
Commerce & Labor Committee

HB 2933

Brief Description: Clarifying collective bargaining processes for individual providers.

Sponsors: Representatives Conway, Cody, Benson, Ormsby, O'Brien, Sullivan, Wood and Morrell.

Brief Summary of Bill

- Clarifies the Home Care Quality Authority's responsibilities as an "employer" for collective bargaining with individual home care workers, and expressly excludes these workers from statutes applying to state employees.
- Requires the request for funding a collective bargaining agreement for home care workers to be submitted to the Legislature in the Governor's budget request, after the Director of the Office of Financial Management certifies the request for funding as feasible or after an arbitration award is made.
- Creates the Joint Committee on Home Care Worker Relations to consult with the Home Care Quality Authority on the compensation package in the collective bargaining agreement.
- Requires an arbitration panel to consider the ability of the state to pay for the compensation package in a collective bargaining agreement.

Hearing Date: 2/2/04

Staff: Chris Cordes (786-7103).

Background:

The state contracts with agency and individual home care workers to provide long-term care services for elderly and disabled clients who are eligible for Medicaid through the Department of Social and Health Services' (DSHS) Aging and Adult Services and Developmental Disabilities programs. Home care workers provide the DSHS clients with personal care assistance with various tasks such as toileting, bathing, dressing, ambulating, meal preparation, and household chores. These individual home care workers are hired and fired by the client, but are paid by the DSHS. The DSHS also pays unemployment insurance contributions to cover these workers.

In November 2001 the voters enacted Initiative Measure No. 775 (I-775). The initiative states that consumers of services retain the right to select, hire, supervise the work of, and terminate any individual home care worker providing them with services. I-775 provides individual home care workers with collective bargaining rights under the Public Employees' Collective Bargaining Act (PECBA). It also created the Home Care Quality Authority (HCQA) as an agency of state government to provide oversight of home care services and, for purposes of collective bargaining, to function as the "employer" of approximately 26,000 individual home care workers. I-775 states that the individual home care workers are not, because of these provisions, employees of the state for any purpose.

Individual home care workers do not have the right to strike and are covered by the binding interest arbitration provisions of the PECBA.

Under I-775, the Governor must submit a request to the Legislature for the funds and any legislative changes necessary to implement a collective bargaining agreement covering individual home care workers within 10 days of the agreement's ratification. The Legislature may only approve or reject the submission of the request for funds as a whole. If the Legislature rejects or fails to act on the submission, the collective bargaining agreement will be reopened solely for the purpose of renegotiating the funds necessary to implement the agreement.

In August 2002 the individual home care workers voted to unionize. An initial contract submitted to the Legislature in January 2003 was returned to the parties for renegotiation after the Legislature adjourned without approving the funds for the contract.

Summary of Bill:

Collective Bargaining Relationship

The HCQA's responsibilities for collective bargaining with individual home care workers are clarified. It is expressly stated that the collective bargaining law governs the collective bargaining relationship, not the employment relationship, between the parties. The individual home care workers are employees of the HCQA only for collective bargaining purposes and are not, for that reason, employees of the state, its political subdivisions, or an area agency on aging for any purpose.

Individual home care workers are not to be considered state employees as a result of the state assuming responsibility for individual home care worker's unemployment insurance. Individual home care workers are expressly excluded from the statutory provisions that apply to state employees, such as civil service, pension programs, and other employee benefit programs.

Collective Bargaining Process

Collective bargaining for home care worker agreements must begin by May 1 of the year before the year in which an existing collective bargaining agreement expires.

The Governor's submission of a request for funding to implement a collective bargaining agreement covering individual home care workers must be submitted as part of the Governor's budget proposal to the Legislature. Before the request may be submitted, the request must: (1) be submitted to the Office of Financial Management (OFM) by October 1 prior to the legislative

session at which the request will be considered and (2) be certified by the Director of the OFM as being feasible financially for the state or be an arbitration award.

The Joint Committee on Home Care Worker Relations (Committee) is created. The Committee consists of two members with leadership positions representing each of the two largest caucuses in each house of the Legislature and the chair and ranking minority members of the House Appropriations and Senate Ways & Means Committees. The HCQA must periodically consult with the Committee regarding the compensation and fringe benefit provisions of a collective bargaining agreement and, after completing negotiations, advise the Committee of the elements of the agreement and any legislation necessary to implement the agreement.

Arbitration Standards

When an arbitration panel determines a dispute arising from a bargaining impasse involving individual home care workers, the panel must consider the financial ability of the state to pay for compensation and fringe benefit provisions.

Rules Authority: The bill does not contain provisions addressing the rule-making powers of an agency.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.