30:5B-22.1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2009 **CHAPTER:** 299

NJSA: 30:5B-22.1 (Authorizes negotiations with a bargaining representative of family child care providers)

BILL NO: A4262 (Substituted for S3078)

SPONSOR(S) Quijano and Others

DATE INTRODUCED: November 30, 2009

COMMITTEE: ASSEMBLY: Labor

SENATE: ---

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: ASSEMBLY: January 11, 2010

SENATE: January 11, 2010

DATE OF APPROVAL: January 17, 2010

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Second reprint enacted)

A4262

SPONSOR'S STATEMENT: (Begins on page 4 of introduced bill)

Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: No.

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: No

S3078

SPONSOR'S STATEMENT: (Begins on page 4 of introduced bill)

Yes

COMMITTEE STATEMENT: ASSEMBLY: No

SENATE: Yes

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: No

(continued)

	VETO MESSAGE:	No	
	GOVERNOR'S PRESS RELEASE ON SIGNING:	No	
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LAW/RWH

[Second Reprint]

ASSEMBLY, No. 4262

STATE OF NEW JERSEY

213th LEGISLATURE

INTRODUCED NOVEMBER 30, 2009

Sponsored by: Assemblywoman ANNETTE QUIJANO District 20 (Union)

Assemblyman JOSEPH V. EGAN District 17 (Middlesex and Somerset)

Co-Sponsored by: Senators Codey, Sweeney and Baroni

SYNOPSIS

Authorizes negotiations with a bargaining representative of family child care providers.

CURRENT VERSION OF TEXT

As amended by the General Assembly on January 7, 2010.



(Sponsorship Updated As Of: 1/12/2010)

1 **AN ACT** concerning family child care providers and supplementing P.L.1987, c.27 (C.30:5B-16 et seq.).

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BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

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- 1. The Legislature finds and declares that:
- a. Family child care providers in the State of New Jersey provide an invaluable and essential service to working parents and guardians by providing a healthy, safe and productive environment for their children while they are engaged in work or training;
- b. The State recognizes the importance of these services and recognizes the need to continue and improve both the quality of care and the living and working conditions of the providers;
- The ²[State, through the]² ¹[Department of Human 15 Services, Department of Children and Families²[,]²¹ is vested 16 with the ²[regulatory]² authority¹[, including, but not limited to, 17 establishment of reimbursement rates, **]**¹ 18 administrative oversight responsibility for the operation of 1 to 19 regulate and set standards for the registration of² family child care 20 homes¹, and the Department of Human Services ²[is responsible for 21 the establishment of provides funding for the administration and 22 enforcement of the operation of family childcare homes, 23 establishes² reimbursement rates¹ ², and administers child care 24 subsidy services for the Child Care Development Fund²; 25
 - d. To ensure quality standards of care, it is in the public interest for New Jersey to maintain a child care delivery system that encourages the recruitment and retention of quality family child care providers to deliver these vital services;
 - e. In 2006, a majority of family child care providers selected a union to be their representative by individually signed authorization cards, and the State Board of Mediation certified the Child Care Workers Union (CCWU), a union formed by the American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME) and the Communications Workers of America, AFL-CIO (CWA) to be the providers' exclusive majority representative; and
- f. The State subsequently entered into an agreement with the CCWU in its capacity as exclusive majority representative for the family child care providers.

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42 2. a. The Commissioner of the Department of Human Services 43 or, if applicable, the Commissioner of the Department of Children

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ALA committee amendments adopted January 4, 2010.

²Assembly floor amendments adopted January 7, 2010.

and Families, on behalf of the State of New Jersey, shall, in a timely manner, meet in good faith with a recognized exclusive majority representative of all family child care providers who are registered and approved as family day care providers pursuant to P.L.1987, c.27 (C.30:5B-16 et seq.), for the purpose of entering into an agreement, or negotiating a renewal or extension, with any agreed upon modifications, of any agreement in effect upon the effective date of this act, regarding reimbursement rates, ²collection and ² payment ²of fees, dispute resolution, reporting² procedures, benefits, health and safety conditions², and any other matters that would improve recruitment and retention of qualified family child care providers and the quality of the programs they provide, subject to the provisions of this section. Although family child care providers are not State employees, the subjects which may be included in an agreement shall be consistent with the areas which are considered negotiable for public employees who are subject to the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.). Nothing in this act shall require that an agreement be reached on any particular matter, provided the parties act in good faith.

- b. The purpose of this section is to permit family child care providers to select an exclusive majority representative to represent them as provided in this section. This act is intended by the Legislature to provide state action immunity under federal and State antitrust laws for any actions of the State, or joint actions of family child care providers and their exclusive majority representative, to the extent those actions are authorized by this act. The protections and prohibitions regarding unfair practices provided by section 1 of P.L.1974, c.123 (C.34:13A-5.4) shall apply to any family child care providers subject to this act, to the State as their employer, and to their employee organizations, representatives or agents.
- c. Any agreement entered into, renewed or extended pursuant to this section shall be embodied in writing, shall be binding upon the State of New Jersey, and shall provide for the payment of union dues and representation fees in a manner consistent with the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.) which apply to the payment of union dues and representation fees by public employees.
- ¹d. For the purposes of this act, "family child care provider" shall include all in-home ²voluntary² registered, approved family friend ²and² neighbor caregivers and ²nationally² accredited ²child care² providers included in any agreement entered into under the provisions of Executive Order 23, signed August 2, 2006. ¹

3. No provision of this act or provision of any agreement entered into, renewed or extended pursuant to this act, shall be construed as:

A4262 [2R] QUIJANO, EGAN

- a. Interfering with the rights of parents or guardians to choose family child care providers;
- b. Granting family child care providers any right to engage in a strike or collective cessation of the delivery of child care services; or
- Granting family child care providers status as employees of the State for the purposes of the "New Jersey Tort Claims Act," P.L.1972, c.45, (C. 59:1-1 et seq.), the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), the New Jersey "unemployment compensation law," R.S.43:21-1 et seq., and the workers' compensation law, R.S.34:15-1 et seq., nor status as employees of the State for any other purposes except for the purposes indicated in sections 1 and 2 of this act, including selecting representatives to negotiate and enter into agreements with the State as provided in section 2.

4. No action may be taken under this act that would derogate from the status, functions or authority of the Department of Human Services in its capacity as Lead Agency pursuant to the State Plan for Child Care Development Services filed by the Commissioner of Human Services with the U.S. Secretary of Health and Human Services. ¹No provision of this act shall supersede the authority of the Commissioner of the Department of Children and Families under the provisions of P.L. 1987, c. 27 (C.30:5B-16 et seq.). ¹

5. This act shall take effect immediately.

ASSEMBLY, No. 4262

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED NOVEMBER 30, 2009

Sponsored by: Assemblywoman ANNETTE QUIJANO District 20 (Union)

SYNOPSIS

Authorizes negotiations with a bargaining representative of family child care providers.

CURRENT VERSION OF TEXT

As introduced.



A4262 QUIJANO

1 AN ACT concerning family child care providers and supplementing 2 P.L.1987, c.27 (C.30:5B-16 et seq.).

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BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

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- 1. The Legislature finds and declares that:
- Family child care providers in the State of New Jersey provide an invaluable and essential service to working parents and guardians by providing a healthy, safe and productive environment for their children while they are engaged in work or training;
- The State recognizes the importance of these services and recognizes the need to continue and improve both the quality of care and the living and working conditions of the providers;
- The State, through the Department of Human Services, is vested with the regulatory authority, including, but not limited to, the establishment of reimbursement rates, and the administrative oversight responsibility for the operation of family child care homes;
- d. To ensure quality standards of care, it is in the public interest for New Jersey to maintain a child care delivery system that encourages the recruitment and retention of quality family child care providers to deliver these vital services;
- e. In 2006, a majority of family child care providers selected a union to be their representative by individually signed authorization cards, and the State Board of Mediation certified the Child Care Workers Union (CCWU), a union formed by the American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME) and the Communications Workers of America, AFL-CIO (CWA) to be the providers' exclusive majority representative; and
- The State subsequently entered into an agreement with the f. CCWU in its capacity as exclusive majority representative for the family child care providers.

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2. a. The Commissioner of the Department of Human Services, or, if applicable, the Commissioner of the Department of Children and Families, on behalf of the State of New Jersey, shall, in a timely manner, meet in good faith with a recognized exclusive majority representative of all family child care providers who are registered and approved as family day care providers pursuant to P.L.1987, c.27 (C.30:5B-16 et seq.), for the purpose of entering into an agreement, or negotiating a renewal or extension, with any agreed upon modifications, of any agreement in effect upon the effective date of this act, regarding reimbursement rates, payment procedures, benefits, health and safety conditions and any other matters that would improve recruitment and retention of qualified family child care providers and the quality of the programs they

- 1 provide, subject to the provisions of this section. Although family 2 child care providers are not State employees, the subjects which 3 may be included in an agreement shall be consistent with the areas 4 which are considered negotiable for public employees who are 5 subject to the provisions of the "New Jersey Employer-Employee 6 Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.). Nothing in 7 this act shall require that an agreement be reached on any particular 8 matter, provided the parties act in good faith.
 - The purpose of this section is to permit family child care providers to select an exclusive majority representative to represent them as provided in this section. This act is intended by the Legislature to provide state action immunity under federal and State antitrust laws for any actions of the State, or joint actions of family child care providers and their exclusive majority representative, to the extent those actions are authorized by this act. The protections and prohibitions regarding unfair practices provided by section 1 of P.L.1974, c.123 (C.34:13A-5.4) shall apply to any family child care providers subject to this act, to the State as their employer, and to their employee organizations, representatives or agents.
 - Any agreement entered into, renewed or extended pursuant to this section shall be embodied in writing, shall be binding upon the State of New Jersey, and shall provide for the payment of union dues and representation fees in a manner consistent with the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.) which apply to the payment of union dues and representation fees by public employees.

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- 3. No provision of this act or provision of any agreement entered into, renewed or extended pursuant to this act, shall be construed as:
- Interfering with the rights of parents or guardians to choose family child care providers;
- b. Granting family child care providers any right to engage in a strike or collective cessation of the delivery of child care services;
- Granting family child care providers status as employees of the State for the purposes of the "New Jersey Tort Claims Act," P.L.1972, c.45, (C. 59:1-1 et seq.), the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), the New Jersey "unemployment compensation law," R.S.43:21-1 et seq., and the workers' compensation law, R.S.34:15-1 et seq., nor status as employees of the State for any other purposes except for the purposes indicated in sections 1 and 2 of this act, including selecting representatives to negotiate and enter into agreements with the State as provided in section 2.

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No action may be taken under this act that would derogate from the status, functions or authority of the Department of Human Services in its capacity as Lead Agency pursuant to the State Plan for Child Care Development Services filed by the Commissioner of Human Services with the U.S. Secretary of Health and Human Services.

5. This act shall take effect immediately.

STATEMENT

This bill directs the Commissioner of the Department of Human Services, or, if applicable, the Commissioner of the Department of Children and Families to negotiate with a recognized exclusive majority representative of registered family child care providers to enter into an agreement, or negotiate a renewal or extension of any existing agreement, regarding reimbursement rates, payment procedures, benefits, health and safety conditions and any other matter that would improve recruitment and retention of qualified family child care providers and the quality of the programs they provide.

The bill provides that the subjects which may be included in an agreement be consistent with the areas which are considered negotiable under the "New Jersey Employer-Employee Relations Act," but does not require that an agreement be reached on any particular matter. Agreements under the bill are required to be in writing, be binding upon the State, and provide for the payment of union dues and representation fees.

The purpose of the bill is to permit family child care providers to select an exclusive majority representative to represent them. The bill is intended by the Legislature to provide state action immunity under federal and State antitrust laws for any actions of the State, or joint actions of family child care providers and their exclusive majority representative, to the extent those actions are authorized by the bill. Family child care providers are given the same protections against unfair practices as are provided to public employees.

The bill is not intended to:

- a. Interfere with the rights of parents or guardians to choose family child care providers;
 - b. Grant family child care providers the right to strike; or
- c. Grant those providers status as employees of the State for any purpose other than the bargaining rights provided by the bill.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4262

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 4, 2010

The Assembly Labor Committee reports favorably, and with committee amendments Assembly Bill No. 4262.

This bill directs the Commissioner of the Department of Human Services, or, if applicable, the Commissioner of the Department of Children and Families to negotiate with a recognized exclusive majority representative of registered family child care providers to enter into an agreement, or negotiate a renewal or extension of any existing agreement, regarding reimbursement rates, payment procedures, benefits, health and safety conditions and any other matter that would improve recruitment and retention of qualified family child care providers and the quality of the programs they provide.

The bill provides that the subjects which may be included in an agreement be consistent with the areas which are considered negotiable under the "New Jersey Employer-Employee Relations Act," but does not require that an agreement be reached on any particular matter. Agreements under the bill are required to be in writing, be binding upon the State, and provide for the payment of union dues and representation fees.

The purpose of the bill is to permit family child care providers to select an exclusive majority representative to represent them. The bill is intended to provide State action immunity under federal and State antitrust laws for any actions of the State, or joint actions of family child care providers and their exclusive majority representative, to the extent those actions are authorized by the bill. Family child care providers are given the same protections against unfair practices as are provided to public employees.

The bill is not intended to:

- a. Interfere with the rights of parents or guardians to choose family child care providers;
 - b. Grant family child care providers the right to strike; or
- c. Grant those providers status as employees of the State for any purpose other than the bargaining rights provided by the bill.

COMMITTEE AMENDMENTS

The amendments adopted by the committee clarify that the family child care providers subject to the bill include all in-home registered, approved family friend neighbor caregivers and accredited providers included in any agreement entered into under the provisions of Executive Order 23, signed August 2, 2006. The amendments acknowledge the differing roles regarding family child care providers of the Department of Human Services and the Department of Children and Families, and specify that the bill does not supersede or diminish the authority of either department with respect to family care providers.

STATEMENT TO

[First Reprint] **ASSEMBLY, No. 4262**

with Assembly Floor Amendments (Proposed by Assemblywoman QUIJANO)

ADOPTED: JANUARY 7, 2010

These Assembly amendments clarify the bill's description of the respective responsibilities of the Department of Human Services and the Department of Children and Families and the bill's definition of "family child care provider."

SENATE, No. 3078

STATE OF NEW JERSEY

213th LEGISLATURE

INTRODUCED NOVEMBER 23, 2009

Sponsored by:

Senator RICHARD J. CODEY

District 27 (Essex)

Senator STEPHEN M. SWEENEY

District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Authorizes negotiations with a bargaining representative of family child care providers.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/4/2009)

S3078 CODEY, SWEENEY

AN ACT concerning family child care providers and supplementing P.L.1987, c.27 (C.30:5B-16 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

- 1. The Legislature finds and declares that:
- a. Family child care providers in the State of New Jersey provide an invaluable and essential service to working parents and guardians by providing a healthy, safe and productive environment for their children while they are engaged in work or training;
- b. The State recognizes the importance of these services and recognizes the need to continue and improve both the quality of care and the living and working conditions of the providers;
- c. The State, through the Department of Human Services, is vested with the regulatory authority, including, but not limited to, the establishment of reimbursement rates, and the administrative oversight responsibility for the operation of family child care homes;
- d. To ensure quality standards of care, it is in the public interest for New Jersey to maintain a child care delivery system that encourages the recruitment and retention of quality family child care providers to deliver these vital services;
- e. In 2006, a majority of family child care providers selected a union to be their representative by individually signed authorization cards, and the State Board of Mediation certified the Child Care Workers Union (CCWU), a union formed by the American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME) and the Communications Workers of America, AFL-CIO (CWA) to be the providers' exclusive majority representative; and
- f. The State subsequently entered into an agreement with the CCWU in its capacity as exclusive majority representative for the family child care providers.

 2. a. The Commissioner of the Department of Human Services, or, if applicable, the Commissioner of the Department of Children and Families, on behalf of the State of New Jersey, shall, in a timely manner, meet in good faith with a recognized exclusive majority representative of all family child care providers who are registered and approved as family day care providers pursuant to P.L.1987, c.27 (C.30:5B-16 et seq.), for the purpose of entering into an agreement, or negotiating a renewal or extension, with any agreed upon modifications, of any agreement in effect upon the effective date of this act, regarding reimbursement rates, payment procedures, benefits, health and safety conditions and any other matters that would improve recruitment and retention of qualified family child care providers and the quality of the programs they

provide, subject to the provisions of this section. Although family child care providers are not State employees, the subjects which may be included in an agreement shall be consistent with the areas which are considered negotiable for public employees who are subject to the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.). Nothing in this act shall require that an agreement be reached on any particular matter, provided the parties act in good faith.

- b. The purpose of this section is to permit family child care providers to select an exclusive majority representative to represent them as provided in this section. This act is intended by the Legislature to provide state action immunity under federal and State antitrust laws for any actions of the State, or joint actions of family child care providers and their exclusive majority representative, to the extent those actions are authorized by this act. The protections and prohibitions regarding unfair practices provided by section 1 of P.L.1974, c.123 (C.34:13A-5.4) shall apply to any family child care providers subject to this act, to the State as their employer, and to their employee organizations, representatives or agents.
- c. Any agreement entered into, renewed or extended pursuant to this section shall be embodied in writing, shall be binding upon the State of New Jersey, and shall provide for the payment of union dues and representation fees in a manner consistent with the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.) which apply to the payment of union dues and representation fees by public employees.

- 3. No provision of this act or provision of any agreement entered into, renewed or extended pursuant to this act, shall be construed as:
- a. Interfering with the rights of parents or guardians to choose family child care providers;
- b. Granting family child care providers any right to engage in a strike or collective cessation of the delivery of child care services; or
- c. Granting family child care providers status as employees of the State for the purposes of the "New Jersey Tort Claims Act," P.L.1972, c.45, (C. 59:1-1 et seq.), the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), the New Jersey "unemployment compensation law," R.S.43:21-1 et seq., and the workers' compensation law, R.S.34:15-1 et seq., nor status as employees of the State for any other purposes except for the purposes indicated in sections 1 and 2 of this act, including selecting representatives to negotiate and enter into agreements with the State as provided in section 2.

4. No action may be taken under this act that would derogate from the status, functions or authority of the Department of Human

- Services in its capacity as Lead Agency pursuant to the State Plan for Child Care Development Services filed by the Commissioner of Human Services with the U.S. Secretary of Health and Human Services.

5. This act shall take effect immediately.

STATEMENT

This bill directs the Commissioner of the Department of Human Services, or, if applicable, the Commissioner of the Department of Children and Families to negotiate with a recognized exclusive majority representative of registered family child care providers to enter into an agreement, or negotiate a renewal or extension of any existing agreement, regarding reimbursement rates, payment procedures, benefits, health and safety conditions and any other matter that would improve recruitment and retention of qualified family child care providers and the quality of the programs they provide.

The bill provides that the subjects which may be included in an agreement be consistent with the areas which are considered negotiable under the "New Jersey Employer-Employee Relations Act," but does not require that an agreement be reached on any particular matter. Agreements under the bill are required to be in writing, be binding upon the State, and provide for the payment of union dues and representation fees.

The purpose of the bill is to permit family child care providers to select an exclusive majority representative to represent them. The bill is intended by the Legislature to provide state action immunity under federal and State antitrust laws for any actions of the State, or joint actions of family child care providers and their exclusive majority representative, to the extent those actions are authorized by the bill. Family child care providers are given the same protections against unfair practices as are provided to public employees.

The bill is not intended to:

- a. Interfere with the rights of parents or guardians to choose family child care providers;
 - b. Grant family child care providers the right to strike; or
- c. Grant those providers status as employees of the State for any purpose other than the bargaining rights provided by the bill.

SENATE LABOR COMMITTEE

STATEMENT TO

SENATE, No. 3078

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 7, 2009

The Senate Labor Committee reports favorably and with committee amendments Senate Bill No. 3078.

As amended by the committee, this bill directs the Commissioner of the Department of Human Services, or, if applicable, the Commissioner of the Department of Children and Families, to negotiate with a recognized exclusive majority representative of registered family child care providers to enter into an agreement, or negotiate a renewal or extension of any existing agreement, regarding reimbursement rates, payment procedures, benefits, health and safety conditions and any other matter that would improve recruitment and retention of qualified family child care providers and the quality of the programs they provide.

The bill provides that the subjects which may be included in an agreement be consistent with the areas which are considered negotiable under the "New Jersey Employer-Employee Relations Act," but does not require that an agreement be reached on any particular matter. Agreements under the bill are required to be in writing, be binding upon the State, and provide for the payment of union dues and representation fees.

The purpose of the bill is to permit family child care providers to select an exclusive majority representative to represent them. The bill is intended by the Legislature to provide state action immunity under federal and State antitrust laws for any actions of the State, or joint actions of family child care providers and their exclusive majority representative, to the extent those actions are authorized by the bill. Family child care providers are given the same protections against unfair practices as are provided to public employees.

The bill is not intended to:

- a. Interfere with the rights of parents or guardians to choose family child care providers;
 - b. Grant family child care providers the right to strike; or
- c. Grant those providers status as employees of the State for any purpose other than the bargaining rights provided by the bill.

As amended by the committee, the bill clarifies that the family child care providers subject to the bill include all in-home registered, approved family friend neighbor caregivers and accredited providers included in any agreement entered into under the provisions of Executive Order 23, signed August 2, 2006. As amended, the bill acknowledges the differing roles regarding family child care providers of the Department of Human Services and the Department of Children and Families, and specifies that the bill does not supersede or diminish the authority of either department with respect to family care providers.

STATEMENT TO

[First Reprint] **SENATE, No. 3078**

with Senate Floor Amendments (Proposed by Senator CODEY)

ADOPTED: JANUARY 7, 2010

These Senate amendments clarify the bill's description of the respective responsibilities of the Department of Human Services and the Department of Children and Families and clarify the bill's definition of "family child care provider."