

# HOUSE BILL REPORT

## HB 2354

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**As Reported by House Committee On:**  
Commerce & Labor

**Title:** An act relating to making the governor the public employer of adult family home caregivers.

**Brief Description:** Making the governor the public employer of adult family home caregivers.

**Sponsors:** Representatives Williams, Conway, Hasegawa and Appleton.

**Brief History:**

**Committee Activity:**

Commerce & Labor: 2/23/07, 2/27/07 [DP].

**Brief Summary of Bill**

- Amends the Public Employees' Collective Bargaining Act to allow adult family home caregivers to become part of the individual provider bargaining unit.

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** Do pass. Signed by 5 members: Representatives Conway, Chair; Wood, Vice Chair; Green, Moeller and Williams.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member and Crouse.

**Staff:** Jill Reinmuth (786-7134).

**Background:**

Adult Family Homes

Adult family homes are licensed by the state to provide residential care for up to six persons in a home-like setting. The residents in adult family homes are persons who are elderly or who have physical or developmental disabilities. They generally require supervision or assistance with activities of daily living and/or health-related services and are unable to live alone. The Department of Social and Health Services (Department) licenses adult family homes. The

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Department also regulates adult family homes through rules overseen by the Aging and Adult Services Administration. Caregivers include resident managers and other persons who provide residents with hands-on personal care.

### Public Employee Collective Bargaining

Individual providers have collective bargaining rights under the Public Employees' Collective Bargaining Act (PECBA) administered by the Public Employment Relations Commission. Individual providers do not have the right to strike and are covered by the binding interest arbitration provisions of the PECBA. For purposes of bargaining, the Governor is the "public employer."

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### **Summary of Bill:**

The Public Employees' Collective Bargaining Act (PECBA) is amended to allow adult family home caregivers to become part of the individual provider bargaining unit. The definition of "individual provider" is changed to include persons who provide care as direct care workers in adult family homes. Direct care workers are caregivers working in adult family homes, but not the adult family home provider or the resident manager.

To become part of the statewide bargaining unit of individual providers, there must be a showing of interest of 10 percent of direct care workers in adult family homes. To determine the total number of such workers, the Public Employment Relations Commission (Commission) must require adult family home providers to provide lists of direct workers in adult family homes to the Commission, including home addresses, by October 1, 2007.

The Department of Social and Health Services (Department) must integrate direct care workers into the individual provider program. For hours of care provided to Medicaid-funded clients only, direct care workers must be reclassified as individual providers. The Department must determine the number of hours authorized for Medicaid clients, taking acuity levels into consideration.

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**Appropriation:** None.

**Fiscal Note:** Requested on February 23, 2007.

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

### **Staff Summary of Public Testimony:**

(In support) Adult family home workers perform the same tasks, receive the same training, and take care of the same clients, yet their wages and benefits lag behind home care workers. This bill would give them the chance to improve wages and benefits, recruitment and

retention, and ultimately, client care. If adult family home workers elect to form a union, they could join the individual provider unit and work toward parity.

I'm an adult family home worker, and have been for over four years. We work hard, mostly because we care about giving good service to clients. What we'd like are health care benefits and a living wage, regardless of which adult family home provider we work for. We're interested in working with our employers to make sure workers can make a livable wage and have benefits. We want to reduce turnover and increase the quality of care. We've seen how home care workers were able to unite and gain higher wages and benefits. We'd like to do the same.

As the owner of a home care agency and an adult family home, I support this bill. Individual home care workers already have these rights. Adult family home workers should have them too.

As an individual provider, I am living proof of how a union can transform a life. Before we had the right to organize and collectively bargain with the state, we had low wages and no benefits. Now we have a wage ladder and benefits, and the security of knowing our voice is heard in Olympia. I support this bill because our work is nearly the same, and there should be parity between individual providers and adult family home providers.

(With concerns) This bill raises some concerns about how to conduct bargaining. It would not be like past groups. For example, with family child care providers, negotiations are with the providers and not their employees.

(Opposed) We have been trying to improve rates for adult family home providers. We are paid 40 to 50 percent of the nursing home rate. We need more funding for the homes, and then we can give the workers the wages and benefits that they want and deserve. We like where this bill is going in the future, but we need the money first.

We have to find ways to keep our adult family homes in business. The investment and the risk are very high. Many homes fail. We do what we have to do to make the business succeed. If we have to pay for benefits or other additional costs, we would not be able to make it. Our home would fold. If a bill like this passed, we would cut back and not hire care givers. The costs of having care givers would exceed what we could pay them. In time, the marketplace will take care of wages and benefits.

We want to compensate care givers better, but we are concerned with this bill. It was introduced very late, and there has been little time to digest it. The bill creates multiple employers for the employees in our setting. The bill would make providers divide up the time that their staff work with private pay clients and the time they work with Medicaid clients.

It is unclear who is in the bargaining unit. It is also unclear whether there is a direct bargaining relationship with the Governor's Office and the role that the providers play in that process.

We face three scenarios. The first -- in which only HB 2354 is passed -- would not work at all. It could very easily result in adult family home providers closing their business. The second -- in which both HB 2111 and HB 2354 are passed -- would result in providers negotiating an overall reimbursement rate and care givers negotiating a wage rate. It would be very complicated. The third -- in which only HB 2111 is passed -- would be the best.

(Available for questions) The bill has come up very quickly. We are looking at the representation procedures. We don't know whether there is enough of a community of interest.

**Persons Testifying:** (In support) Andrew Beane, Service Employees International Union Local 775; Joseph O'Connor, AAA Residential; Ruth Jensen, adult family home care giver; and Naomi Clay.

(With concerns) Steve McLain, Office of Financial Management - Labor Relations Office.

(Opposed) Terry Kohl, Elaine Lawrence, Don Simnionin, Ben Stercine, and James Hall, Washington State Residential Care Council of Adult Family Home Providers; Bill Day, Adult Family Home Association; and Gary Waggoner, Gonzaga House.

(Available for questions) Ken Latsch, Public Employment Relations Commission.

**Persons Signed In To Testify But Not Testifying:** None.