((vicariously))
11 liable, either jointly or severally, under any principle of agency,
12 whether vicarious liability or otherwise, for the action or
13 inaction of any individual provider or prospective individual
14 provider, whether or not that individual provider or prospective
15 individual provider was included on the authority's referral
16 registry or referred to a consumer or prospective consumer.

17 (b) The members of the board are immune from any liability
18 resulting from implementation of chapter 3, Laws of 2002.

19 (7) Nothing in this section affects the state's responsibility
20 with respect to the state payroll system or unemployment insurance
21 for individual providers."

22 Renumber the sections consecutively, correct internal references
23 accordingly, and correct the title.

EFFECT: Gives the Department of Social and Health Services the same immunity from liability for acts of individual providers as the Home Care Quality Authority and Area Agencies on Aging have, and adds that this immunity includes protection from joint and several liability and extends to all forms of agency liability.