

HOUSE No. 1671

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 adoption of the accompanying bill:

An Act to improve quality in early education care centers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Steven M. Walsh</i>	<i>11th Essex</i>	<i>1/20/2011</i>
<i>Alice K. Wolf</i>	<i>25th Middlesex</i>	<i>1/27/2011</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>	<i>1/27/2011</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	<i>1/27/2011</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>	<i>1/27/2011</i>
<i>Carlo Basile</i>	<i>1st Suffolk</i>	<i>1/28/2011</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>2/1/2011</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>	<i>2/1/2011</i>
<i>Jason M. Lewis</i>	<i>31st Middlesex</i>	<i>2/4/2011</i>
<i>James B. Eldridge</i>		<i>2/4/2011</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>2/4/2011</i>
<i>Cheryl A. Coakley-Rivera</i>	<i>10th Hampden</i>	<i>2/4/2011</i>
<i>Sean Curran</i>	<i>9th Hampden</i>	<i>2/4/2011</i>
<i>Christopher N. Speranzo</i>	<i>3rd Berkshire</i>	<i>2/4/2011</i>
<i>Michael D. Brady</i>	<i>9th Plymouth</i>	<i>2/4/2011</i>
<i>Thomas P. Conroy</i>	<i>13th Middlesex</i>	<i>2/4/2011</i>
<i>James E. Timilty</i>		<i>2/4/2011</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>	<i>2/4/2011</i>

<i>Louis L. Kafka</i>	<i>8th Norfolk</i>	<i>2/4/2011</i>
<i>Cleon H. Turner</i>	<i>1st Barnstable</i>	<i>2/4/2011</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/4/2011</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>2/4/2011</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>	<i>2/4/2011</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>2/4/2011</i>
<i>Martin J. Walsh</i>	<i>13th Suffolk</i>	<i>2/4/2011</i>

HOUSE No. 1671

By Mr. Walsh of Lynn, a petition (accompanied by bill, House, No. 1671) of Steven M. Walsh and others for legislation to authorize early childcare providers to participate in collective bargaining with the department of early education and care. 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 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
2 following sections:

3 SECTION 17 Notwithstanding the provisions of any general or special law to the
4 contrary, it is hereby declared to be the policy of the Commonwealth to assure quality early
5 education and care 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
7 Commonwealth work jointly to establish a quality early education and care program that serves
8 eligible low income families through providers who have the requisite skills and training.

9 SECTION 18. COLLECTIVE BARGAINING RIGHTS FOR CHILD CARE

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

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

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

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

26 “Division,”- the Division of labor relations established by section 90 of chapter 23.

27 “Employee Organization” – an employee organization as defined in section one of
28 chapter 150E.

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

33 “Child care providers” – child care center and school age child care program directors
34 and workers.

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

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

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

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

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

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

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

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

64 SECTION 21.

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

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

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

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

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

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

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

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

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

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

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

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

103 GENERAL PROVISIONS

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

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

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