

**HOUSE . . . . . No. 01671**

The Commonwealth of Massachusetts

PRESENTED BY:

*Steven M. Walsh*

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to improve quality in early education care centers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Steven M. Walsh</i>	<i>11th Essex</i>
<i>Alice K. Wolf</i>	<i>25th Middlesex</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>Carlo Basile</i>	<i>1st Suffolk</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Jason M. Lewis</i>	<i>31st Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>Cheryl A. Coakley-Rivera</i>	<i>10th Hampden</i>
<i>Sean Curran</i>	<i>9th Hampden</i>
<i>Christopher N. Speranzo</i>	<i>3rd Berkshire</i>
<i>Michael D. Brady</i>	<i>9th Plymouth</i>
<i>Thomas P. Conroy</i>	<i>13th Middlesex</i>
<i>James E. Timilty</i>	<i>Bristol and Norfolk</i>

<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>
<i>Cleon H. Turner</i>	<i>1st Barnstable</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Martin J. Walsh</i>	<i>13th Suffolk</i>

# HOUSE . . . . . No. 01671

By Mr. Steven M. Walsh of Lynn, petition (accompanied by bill, House, No. 01671) of Martin J. Walsh and others for legislation to authorize early childcare providers to participate in collective bargaining with the department of early education and care.. Joint Committee on Public Service.

## The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to improve quality in early education care centers.

*Whereas*, the deferred operation of this act would tend to defeat its purpose, which is forthwith to establish a system for improving the quality of center based child care services in the Commonwealth and to provide collective bargaining rights for providers of such services, , therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

□

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

- 1 SECTION 1. Chapter 15D of the General Laws is hereby amended by adding the following
- 2 sections:
- 3 SECTION 17 Notwithstanding the provisions of any general or special law to the contrary, it is
- 4 hereby declared to be the policy of the Commonwealth to assure quality early education and care
- 5 for children by child care providers as defined in this chapter.

6 It shall also be the intent of the General Court that child care providers and the Commonwealth  
7 work jointly to establish a quality early education and care program that serves eligible low  
8 income families through providers who have the requisite skills and training.

9 SECTION 18. COLLECTIVE BARGAINING RIGHTS FOR CHILD CARE PROVIDERS In  
10 order to address these challenges, child care providers are to be given the opportunity to work  
11 collectively to improve standards in their profession and to expand opportunities for educational  
12 advancement to ensure continuous quality improvement in the delivery of early learning services  
13 by collectively bargaining with the Commonwealth over its role in improving the quality of child  
14 care and subsidizing child care for the Commonwealth's families. This new bargaining  
15 relationship does not intrude in any manner upon employer-employee relationships governed by  
16 federal labor relations law. In becoming members of an organization that represents them in  
17 their dealings with the state, child care providers do not forfeit their rights under federal law.

18

19 SECTION 2. Chapter 15D of the General Laws is hereby amended by adding the following  
20 section:

21 SECTION 19. DEFINITIONS RELATING TO COLLECTIVE BARGAINING RIGHTS OF  
22 CHILD CARE PROVIDERS

23 In addition to the definitions defined in Section 1A of this Chapter for purposes of sections 17-  
24 21, inclusive, the following words shall have the following meaning:

25 "Division,"- the Division of labor relations established by section 90 of chapter 23.

26 "Employee Organization" – an employee organization as defined in section one of chapter 150E.

27 “Child care center” and “school age child care program” shall be as defined in Section 1A of this  
28 Chapter 15D, which is licensed by the Commonwealth and holds a contract with the Department  
29 for the provision of subsidized child care services or receives a subsidy as provided by Section  
30 2(b) of Chapter 15D.

31 “Child care providers” – child care center and school age child care program directors and  
32 workers.

33 “Representation fee” – the amount to be paid by the state to the employee organization for its  
34 role in advocating for professional development and representing child care providers under this  
35 chapter

36 “Services” – child care services provided for less than 24 hours in a day in any child care center  
37 or school age child care program as defined in this section.

38 SECTION 20. PROVIDERS’ RIGHT TO SELECT A REPRESENTATIVE FOR AND  
39 ENGAGE IN COLLECTIVE BARGAINING WITH THE DEPARTMENT OF EARLY  
40 EDUCATION AND CARE.

41 (a) Child care providers shall be considered public employees, as defined by and solely for the  
42 purposes of chapter 150E for bargaining with the Department of Early Education and Care, to  
43 collaborate through collective bargaining to improve the standards in their profession, expand  
44 opportunities for educational advancement and to ensure continuous improvement in the  
45 delivery of early education and care services. Said chapter 150E shall apply to child care  
46 providers except to the extent that chapter 150E is inconsistent with this section, in which case  
47 this section shall control. Child care providers shall have the right to form, join and participate  
48 in the activities of employee organizations of their own choosing for the purpose of

49 representation and collective bargaining exercised in accordance with the rights granted to public  
50 employees under chapter 150E. In addition, child care providers shall be treated as state  
51 employees solely for the purposes of sections 19 – 21 of this chapter.

52 (b) Solely for the purposes of collective bargaining and as expressly limited under subsections  
53 (a) through (d) of Section 21, the Commonwealth of Massachusetts acting through the  
54 Commissioner of the Department of Early Education and Care is the public employer, as defined  
55 in section one of chapter 150E, of child care providers and is authorized to negotiate and agree to  
56 terms of collective bargaining agreements on behalf of the Commonwealth.

57 (c) The appropriate collective bargaining unit for child care providers shall consist of a single  
58 statewide unit of all child care providers at child care centers and school aged child care  
59 programs in the Commonwealth, regardless of the number of hours of care such child care  
60 providers have worked.

61 SECTION 3. Add the following new section to Chapter 15D:

62 SECTION 21.

63 (a) Every child care center and school age child care program, as defined in Chapter 15 Section  
64 1A, shall provide to the Department of Early Education and Care a list of the names, home  
65 addresses, phone numbers, workplace and job title of all current child care providers, annually by  
66 January 30, except that initially such lists shall be provided within thirty days of the effective  
67 date of this section.

68 (b) The Department of Early Education and Care shall, upon request, provide to a labor  
69 organization a list of all current child care providers in the unit that the organization seeks to

70 organize or represents. Such list shall contain information including name, home addresses,  
71 telephone number, workplace and job title with regard to such employees, as is necessary for the  
72 purposes of this act.

73 (c) Notwithstanding section 6 of chapter 150E, the scope of collective bargaining for child  
74 care providers under this section shall be limited to matters related to workforce development as  
75 described in Sections 2 and 5 of Chapter 15D, including: (i) professional development and  
76 training; (ii) conditions affecting recruitment and retention; (iii) quality ratings; (iv) career  
77 ladders and lattices representing salaries and benefits that suitably compensate professionals for  
78 increases in educational attainment and with incentives for advancement, including salary  
79 enhancement programs, retirement, health and welfare benefits; (v) the manner and rate of  
80 subsidy and reimbursement; (vi) representation fee; and (vii) grievance procedure related to (i)  
81 through (vi).

82 (d) The mediation and interest arbitration provisions of Chapter 150E shall apply.

83 (e) Nothing in this act shall grant child care providers the right to strike.

84 (f) This section does not create or modify:

85 (1) The parents' or legal guardians' right to choose and terminate the services of any child care  
86 center or school age child care program that provides care for their child or children;

87 (2) The child care center's right to choose, direct, and terminate the services of a child care  
88 provider that it employs;

89 (3) The rights of employers and employees under the National Labor Relations Act, 29 U.S.C. §§  
90 151 et seq.

91 (4) The secretary of the executive office of health and human services' and the Commissioner's  
92 right to adopt requirements pursuant to chapter 15D except for requirements related to grievance  
93 procedures and collective negotiations on personnel matters as specified in this section; (5) The  
94 General Court's right to make programmatic modifications to the delivery of Commonwealth  
95 services through child care subsidy programs, including standards of eligibility of parents, legal  
96 guardians, and child care centers participating in child care subsidy programs, and the nature of  
97 services provided.

98 (h) In enacting this section, the General Court intends to provide state action immunity under  
99 federal and state antitrust laws for the joint activities child care providers and their exclusive  
100 bargaining representatives to the extent such activities are authorized by this chapter.

#### 101 GENERAL PROVISIONS

102 SECTION 4. This act applies only to the governance of the collective bargaining relationship, as  
103 defined above in Sections 20 and 21, between the Department of Early Education and Care and  
104 child care providers. If any part of this act is found to be in conflict with federal requirements  
105 that are a prescribed condition to the allocation of federal funds to the state, the conflicting part  
106 of this act is inoperative solely to the extent of the conflict and with respect to the agencies  
107 directly affected, and this finding does not affect the operation of the remainder of this act in its  
108 application to the agencies concerned. Rules adopted under this act must meet federal  
109 requirements that are a necessary condition to the receipt of federal funds by the Commonwealth.

110 SECTION 5. This act may be known and cited as the Access to Quality Early Education and  
111 Care Workforce Act.



112 SECTION 6. Sections 1 through 6 of this act are necessary for the immediate preservation of the  
113 public peace, health, or safety, or support of the Commonwealth and its existing public  
114 institutions, and take effect immediately.