

Assembly Bill No. 378

CHAPTER 385

An act to amend Sections 8431 and 8432 of, to amend the heading of Article 19.5 (commencing with Section 8430) of Chapter 2 of Part 6 of Division 1 of Title 1 of, to add Sections 8430.5, 8431.5, 8432.1, 8432.5, 8433, 8434, 8434.5, 8434.6, 8435, 8435.5, 8436, 8437, 8438, 8438.1, 8438.2, 8439, 8439.5, 8439.6, 8439.7, and 8439.8 to, and to repeal and add Section 8430 of, the Education Code, to amend Sections 6253.21, 6254, and 19815.4 of the Government Code, and to amend Section 1596.86 of the Health and Safety Code, relating to childcare.

[Approved by Governor September 30, 2019. Filed with
Secretary of State September 30, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 378, Limón. Childcare: family childcare providers: bargaining representative.

The California Child Day Care Facilities Act provides for the licensure and regulation of family daycare homes by the State Department of Social Services. The Child Care and Development Services Act, administered by the State Department of Education, requires the Superintendent of Public Instruction to administer childcare and development programs that offer a full range of services for eligible children from infancy to 13 years of age, including, among others, resource and referral programs, alternative payment programs, and family childcare home education networks. The act states the intent of the Legislature to enact future legislation granting family childcare providers, as defined, the right to democratically choose a representative to meet and negotiate in a formal process with the state regarding the applicable scope of bargaining.

This bill would authorize family childcare providers to form, join, and participate in the activities of provider organizations, as defined, and to seek the certification of a provider organization to act as the representative for family childcare providers on matters related to childcare subsidy programs pursuant to a petition and election process overseen by the Public Employment Relations Board or a neutral 3rd party designated by the board. The bill would require a provider organization to include in its certification petition proof of a 10-percent showing of interest designating the provider organization to act as the statewide representative for the providers. The bill would require any party contending fraud or coercion in the obtaining of proof of provider support to file under penalty of perjury a declaration supporting the claim. By creating a new crime, the bill would impose a state-mandated local program.

The bill would establish the scope of representation of the certified provider organization, and would require the Governor, through the Department of Human Resources or the Governor's designee, to meet and confer in good faith with the certified provider organization on all matters within that scope of representation. The bill would require the parties to jointly prepare a memorandum of understanding if an agreement is reached, which would be binding on all state departments and agencies, and their contractors and subcontractors, and any political subdivision of the state, that are involved in the administration of state-funded early care and education programs. To the extent that this bill would impose a new duty on a city or a county, the bill would impose a state-mandated local program. The bill would authorize the parties, if, after a reasonable period of time they fail to reach agreement, to agree upon the appointment of a mediator and would authorize either party to declare that an impasse has been reached and request the Public Employment Relations Board to appoint a mediator.

The bill would require the Department of Human Resources or the Governor's designee, with the assistance of, among others, the State Department of Education and the State Department of Social Services, to ensure that requests by a certified provider organization to deduct specified costs from the subsidy payments of its provider members are honored, as provided.

The bill would require, if online or group in-person preservice meetings or orientations are held for family childcare providers by the state or a department, contractor, subcontractor, agency, or political subdivision of the state, that entity to provide a certified provider organization mandatory access to the entirety of the preservice meetings or orientations and the ability to make a presentation about the organization and its activities, its negotiations and memorandum of understanding, and its membership at the preservice meetings or orientations. The bill would prohibit the disclosure of certain information relating to preservice meetings or orientations in specified situations.

The bill would require, if the state, department, political subdivision of the state, contractor, or subcontractor of a state-funded early care and education program, as defined, chooses to disseminate certain mass communications, as defined, to family childcare providers or applicants of state childcare subsidy payments, the Department of Human Resources or the Governor's designee to meet and confer with the certified provider organization concerning the content of the communication. The bill would require specified public administrators of state-funded early care and education programs to distribute to family childcare providers the mass communication of a certified provider organization in certain circumstances.

Existing law provides that certain public records are not required to be disclosed.

This bill would specify that records of state agencies related to activities governed by the above provisions regarding family childcare providers and certified provider organizations are not required to be disclosed.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities and counties, including charter cities and counties.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) High-quality early care and education can dramatically influence the degree and pace of early childhood advances in reasoning, language acquisition, and problem solving, resulting in significant, long-term benefits to children, parents, and society. Other benefits, such as increases in parental earnings and employment when children have safe, stable care, are immediate.

(b) Businesses benefit when employees have access to reliable early care and education due to cost savings related to lower rates of tardiness, absenteeism, and turnover, as well as greater concentration and productivity among employees who are parents.

(c) The early care and education workforce is almost exclusively female and predominantly people of color, including many recent immigrants, first-generation college students, and working mothers. Nearly 60 percent of early educators in California live in families that rely on public support.

(d) Turnover among early educators is estimated at more than 30 percent per year, more than four times higher than among teachers in the public school system.

(e) Family childcare is the early care and education setting of choice for many families because of its warm, homelike environment, convenience, and affordability. The flexibility offered by many family childcare providers is particularly vital to low-wage workers who are subject to highly unpredictable work schedules, and to the many California workers who work nontraditional hours and need childcare on evenings, overnights, and weekends.

(f) Family childcare providers' vital role in the state's early care and education system gives them a firsthand perspective into how quality, access, and stability could be improved for the children and families for whom they provide care.

(g) Family childcare providers lack a method to collectively engage in matters that affect the manner in which they carry out their profession. Creating a framework for family childcare providers to collectively engage with these issues can help improve the environment in which they work and the benefits and funding they receive. These improvements will in turn benefit the children under their care.

SEC. 2. (a) It is the intent of the Legislature to ensure that every child is ready to learn when they enter kindergarten as well as to provide safe and appropriate before and after school care for schoolage children. In order to meet that goal, the Legislature acknowledges that numerous improvements need to be made to the early care and education system. These include improved and greater access to care, along with a workforce that meets the growing needs for care and matches the identified improvements needed to bring the highest quality of care to early learners.

(b) It is the intent of the Legislature to grant family childcare providers the right to democratically choose a representative to meet and negotiate in a formal process with the state while also preserving the right of family childcare providers to present their views to the state individually or through other groups.

SEC. 3. The heading of Article 19.5 (commencing with Section 8430) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code is amended to read:

Article 19.5. Building a Better Early Care and Education System

SEC. 4. Section 8430 of the Education Code is repealed.

SEC. 5. Section 8430 is added to the Education Code, to read:

8430. This article shall be known, and may be cited, as the Building a Better Early Care and Education System Act.

SEC. 6. Section 8430.5 is added to the Education Code, to read:

8430.5. (a) The purpose of this article is to promote quality, access, and stability in the early care and education system by authorizing an appropriate unit of family childcare providers to choose a provider organization to act as their unit's representative on all matters specified in this article. It is also the purpose of this article to promote full communication between family childcare providers and the state by permitting a provider organization certified as the representative of family childcare providers to meet and confer with the state regarding matters within the scope of representation and other areas as mutually agreed upon in negotiations.

(b) This article does not change the family childcare providers' status as employees or independent business owners or classify family childcare providers as public employees.

(c) Nothing in this article is intended to change or interfere with the requirements governing licensing or enforcement thereof set forth in the California Child Day Care Facilities Act (Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), and Chapter 3.6 (commencing with 1597.30) of Division 2 of the Health and Safety Code).

(d) Nothing in this article is intended to interfere with the ability of the state, the State Department of Education, the State Department of Social Services, another department or agency, or a political subdivision of the state to comply with the requirements of federal grants or federal funding.

SEC. 7. Section 8431 of the Education Code is amended to read:

8431. As used in this article:

(a) “Certified provider organization” means a provider organization that is certified by the Public Employment Relations Board as the representative of family childcare providers in an appropriate unit after a proceeding under Section 8434.

(b) (1) “Family childcare provider” or “provider” means a childcare provider who participates in a state-funded early care and education program as specified in subdivision (f) and is either of the following:

(A) An individual who operates a family daycare home, as defined in Section 1596.78 of the Health and Safety Code, and who is licensed pursuant to the requirement in Section 1596.80 of the Health and Safety Code.

(B) An individual who provides early care and education in their own home or in the home of the child receiving care and is exempt from licensing requirements pursuant to Section 1596.792 of the Health and Safety Code.

(2) An assistant-provider, a volunteer, or any other individual who works or volunteers for a family daycare home, as defined in Section 1596.78 of the Health and Safety Code, and who does not possess a license pursuant to Section 1596.80 of the Health and Safety Code shall not be considered a family childcare provider for purposes of this article. However, an individual who, separate and apart from that work or volunteer service within a family daycare home, participates in a state-funded early care and education program and provides care that is exempt from licensing requirements pursuant to Section 1596.792 of the Health and Safety Code shall be considered a family childcare provider for purposes of this article in their capacity as the provider of this separate, license-exempt care.

(c) “Mediation” means an effort by an impartial third party to assist in reconciling a dispute regarding matters within the scope of representation between representatives of the Governor and the certified provider organization through interpretation, suggestion, and advice.

(d) “Provider organization” means an organization that has all of the following characteristics:

(1) Includes family childcare providers as members.

(2) Has as one of its main purposes the representation of family childcare providers in their relations with public or private entities in California concerning the terms of their participation in state-funded early care and education programs.

(3) Is not an entity that contracts with the state or a county to administer or process payments for a state-funded early care and education program.

(4) Its organizational bylaws or other internal governing documents give family childcare providers the right to be members of the organization and to participate in the democratic control of the organization.

(e) “Public Employment Relations Board” or “board” means the Public Employment Relations Board established pursuant to Section 3541 of the Government Code. The powers and duties of the board described in Section 3541.3 of the Government Code, and the respective implementing regulations, shall apply, as appropriate, to this article to the extent those procedures are not inconsistent with the procedures specified in this article. If a provision of this article is the same or substantially the same as that contained in Chapter 10 (commencing with Section 3500), Chapter 10.3 (commencing with Section 3512), or Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, it shall be interpreted and applied in accordance with the regulations and judicial interpretations of the provision in those statutes. For exclusive purposes of this article, any reference in Section 3541.3 of the Government Code to “employee” or “employees” shall be deemed to refer to a “provider” as defined in subdivision (b), any references to “employee organizations” shall be deemed to refer to “provider organizations” as defined in subdivision (d), any references to “exclusive representative” shall be deemed to refer to “certified provider organization” as defined in subdivision (a), and any references to “employer” shall be deemed to refer solely to the State Department of Education, the State Department of Social Services, any other agency, department, contractor, subcontractor, or any political subdivision of the state administering a state-funded early care and education program. The board may also adopt, amend, or repeal all rules and regulations necessary to carry out this article as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption, amendment, or repeal of regulations pursuant to this subdivision is conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning of Section 11346.1 of the Government Code.

(f) “State-funded early care and education program” means a program administered by the State Department of Education, the State Department of Social Services, another department or agency, or a political subdivision of the state, including programs established subsequent to the enactment of this article, to subsidize early learning and care for children, but does not include the public education system.

SEC. 8. Section 8431.5 is added to the Education Code, to read:

8431.5. The state action antitrust exemption to the application of federal and state antitrust laws shall apply to the activities of family childcare providers and their representatives authorized under this article.

SEC. 9. Section 8432 of the Education Code is amended to read:

8432. (a) For purposes of this section, the Public Employment Relations Board, as established pursuant to Section 3541 of the Government Code, shall determine if an entity seeking information is a provider organization within the meaning of subdivision (d) of Section 8431, as follows:

(1) The general counsel of the Public Employment Relations Board shall have the authority to determine if an organization is a provider organization upon application by that organization. The general counsel shall issue their determination within 10 days of receiving the application.

(2) If an organization is determined not to be a provider organization, the general counsel of the Public Employment Relations Board shall state the reasons for this determination. An applicant determined not to be a provider organization may appeal this adverse determination to the board within 30 days of the determination.

(3) Once a provider organization has been determined to be a provider organization by the general counsel of the Public Employment Relations Board, this determination shall remain valid for one year.

(b) Within 10 days of receipt of a request from a provider organization determined to be such by the Public Employment Relations Board in accordance with subdivision (a), the State Department of Social Services shall make available in manipulable electronic format to that provider organization information regarding all providers of a family daycare home, as defined in Section 1596.78 of the Health and Safety Code, who are licensed pursuant to the requirement in Section 1596.80 of the Health and Safety Code. The information shall include the name; home address; mailing address; county; home, if known, work, and cellular telephone numbers; email address, if known; and state facility license number of each provider of a family daycare home.

(c) (1) Upon receipt of a request from a provider organization, the State Department of Education, the State Department of Social Services, and any other state department or agency administering a state-funded early care and education program, with the assistance of any contractors or subcontractors and any political subdivisions of the state that are administering a state-funded early care and education program, shall immediately commence collecting information regarding any individual who has been a family childcare provider, as defined in subdivision (b) of Section 8431, within the preceding three months, including each family childcare provider's name; home address; mailing address; county; home, if known, work, and cellular telephone numbers; email address, if known; the agency, contractor, subcontractor, or political subdivision of the state administering the state-funded early care and education program in which the provider participates; the date the provider began subsidy care; the date the provider ended subsidy care, if applicable; whether the provider is licensed or not; the unique provider identification number, if applicable; and the state facility license number, if known. The State Department of Education, the State Department of Social Services, and any other state department or agency administering a state-funded early care and education program, with the assistance of any contractors or subcontractors and any

political subdivisions of the state administering a state-funded early care and education program, shall make reasonable efforts to collect the information under this subdivision in a timely manner.

(2) Within 60 days of receipt of an initial request from a provider organization, the State Department of Education, the State Department of Social Services, and any other state department or agency administering a state-funded early care and education program shall make available to the provider organization, in a manipulable electronic format unless demonstrably impracticable to do so, all of the information described in paragraph (1) that is available based on the reasonable efforts of the State Department of Education, the State Department of Social Services, and any other state department or agency administering a state-funded early care and education program to collect the information.

(3) As soon as it is in the department's or agency's possession, the State Department of Education, the State Department of Social Services, and any other state department or agency administering a state-funded early care and education program shall make available to the provider organization any information described in paragraph (1) that cannot be reasonably collected within 60 days.

(d) Following an initial request as described in subdivision (c), but no earlier than 90 days following receipt of that request, the State Department of Education, the State Department of Social Services, and any other state department or agency administering a state-funded early care and education program shall use reasonable efforts to continue to collect and make available to the requesting provider organization, in a manipulable electronic format, unless demonstrably impracticable to do so, an updated list of the information described in paragraph (1) of subdivision (c), as of that date, monthly unless more frequent or more detailed lists are required by an agreement with a provider organization.

(e) This section does not permit an agency, department, contractor, subcontractor, or a political subdivision of the state to delay or obstruct the collection or provision to a provider organization of information pursuant to subdivisions (c) and (d).

(f) The State Department of Education, the State Department of Social Services, and any other state department or agency administering a state-funded early care and education program, with the assistance of any contractors or subcontractors and any political subdivisions of the state that are administering a state-funded early care and education program, shall provide a certified provider organization, for each family childcare provider within an appropriate unit, as described by Section 8434, the family childcare provider's name; home address; mailing address; county; home, if known, work, and cellular telephone numbers; email address, if known; the agency, contractor, subcontractor, or political subdivision administering the state-funded early care and education program in which the provider participates; the date the provider began subsidy care; the date the provider ended subsidy care, if applicable; whether the provider is licensed or not; the unique provider identification number, if applicable; and the state facility

license number, if known. An updated list of this information shall be provided to the certified provider organization in a manipulable electronic format on a monthly basis unless more frequent or more detailed lists are required by an agreement between the Governor or the Governor's designee and the certified provider organization.

(g) If a provider organization has been certified as the representative of family childcare providers in an appropriate unit, subdivisions (b), (c), and (d) shall not apply to requests by other provider organizations.

(h) This section does not preclude a provider organization and the Governor or the Governor's designee from agreeing to a different interval within which the State Department of Social Services, the State Department of Education, and any other state department or agency administering a state-funded early care and education program must provide the provider organization with this information.

(i) Any information regarding providers of small family daycare homes, as defined in Section 1596.78 of the Health and Safety Code, that is made available to the provider organization under this section shall be provided in a manner consistent with Section 1596.86 of the Health and Safety Code.

(j) The information provided under this section shall be provided in a manner consistent with Section 6207 of the Government Code for a participant in the address confidentiality program established pursuant to Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code.

(k) Upon receipt of a written request by a family childcare provider, the State Department of Education, the State Department of Social Services, and any other state department or agency administering a state-funded early care and education program shall remove the family childcare provider's home and mailing address; home, work, and cellular telephone numbers; and email address from any lists subsequently made available to a provider organization pursuant to subdivisions (c) and (d).

(l) The Public Employment Relations Board shall have initial exclusive jurisdiction to resolve any disputes arising among the provider organization, the Governor or the Governor's designated representative, the State Department of Social Services, the State Department of Education, any other agency, department, contractor, subcontractor, or any political subdivision of the state administering a state-funded early care and education program, and family childcare providers regarding lists of family childcare providers given to the provider organization pursuant to this section.

(m) The Public Employment Relations Board shall perform its duties under this section consistent with its regulations and shall have the authority to make additional regulations. The board may also adopt, amend, or repeal all rules and regulations necessary to carry out this article as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption, amendment, or repeal of regulations pursuant to this subdivision is conclusively presumed to be necessary for the immediate preservation of

the public peace, health, safety, or general welfare within the meaning of Section 11346.1 of the Government Code.

SEC. 10. Section 8432.1 is added to the Education Code, to read:

8432.1. Family childcare providers have the right to form, join, and participate in the activities of provider organizations of their own choosing. Family childcare providers also have the right to refuse to join or participate in the activities of provider organizations. This article does not change the rights of family childcare providers to represent themselves individually in their relations with the state, agencies or departments of the state, contractors of the state, parents, or others, or their rights to speak to and petition the government with respect to all aspects of the state's early care and education program or any other topic.

SEC. 11. Section 8432.5 is added to the Education Code, to read:

8432.5. Family childcare providers are not public employees, and this article does not create an employer-employee relationship between family childcare providers and the state, any agency or department of the state, any political subdivision of the state, or a contractor or subcontractor administering a state-funded early care and education program, for any purpose, including, but not limited to, eligibility for health or retirement benefits, workers' compensation, unemployment insurance, liability under the Labor Code or state wage orders, or vicarious liability in tort. This article does not alter the status of a family childcare provider as a business owner, an employee of a family, or a contractor.

SEC. 12. Section 8433 is added to the Education Code, to read:

8433. This article does not alter the rights of families to select, direct, and terminate the services of family childcare providers.

SEC. 13. Section 8434 is added to the Education Code, to read:

8434. (a) An appropriate unit of family childcare providers, as described in subdivision (h) below, may designate, in accordance with this article, the provider organization, if any, that shall be its representative for purposes of this article. The board shall, pursuant to the procedures in this section, certify a provider organization designated by an appropriate unit of family childcare providers as the representative of those providers for purposes of this article. There shall be no more than one certified representative for purposes of this article at any time.

(b) Requests for elections, challenges, requests for intervention, and requests for decertification shall be filed with, received by, and acted upon by the board, in accordance with its rules and regulations, to the extent those regulations are not inconsistent with this article, provided that a valid petition for a certification or decertification election shall be resolved by a secret ballot election among family childcare providers. This section does not prevent the board from entering into agreements with one or more third-party services to conduct those elections.

(c) (1) A provider organization petitioning for an election to be certified by the board as the representative for an appropriate unit of providers shall include in its petition proof of a 10-percent showing of interest designating the provider organization to act as the statewide representative of the

providers. For purposes of the showing of interest, “family childcare provider” shall include any “family childcare provider” within the meaning of subdivision (b) of Section 8431 who received a subsidy payment in any of the last three full calendar months before the petition was submitted for which the information is available pursuant to subdivision (d) of Section 8432. Proof of support may consist of, but does not require, any one of the following:

- (A) Proof of dues payments.
- (B) Dues deduction authorization forms.
- (C) Membership applications.
- (D) Authorization cards signed by providers.
- (E) Petitions signed by providers, provided the purpose of the petition is clearly stated on each page.

(2) (A) The board, or a neutral third party designated by the board to act on a request for an election, shall consider evidence of a family childcare provider’s support, or lack of support, for a provider organization valid if it was signed by the family childcare provider within two years of the date it is submitted to the board. For purposes of showing proof of support by a provider for a provider organization, as described in paragraph (1), the board shall accept any electronic signature that:

(i) Contains the signer’s name and contact information including one or more of the following: telephone number, email address, or home address. The party collecting the signatures shall send the signer a confirmation transmission to the telephone number, email address, or home address provided, which includes the information provided, the date signed, and the language to which the signer has agreed; and the party collecting the signatures shall maintain for inspection any responses to the confirmation transmission received by the time of submission. The party collecting signatures shall submit to the board any response from a signer indicating the signer did not authorize the electronic signature; or

(ii) Meets the requirements of the Uniform Electronic Transactions Act (Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code).

(B) Notwithstanding subparagraph (A), if the board enacts regulations authorizing the acceptance of electronic signatures, those regulations shall govern as to any signatures signed after the date those regulations become effective.

(3) Documents submitted to the board as proof of provider support shall remain confidential and not be disclosed by the board to any party other than the petitioner, except to indicate whether the proof of support is sufficient.

(4) A party that contends that proof of provider support was obtained by fraud or coercion, or that the signatures on such support documents are not genuine, shall file with the board evidence in the form of declarations under penalty of perjury supporting such contention within 20 days after the filing of the petition that the proof of support accompanied. The board shall refuse to consider any evidence not timely submitted, absent a showing of good

cause for late submission. When prima facie evidence is submitted to the board supporting a claim that proof of support was tainted by misconduct, the board shall conduct an investigation. If, as a result of the investigation, the board determines that the showing of support is inadequate because of misconduct, the petition shall be dismissed.

(d) (1) Upon submission of an election request, and at the direction of the board, the Department of Human Resources shall, with the assistance of the State Department of Education and the State Department of Social Services, any state department or agency or its contractor or subcontractor, and any political subdivision of the state, provide the board and the party seeking certification a list of all family childcare providers, as defined in subdivision (b) of Section 8431, who received a subsidy payment in any of the last three full calendar months before the date the petition was submitted for which provider information is available pursuant to subdivision (d) of Section 8432. The list shall be provided at a date established by the board, but in no case earlier than April 1, 2020. This list shall include, for each provider, the following information: the provider's name; home address; mailing address; county; home, if known, work, and cellular telephone numbers; email address, if known; the agency, contractor, subcontractor, or political subdivision of the state administering the state-funded early care and education program in which the provider participates; the unique provider identification number, if applicable; and the state facility license number, if known. The list shall be produced in manipulable electronic format and shall be alphabetized. The board may designate a neutral third party to act on any of the requests filed with the board pursuant to this subdivision.

(2) Unless otherwise directed by the board, to be eligible to vote in a representation, amendment, or decertification election, a provider must have received a subsidy payment in any of the last three full calendar months before the date the petition was submitted for which information is available pursuant to subdivision (d) of Section 8432.

(e) (1) Upon submission of an election request, the board shall direct the Department of Human Resources, with the assistance of the State Department of Education and the State Department of Social Services, any other agency or department, any political subdivisions of the state that are involved in the administration of the state-funded early care and education program, and the relevant contractors or subcontractors of those departments and agencies, to provide notice of the request for recognition to providers as soon as possible, but in no event later than 10 days following receipt of the request.

(2) A notice of a request for recognition shall consist of a copy of the request for recognition and any form written by the board for this purpose. The notice shall be provided to providers through email, through the agencies' and contractors' respective internet websites, or through other means reasonably calculated to provide notice to the greatest number of providers; and, where the means of notice allows, shall remain posted for at least 20 days.

(3) Within 20 days following posting or distribution of the request for recognition, an entity determined to be a provider organization pursuant to subdivision (a) of Section 8432 may file an intervention to appear on the ballot. A provider organization petitioning as an intervenor in an election shall demonstrate a 10-percent showing of interest in the same manner as described in subdivision (c).

(f) If the board makes an initial determination that the showing is insufficient, the board may allow an additional 10 days for a petitioner to perfect its proof of support. If the board determines that a petition is valid and an election is required, the board shall direct the Department of Human Resources, with the assistance of the State Department of Education and the State Department of Social Services, any other agency or department, any political subdivisions of the state that are involved in the administration of the state-funded early care and education program, and the relevant contractors or subcontractors of those departments and agencies, to mail notice of the election to providers.

(g) If a petition is determined to be valid, the election shall be conducted by mail ballot no later than 90 days from the date the petition is filed or June 1, 2020, whichever is later.

(h) The only appropriate bargaining unit of providers is a statewide unit of all family childcare providers described in subdivision (b) of Section 8431.

(i) A certified provider organization shall represent each provider in the represented unit fairly with respect to matters within the scope of the certified provider organization's role as representative of the bargaining unit for purposes of this article, without discrimination and without regard to whether the provider is a member of the certified provider organization.

(j) Provider organizations shall have the right to represent their members with respect to matters within the scope of the provider organization's role as representative of the bargaining unit for purposes of this article, except that once a provider organization is certified as the exclusive representative of the unit, the certified provider organization is the only organization that may represent that unit in relations with the state. Provider organizations may establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of individuals from membership. This section does not prohibit a provider from appearing on their own behalf in their relations with the state.

(k) The Governor, or the Governor's representative, shall grant exclusive recognition to the certified provider organization, subject to the right of a provider to represent themselves.

SEC. 14. Section 8434.5 is added to the Education Code, to read:

8434.5. (a) The scope of representation shall not extend to the rights of families to select, direct, and terminate the services of family childcare providers. The scope of representation shall be limited to the following:

- (1) Improvement of recruitment and retention of providers.
- (2) Joint labor-management committees, including the training partnership described in Section 8439.8.

- (3) Grievance arbitration.
 - (4) Professional development and training for providers, including preservice and ongoing inservice training and training on supporting dual language learners in their biliteracy and overall development.
 - (5) Contributions to a certified provider organization-administered benefit trust fund.
 - (6) Payment and payment reporting procedures for state-funded early care and education programs.
 - (7) Reimbursement rates including, but not limited to, rate add-ons for providers who complete additional training; and other economic matters.
 - (8) The deduction of membership dues and other voluntary deductions authorized by individual providers and allocation of the costs of implementing that deduction system.
 - (9) Strike and lockout provisions.
 - (10) Confidentiality of information exchanged between parties consistent with state and federal law.
 - (11) Management and certified provider organization rights clauses.
 - (12) Any standard contract clauses necessary to effectuate a memorandum of understanding, including an entire agreement or integration clause, savings clause, or duration clause.
 - (13) Impacts on providers' delivery of services, as a result of changes in regulations, rules, or resolutions, including, but not limited to, those that impact providers in regards to licensing and childcare quality measures. However, the decision to promulgate, the content of a regulation, rule, or resolution, and the enforcement of a regulation, rule, or resolution are not within the scope of representation, and shall not be a subject of meeting and negotiating.
 - (14) The structure, time, and manner of certified provider organization access to preservice meetings and orientations, as set forth in Section 8439.6.
 - (b) All matters not specifically enumerated are reserved to the state and may not be a subject of meeting and negotiating, except that this section does not limit the right of the state to consult and reach agreement with any certified provider organization on any matter outside the scope of representation. Any matter outside the enumerated subjects listed in this section agreed to by the parties in a memorandum of understanding shall not be considered a mandatory subject of bargaining.
- SEC. 15. Section 8434.6 is added to the Education Code, to read:
- 8434.6. (a) The State Department of Social Services and the State Department of Education shall permit the certified provider organization to participate in a stakeholder meeting convened to provide input regarding proposed rules and regulations that are subject to the procedures set forth in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code and that are within the scope of representation, as described in Section 8434.5.
- (b) Except in cases of an emergency as provided in this section, the Governor, through the Department of Human Resources, or the Governor's designee shall give reasonable written notice to the certified provider

organization of any rule, resolution, or regulation directly relating to matters within the scope of representation, as described in Section 8434.5, proposed to be adopted by the State Department of Education or the State Department of Social Services, and shall give the certified provider organization the opportunity to meet and confer with Governor, through the Department of Human Resources, or the Governor's designee.

(c) In cases of an emergency where the Governor, through the Department of Human Resources, determines that a rule, resolution, or regulation must be adopted immediately without prior notice or meeting with the certified provider organization, the Department of Human Resources or the Governor's designee shall provide a notice and opportunity to meet and confer in good faith at the earliest practical time following the adoption of that rule, resolution, or regulation.

SEC. 16. Section 8435 is added to the Education Code, to read:

8435. (a) The Governor, through the Department of Human Resources or the Governor's designee, shall meet and confer in good faith regarding all matters within the scope of representation with representatives of a certified provider organization and, before arriving at a determination of policy or course of action, shall fully consider the presentations made by the certified provider organization on behalf of the family childcare providers it represents.

(b) Unless the Governor otherwise so designates, the Department of Human Resources shall be the representative of the Governor to meet and confer regarding the scope of representation with representatives of the certified provider organization defined in subdivision (a) of Section 8431, for family childcare providers and to carry out the professional functions and responsibilities in labor relations matters in accordance with this article.

(c) As used in this section, "meet and confer in good faith" means that the Governor, through the Department of Human Resources or the Governor's designee, and representatives of the certified provider organization shall have the mutual obligation to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to freely exchange information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation. The duty to meet and confer in good faith also requires the parties to begin negotiations sufficiently in advance of the adoption of the state's final budget for the ensuing fiscal year so that there is adequate time for agreement to be reached before the adoption of the final budget and for the resolution of an impasse.

SEC. 17. Section 8435.5 is added to the Education Code, to read:

8435.5. (a) If an agreement is reached between the Governor, through the Department of Human Resources or the Governor's designee, and the certified provider organization, they shall jointly prepare a written memorandum of understanding, which shall be presented, when appropriate, to the Legislature for determination.

(b) (1) If any provision of the memorandum of understanding requires the expenditure of funds, those provisions of the memorandum of

understanding shall not become effective unless approved by the Legislature in a Budget Act. If any provision of the memorandum of understanding requires legislative action to permit its implementation by amendment of an existing statute, those provisions of the memorandum of understanding shall not become effective unless approved by the Legislature.

(2) If the Legislature does not approve or fully fund any provision of the memorandum of understanding that requires the expenditure of funds, either party may reopen negotiations on all or part of the memorandum of understanding.

(3) This section does not prevent the parties from agreeing and effecting those provisions of the memorandum of understanding that have received legislative approval or those provisions that do not require legislative action.

(c) A memorandum of understanding between the Governor, through the Department of Human Resources or the Governor's designee, and the certified provider organization shall be binding on all state departments and agencies and any political subdivision of the state that are involved in the administration of the state-funded early care and education program and the relevant contractors or subcontractors of those departments and agencies.

(d) This article does not alter the requirements governing the early care and education reimbursement system that are set forth in Section 8222 and in Article 1 (commencing with Section 18074) of Chapter 19 of Division 1 of Title 5 of the California Code of Regulations.

SEC. 18. Section 8436 is added to the Education Code, to read:

8436. (a) Deductions may be requested by a certified provider organization from the subsidy payments of its provider members, and the Department of Human Resources or Governor's designee shall ensure that those requests are honored. The State Department of Education, the State Department of Social Services, contractors or subcontractors of state agencies and departments, and any political subdivisions of the state shall assist the Department of Human Resources or the Governor's designee in ensuring these requests are honored. The deductions may include membership dues, initiation fees, general assessments, and payment of any other membership benefit program sponsored by the certified provider organization.

(b) If the deduction of membership dues or other voluntary deductions from a provider's subsidy payments requires action by more than one agency, department, political subdivision of the state, contractor, or subcontractor, the certified provider organization shall establish reasonable procedures to ensure that the total amount deducted does not exceed the total dues and other voluntary deductions owed by that provider.

(c) The state, its agencies and departments, their contractors and subcontractors, and any political subdivisions of the state shall not be liable in any action by a provider seeking recovery of, or damage for, improper calculation or use of dues or other voluntary deductions.

(d) An entity that makes subsidy payments to providers, as described in subdivision (a), shall do all of the following:

(1) Rely on a certification from the certified provider organization requesting a deduction or reduction that it has and will maintain an

authorization, signed by the individual provider from whose subsidy the deduction or reduction is to be made. A certified provider organization that certifies that it has and will maintain individual provider authorizations shall not be required to provide a copy of an individual authorization to the entity unless a dispute arises about the existence or terms of the authorization. The certified provider organization shall indemnify the state, its agencies and departments, and their contractors and subcontractors, and any political subdivisions of the state, for any claims made by the provider for deductions made in reliance on that certification.

(2) Direct provider requests to cancel or change deductions for a certified provider organization to the certified provider organization, rather than to the entity that makes subsidy payments. The entity that makes subsidy payments shall rely on information provided by the certified provider organization regarding whether deductions for the certified provider organization were properly canceled or changed, and the certified provider organization shall indemnify the state, its agencies and departments, and their contractors and subcontractors, and any political subdivisions of the state, for any claims made by the provider for deductions made in reliance on that information. Deductions may be revoked only pursuant to the terms of the provider's written authorization.

(3) After receiving notification from a certified provider organization that it possesses authorization for deduction, commence the first deduction in the next pay period after the entity receives the notification.

SEC. 19. Section 8437 is added to the Education Code, to read:

8437. (a) If a memorandum of understanding has expired, and the Governor or the Governor's representative and the certified provider organization have not agreed to a new memorandum of understanding and have not reached an impasse in negotiations, subject to subdivision (b), the parties to the agreement shall continue to give effect to the provisions of the expired memorandum of understanding, including, but not limited to, all provisions that supersede existing law, any arbitration provisions, any no strike provisions, and any provisions covering membership dues consistent with Section 8436.

(b) If, after a reasonable period of time, the parties fail to reach agreement, the parties may agree upon the appointment of a mediator mutually agreeable to the parties, or either party may declare that an impasse has been reached and request the board to appoint a mediator. When both parties mutually agree upon a mediator, costs of mediation shall be divided one-half to the state and one-half to the certified provider organization. A memorandum of understanding reached by means of mediation is subject to appropriation by the Legislature and necessary statutory revisions.

(c) After the mediation procedure has been exhausted, and no resolution has been reached by the parties, the Governor, or the Governor's representative, may declare an impasse and implement any or all of its last, best, and final offer. Any proposal in the Governor's, or the Governor's representative, last, best, and final offer that, if implemented, would conflict with existing statutes or require the expenditure of funds, shall be presented

to the Legislature for approval. Implementation of the last, best, and final offer does not relieve the parties of the obligation to bargain in good faith and reach an agreement on a memorandum of understanding if circumstances change, and does not waive rights that the certified provider organization has under this article.

SEC. 20. Section 8438 is added to the Education Code, to read:

8438. It is unlawful for the Department of Human Resources or the Governor's designee, the State Department of Social Services, the State Department of Education, or any state agency or department, charged with the administration of any state-funded early care and education program, as defined in subdivision (f) of Section 8431, to do any of the following:

(a) Impose or threaten to impose reprisals on providers, to discriminate or threaten to discriminate against providers, or otherwise to interfere with, restrain, or coerce providers because of their exercise of rights guaranteed by this article. For purposes of this subdivision and subdivision (f), "provider" includes individuals seeking to participate in state-funded early care and education programs as providers.

(b) Deny to provider organizations rights guaranteed to them by this article.

(c) Refuse or fail to meet and confer in good faith with the certified provider organization.

(d) Dominate or interfere with the formation or administration of any provider organization, or contribute financial or other support to it, or in any way encourage providers to join any provider organization in preference to another.

(e) Refuse to participate in good faith in the mediation procedure set forth in Section 8437.

(f) Deter or discourage providers from becoming or remaining members of a provider organization, or from authorizing representation by a provider organization, or from authorizing dues or other voluntary deductions to a provider organization.

SEC. 21. Section 8438.1 is added to the Education Code, to read:

8438.1. It is unlawful for any political subdivision, contractor, or subcontractor, charged with the administration of a state-funded early care and education program, as defined in subdivision (f) of Section 8431, to do any of the following:

(a) Impose or threaten to impose reprisals on providers, to discriminate or threaten to discriminate against providers, or otherwise to interfere with, restrain, or coerce providers because of their exercise of rights guaranteed by this article. For purposes of this subdivision, "provider" includes providers seeking to participate in state-funded early care and education programs as providers.

(b) Deny to provider organizations rights guaranteed to them by this article.

(c) Dominate or interfere with the formation or administration of any provider organization, or contribute financial or other support to it, or in

any way encourage providers to join any provider organization in preference to another.

(d) Deter or discourage providers from becoming or remaining members of a provider organization, or from authorizing representation by a provider organization, or from authorizing dues or other voluntary deductions to a provider organization. For purposes of this subdivision, “provider” includes individuals seeking to participate in state-funded early care and education programs as providers.

SEC. 22. Section 8438.2 is added to the Education Code, to read:

8438.2. It shall be unlawful for a provider organization or a certified provider organization to:

(a) Cause or attempt to cause the Department of Human Resources or the Governor’s designee, the State Department of Social Services, the State Department of Education, or any state agency, department, local political subdivision, contractor, or subcontractor, charged with the administration of a state-funded early care and education program, as defined in subdivision (f) of Section 8431, to violate Section 8438 or 8438.1.

(b) Impose or threaten to impose reprisals on providers, to discriminate or threaten to discriminate against providers, or otherwise to interfere with, restrain, or coerce providers because of their exercise of rights guaranteed by this article.

(c) Refuse or fail to meet and confer in good faith with the Department of Human Resources or the Governor’s designee.

(d) Refuse to participate in good faith in the mediation procedure set forth in Section 8437.

SEC. 23. Section 8439 is added to the Education Code, to read:

8439. (a) An unfair practice charge alleging that a political subdivision, a contractor, or a subcontractor has committed a violation of Section 8438.1, or an unfair practice charge alleging a violation of subdivision (c) of Section 8438 that is based on the conduct of a political subdivision, a contractor, or a subcontractor, shall commence only after all the following requirements have been met:

(1) A party alleging an unfair practice shall first provide notice to the Department of Human Resources of any alleged violation of Section 8438.1 by a political subdivision, a contractor, or a subcontractor, or any alleged violation of subdivision (c) of Section 8438 that is based on the conduct of a political subdivision, a contractor, or a subcontractor, and any facts supporting the alleged violation, within 30 calendar days of the date on which the party knew or reasonably should have known about the incident giving rise to the alleged violation.

(2) The State Department of Social Services, the State Department of Education, or any state agency or department charged with the administration of state-funded early care and education programs, consistent with the advice and direction of the Department of Human Resources, shall work in good faith with the political subdivision, contractor, or subcontractor to cure the alleged violation within 60 calendar days of the postmarked notice from a provider, provider organization, or certified provider organization. State

agencies or departments shall expedite, whenever possible, the resolution of alleged violations that have a financial impact on providers. If the political subdivision, contractor, or subcontractor cures the alleged violation, it shall send a written description of steps taken to the party alleging a violation within the 60-day period and to the State Department of Social Services, the State Department of Education, or the department charged with the administration of state-funded early care and education programs, as applicable, and to the Department of Human Resources.

(3) At the conclusion of the 60-day period, the party alleging an unfair practice may commence an unfair practice charge before the board consistent with Section 8439.5. In the board agent's initial determination as to whether the charges of unfair practices establish a prima facie violation of Section 8438 or 8438.1, consistent with Section 8439.5 and applicable regulations, if the board agent determines the political subdivision, contractor, or subcontractor cured the alleged unfair practice during the 60-day period, the board shall dismiss the charge for failure to establish a prima facie violation.

(b) In any unfair practice charge before the board, the political subdivision, contractor, or subcontractor shall have the opportunity to be represented by a representative of its choice, but in no instance shall the state, the Department of Human Resources, the State Department of Social Services, the State Department of Education, or any state agency charged with the administration of state-funded early care and education programs be obligated to provide representation to the political subdivision, contractor, or subcontractor before the board. However, the Department of Human Resources may intervene in any such proceedings before the board.

(c) In any violation of Section 8438.1 committed by a political subdivision, contractor, or subcontractor, as determined by the board, any monetary damage award or attorney fee award shall not be imposed upon the state, the Department of Human Resources, the State Department of Social Services, the State Department of Education, or any other department or agency charged with the administration of a state-funded early care and education program, as defined in subdivision (f) of Section 8431.

(d) The state, the Department of Human Resources, the State Department of Social Services, and the State Department of Education, and any state agency charged with the administration of state-funded early care and education programs shall not be liable for an unfair labor practice committed by a political subdivision, contractor, or subcontractor.

SEC. 24. Section 8439.5 is added to the Education Code, to read:

8439.5. (a) The powers and duties of the board described in Section 3541.3 of the Government Code, shall also apply, as appropriate, to this article. In implementing this article, the board shall rely on its existing regulations for the adjudication of unfair practice charges. The board shall also have the authority to promulgate emergency regulations as necessary to effectuate its powers and duties under this article.

(b) The initial determination as to whether the charges of unfair practices are justified and, if so, what remedy is necessary to effectuate the purposes

of this article, shall be a matter within the exclusive jurisdiction of the board, except that in an action to recover damages due to an unlawful strike, the board shall have no authority to award strike-preparation expenses as damages, and shall have no authority to award damages for costs, expenses, or revenue losses incurred during, or as a consequence of, an unlawful strike. Procedures for investigating, hearing, and deciding these cases shall be devised and promulgated by the board and shall include all the following:

(1) Any provider, provider organization, certified provider organization, the Department of Human Resources or the Governor's designee, or the State Department of Social Services, the State Department of Education, or any state agency, department, political subdivision, contractor, or subcontractor, charged with the administration of any state-funded early care and education program, as defined in subdivision (f) of Section 8431, shall have the right to file an unfair practice charge, except that the board shall not do either of the following:

(A) Issue a complaint in respect of any charge based upon an alleged unfair practice occurring more than six months prior to the filing of the charge. This period may be tolled for the completion of the notice and cure requirements in Section 8439.

(B) Issue a complaint against conduct also prohibited by the provisions of the agreement between the parties until the grievance machinery of the agreement, if it exists and covers the matter at issue, has been exhausted, either by settlement or binding arbitration. However, when the charging party demonstrates that resort to contract grievance procedures would be futile, exhaustion shall not be necessary. The board shall have discretionary jurisdiction to review the settlement or arbitration award reached pursuant to the grievance machinery solely for the purpose of determining whether it is repugnant to the purposes of this article. If the board finds that the settlement or arbitration award is repugnant to the purposes of this article, it shall issue a complaint on the basis of a timely filed charge, and hear and decide the case on the merits. Otherwise, the board shall dismiss the charge. The board shall, in determining whether the charge was timely filed, consider the six-month limitation set forth in this subdivision to have been tolled during the time it took the charging party to exhaust the grievance machinery.

(2) The board shall not have the authority to enforce agreements between the parties, and shall not issue a complaint on any charge based on alleged violation of any agreement that would not also constitute an unfair practice under this article.

(3) The board shall have the power to issue a decision and order directing an offending party to cease and desist from the unfair practice and to take such affirmative action as will effectuate the policies of this article.

(c) Any charging party, respondent, or intervenor aggrieved by a final decision or order of the board in an unfair practice case, except a decision of the board not to issue a complaint in such case, may petition for a writ of extraordinary relief from such decision or order.

(d) Such petition shall be filed in the district court of appeal in the appellate district where the unit determination or unfair practice dispute

occurred. The petition shall be filed within 30 days after issuance of the board's final order, order denying reconsideration, or order joining in the request for judicial review, as applicable. Upon the filing of such petition, the court shall cause notice to be served upon the board and thereupon shall have jurisdiction of the proceeding. The board shall file in the court the record of the proceeding, certified by the board, within 10 days after the clerk's notice unless such time is extended by the court for good cause shown. The court shall have jurisdiction to grant to the board such temporary relief or restraining order it deems just and proper and in like manner to make and enter a decree enforcing, modifying, or setting aside the order of the board. The findings of the board with respect to questions of fact, including ultimate facts, if supported by substantial evidence on the record considered as a whole, are conclusive. The provisions of Title 1 (commencing with Section 1067) of Part 3 of the Code of Civil Procedure relating to writs shall, except where specifically superceded herein, apply to proceedings commenced pursuant to this section.

(e) If the time to petition for extraordinary relief from a board decision has expired, the board may seek enforcement of any final decision or order in a district court of appeal or a superior court in the district where the unit determination or unfair practice case occurred. If, after hearing, the court determines that the order was issued pursuant to procedures established by the board and that the person or entity refused to comply with the order, the court shall enforce such order by writ of mandamus. The court shall not review the merits of the order.

SEC. 25. Section 8439.6 is added to the Education Code, to read:

8439.6. (a) If online or group in-person preservice meetings or orientations are held for family childcare providers by the state or a department, contractor, subcontractor, or political subdivision of the state, that entity shall provide a certified provider organization mandatory access to the entirety of those preservice meetings or orientations and the ability to make a presentation about the certified provider organization and its activities, its negotiations and memorandum of understanding, and membership at the preservice meeting or orientation trainings. The state or a department, contractor, subcontractor, or political subdivision of the state that is providing the preservice meeting or orientation shall notify the certified provider organization of its group in-person preservice meeting or orientation at least 10 days in advance of the preservice meeting or orientation, or, in the event that 10 days' notice is not possible, as soon as the entity providing the preservice meeting or orientation has notice of the planned preservice meeting or orientation. If participation in a preservice meeting or orientation is limited to current providers, the date, time, and place of the preservice meeting or orientation shall not be disclosed to anyone other than the providers, the certified provider organization, or a vendor that is contracted to provide a service for purposes of the preservice meeting or orientation.

(b) The structure, time, and manner of certified provider organization access to preservice meetings or orientations held for providers by the state,

or a department, contractor, subcontractor, or political subdivision of the state, are within the scope of representation as described in Section 8434.5. This section does not prohibit agreements between a certified provider organization and the Governor, or the Governor’s representative, that provide for preservice meetings or orientations that vary from the requirements of subdivision (a). If such an agreement is adopted as part of a memorandum of understanding pursuant to Section 8435.5, the requirements of this section shall not apply to the extent they are inconsistent with the agreement. In the absence of a mutual agreement regarding preservice meetings or orientations, all of the requirements of this section shall apply.

(c) For purposes of this section, the following definitions apply:

(1) “Group” means open to five or more providers or potential providers.

(2) “Orientation” means any presentation or meeting required for initial or continued participation in state-funded early care and education programs, any presentation or meeting where information required for participation in state-funded early care and education programs is communicated directly to providers or, if no such presentation or meeting is held in a county in a calendar month, the orientations required for license applicants as described in Section 1596.845 of the Health and Safety Code.

SEC. 26. Section 8439.7 is added to the Education Code, to read:

8439.7. (a) This section shall apply only if a provider organization has been certified pursuant to Section 8434.

(b) If the state, or a department, political subdivision, contractor, or subcontractor that administers a state-funded early care and education program chooses to disseminate mass communications to family childcare providers or applicants for participation in state-funded early care and education programs concerning providers’ rights to join or support a provider organization or a certified provider organization, or to refrain from joining or supporting a provider organization or a certified provider organization, the Department of Human Resources or the Governor’s designee shall meet and confer with the certified provider organization concerning the content of the mass communication.

(c) If the state, or a department or political subdivision of the state that administers a state-funded early care or education program, is the entity sending a mass communication, and the Department of Human Resources and the certified provider organization do not agree on the content of the mass communication covered by this section, and if the state, or a department or political subdivision of the state, still chooses to disseminate the mass communication, the state, or a department or political subdivision of the state, shall distribute to the family childcare providers, in addition to, and at the same time as, its own mass communication, a communication of reasonable length provided to the state, or a department or political subdivision of the state, by the certified provider organization. The certified provider organization shall provide the state, or a department or political subdivision of the state, with adequate copies of its own mass communication before distribution.

(d) This section does not apply to the distribution of a communication concerning provider rights that has been adopted for purposes of this section by the Public Employment Relations Board or the Department of Human Resources.

(e) For purposes of this section, a “mass communication” means a written document, or script for an oral or recorded presentation or message, that is intended for delivery to multiple providers.

SEC. 27. Section 8439.8 is added to the Education Code, to read:

8439.8. To effectuate the purposes of this article, any training partnership that is established as a joint labor-management committee pursuant to paragraph (2) of subdivision (a) of Section 8434.5 to make recommendations as to any professional development and training program agreed to through the meet and confer process described in paragraph (4) of subdivision (a) of Section 8434.5, shall consult with public entities, including, but not limited to, the Early Childhood Policy Council and its subcommittees, the Superintendent of Public Instruction and the Director of Social Services, or their respective designees, and nonprofit entities, including the California Child Care Resource and Referral Network, First 5 California, and local First 5 commissions.

SEC. 28. Section 6253.21 of the Government Code is amended to read:

6253.21. (a) Notwithstanding any other provision of this chapter to the contrary, information regarding family childcare providers, as defined in subdivision (b) of Section 8431 of the Education Code, shall not be subject to public disclosure pursuant to this chapter, except as provided in subdivisions (b) and (c).

(b) Consistent with Section 8432 of the Education Code, copies of names, home and mailing addresses, county, home, if known, work, and cellular telephone numbers, and email addresses of persons described in subdivision (a) shall be made available, upon request, to provider organizations that have been determined to be a provider organization pursuant to subdivision (a) of Section 8432 of the Education Code. Information shall be made available consistent with the deadlines set in Section 8432 of the Education Code. This information shall not be used by the receiving entity for any purpose other than for purposes of organizing, representing, and assisting family childcare providers.

(c) Consistent with Section 8432 of the Education Code, copies of names, home and mailing addresses, county, home, if known, work, and cellular telephone numbers, and email addresses of persons described in subdivision (a) shall be made available to a certified provider organization, as defined in subdivision (a) of Section 8431 of the Education Code. Information shall be made available consistent with the deadlines set in Section 8432 of the Education Code. This information shall not be used by the receiving entity for any purpose other than for purposes of organizing, representing, and assisting family childcare providers.

(d) This section does not prohibit or limit the disclosure of information otherwise required to be disclosed by the California Child Day Care Facilities Act (Chapter 3.4 (commencing with Section 1596.70) of, Chapter 3.5

(commencing with Section 1596.90) of, and Chapter 3.6 (commencing with Section 1597.30) of, Division 2 of the Health and Safety Code), or to an officer or employee of another state public agency for performance of their official duties under state law.

(e) All confidentiality requirements applicable to recipients of information pursuant to Section 1596.86 of the Health and Safety Code shall apply to protect the personal information of providers of small family day care homes, as defined in Section 1596.78 of the Health and Safety Code, that is disclosed pursuant to subdivisions (b) and (c).

(f) A family childcare provider, as defined by subdivision (b) of Section 8431 of the Education Code, may opt out of disclosure of their home and mailing address, home, work, and cellular telephone numbers, and email address from the lists described in subdivisions (c) and (d) of Section 8432 of the Education Code by complying with the procedure set forth in subdivision (k) of Section 8432 of the Education Code.

SEC. 29. Section 6254 of the Government Code is amended to read:

6254. Except as provided in Sections 6254.7 and 6254.13, this chapter does not require the disclosure of any of the following records:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Records contained in or related to any of the following:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(4) Information received in confidence by any state agency referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, that are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, the Office of Emergency Services and any state or local police agency, or any investigatory or security

files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes. However, state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, this subdivision does not require the disclosure of that portion of those investigative files that reflects the analysis or conclusions of the investigating officer.

Customer lists provided to a state or local police agency by an alarm or security company at the request of the agency shall be construed to be records subject to this subdivision.

Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) (A) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3, 288.4, 288.5,

288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined in any of the sections of the Penal Code set forth in this subdivision may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(B) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the names and images of a victim of human trafficking, as defined in Section 236.1 of the Penal Code, and of that victim's immediate family, other than a family member who is charged with a criminal offense arising from the same incident, may be withheld at the victim's request until the investigation or any subsequent prosecution is complete. For purposes of this subdivision, "immediate family" shall have the same meaning as that provided in paragraph (3) of subdivision (b) of Section 422.4 of the Penal Code.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, if the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code. However, the address of the victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph shall not be used directly or indirectly, or furnished to another, to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury. This paragraph shall not be construed to prohibit or limit a scholarly, journalistic, political, or government use of address information obtained pursuant to this paragraph.

(4) Notwithstanding any other provision of this subdivision, commencing July 1, 2019, a video or audio recording that relates to a critical incident, as defined in subparagraph (C), may be withheld only as follows:

(A) (i) During an active criminal or administrative investigation, disclosure of a recording related to a critical incident may be delayed for no longer than 45 calendar days after the date the agency knew or reasonably should have known about the incident, if, based on the facts and circumstances depicted in the recording, disclosure would substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source. If an agency delays disclosure pursuant to this paragraph, the agency shall provide in writing to the requester the

specific basis for the agency's determination that disclosure would substantially interfere with the investigation and the estimated date for disclosure.

(ii) After 45 days from the date the agency knew or reasonably should have known about the incident, and up to one year from that date, the agency may continue to delay disclosure of a recording if the agency demonstrates that disclosure would substantially interfere with the investigation. After one year from the date the agency knew or reasonably should have known about the incident, the agency may continue to delay disclosure of a recording only if the agency demonstrates by clear and convincing evidence that disclosure would substantially interfere with the investigation. If an agency delays disclosure pursuant to this clause, the agency shall promptly provide in writing to the requester the specific basis for the agency's determination that the interest in preventing interference with an active investigation outweighs the public interest in disclosure and provide the estimated date for the disclosure. The agency shall reassess withholding and notify the requester every 30 days. A recording withheld by the agency shall be disclosed promptly when the specific basis for withholding is resolved.

(B) (i) If the agency demonstrates, on the facts of the particular case, that the public interest in withholding a video or audio recording clearly outweighs the public interest in disclosure because the release of the recording would, based on the facts and circumstances depicted in the recording, violate the reasonable expectation of privacy of a subject depicted in the recording, the agency shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served by withholding the recording and may use redaction technology, including blurring or distorting images or audio, to obscure those specific portions of the recording that protect that interest. However, the redaction shall not interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording and the recording shall not otherwise be edited or altered.

(ii) Except as provided in clause (iii), if the agency demonstrates that the reasonable expectation of privacy of a subject depicted in the recording cannot adequately be protected through redaction as described in clause (i) and that interest outweighs the public interest in disclosure, the agency may withhold the recording from the public, except that the recording, either redacted as provided in clause (i) or unredacted, shall be disclosed promptly, upon request, to any of the following:

(I) The subject of the recording whose privacy is to be protected, or their authorized representative.

(II) If the subject is a minor, the parent or legal guardian of the subject whose privacy is to be protected.

(III) If the subject whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased subject whose privacy is to be protected.

(iii) If disclosure pursuant to clause (ii) would substantially interfere with an active criminal or administrative investigation, the agency shall provide in writing to the requester the specific basis for the agency's determination that disclosure would substantially interfere with the investigation, and provide the estimated date for the disclosure of the video or audio recording. Thereafter, the recording may be withheld by the agency for 45 calendar days, subject to extensions as set forth in clause (ii) of subparagraph (A).

(C) For purposes of this paragraph, a video or audio recording relates to a critical incident if it depicts any of the following incidents:

(i) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer.

(ii) An incident in which the use of force by a peace officer or custodial officer against a person resulted in death or in great bodily injury.

(D) An agency may provide greater public access to video or audio recordings than the minimum standards set forth in this paragraph.

(E) This paragraph does not alter, limit, or negate any other rights, remedies, or obligations with respect to public records regarding an incident other than a critical incident as described in subparagraph (C).

(F) For purposes of this paragraph, a peace officer does not include any peace officer employed by the Department of Corrections and Rehabilitation.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of Division 14 of Title 3 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(l) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's Legal Affairs Secretary. However, public records shall not be transferred

to the custody of the Governor's Legal Affairs Secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel, except those records in the public database maintained by the Legislative Counsel that are described in Section 10248.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish their personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, if an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application that are subject to disclosure under this chapter.

(p) (1) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4, and Article 19.5 (commencing with Section 8430) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, that reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under these chapters. This paragraph shall not be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this paragraph.

(2) Records of local agencies related to activities governed by Chapter 10 (commencing with Section 3500) of Division 4, that reveal a local agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under that chapter. This paragraph shall not be construed to limit the disclosure duties of a local agency with respect to any other records relating to the activities governed by the employee relations act referred to in this paragraph.

(q) (1) Records of state agencies related to activities governed by Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work

product, theories, or strategy, or that provide instruction, advice, or training to employees.

(2) Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. If a contract for inpatient services that is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

(3) Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee and the Legislative Analyst's Office. The committee and that office shall maintain the confidentiality of the contracts and amendments until the time a contract or amendment is fully open to inspection by the public.

(r) Records of Native American graves, cemeteries, and sacred places and records of Native American places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code maintained by, or in the possession of, the Native American Heritage Commission, another state agency, or a local agency.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Health Care Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or the records of a municipal hospital, formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Part 2 of Division 3 of Title 4 of this code, that relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u) (1) Information contained in applications for licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of members of their family.

(2) The home address and telephone number of prosecutors, public defenders, peace officers, judges, court commissioners, and magistrates that are set forth in applications for licenses to carry firearms issued pursuant

to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(3) The home address and telephone number of prosecutors, public defenders, peace officers, judges, court commissioners, and magistrates that are set forth in licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(v) (1) Records of the Managed Risk Medical Insurance Board and the State Department of Health Care Services related to activities governed by former Part 6.3 (commencing with Section 12695), former Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, or Chapter 2 (commencing with Section 15810) or Chapter 4 (commencing with Section 15870) of Part 3.3 of Division 9 of the Welfare and Institutions Code, and that reveal any of the following:

(A) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board or the department, entities with which the board or the department is considering a contract, or entities with which the board or department is considering or enters into any other arrangement under which the board or the department provides, receives, or arranges services or reimbursement.

(B) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff or the department or its staff, or records that provide instructions, advice, or training to their employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to former Part 6.3 (commencing with Section 12695), former Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, or Chapter 2 (commencing with Section 15810) or Chapter 4 (commencing with Section 15870) of Part 3.3 of Division 9 of the Welfare and Institutions Code, on or after July 1, 1991, shall be open to inspection one year after their effective dates.

(B) If a contract that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after the effective date of the amendment.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contracts or amendments to the contracts are open to inspection pursuant to paragraph (3).

(w) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to inspection one year after they have been fully executed.

(3) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contracts or amendments to the contracts are open to inspection pursuant to paragraph (2).

(x) Financial data contained in applications for registration, or registration renewal, as a service contractor filed with the Director of Consumer Affairs pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code, for the purpose of establishing the service contractor's net worth, or financial data regarding the funded accounts held in escrow for service contracts held in force in this state by a service contractor.

(y) (1) Records of the Managed Risk Medical Insurance Board and the State Department of Health Care Services related to activities governed by Part 6.2 (commencing with Section 12693) or former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Sections 14005.26 and 14005.27 of, or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code, if the records reveal any of the following:

(A) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board or the department, entities with which the board or department is considering a contract, or entities with which the board or department is considering or enters into any other arrangement under which the board or department provides, receives, or arranges services or reimbursement.

(B) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or the department or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.2 (commencing with Section 12693) or former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, on or after January 1, 1998, or Sections

14005.26 and 14005.27 of, or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code shall be open to inspection one year after their effective dates.

(B) If a contract entered into pursuant to Part 6.2 (commencing with Section 12693) or former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Sections 14005.26 and 14005.27 of, or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code, is amended, the amendment shall be open to inspection one year after the effective date of the amendment.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to paragraph (2) or (3).

(5) The exemption from disclosure provided pursuant to this subdivision for the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or the department or its staff, shall also apply to the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of applicants pursuant to former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of the Welfare and Institutions Code.

(z) Records obtained pursuant to paragraph (2) of subdivision (f) of Section 2891.1 of the Public Utilities Code.

(aa) A document prepared by or for a state or local agency that assesses its vulnerability to terrorist attack or other criminal acts intended to disrupt the public agency's operations and that is for distribution or consideration in a closed session.

(ab) Critical infrastructure information, as defined in Section 131(3) of Title 6 of the United States Code, that is voluntarily submitted to the Office of Emergency Services for use by that office, including the identity of the person who or entity that voluntarily submitted the information. As used in this subdivision, "voluntarily submitted" means submitted in the absence of the office exercising any legal authority to compel access to or submission of critical infrastructure information. This subdivision shall not affect the status of information in the possession of any other state or local governmental agency.

(ac) All information provided to the Secretary of State by a person for the purpose of registration in the Advance Health Care Directive Registry, except that those records shall be released at the request of a health care provider, a public guardian, or the registrant's legal representative.

(ad) The following records of the State Compensation Insurance Fund:

(1) Records related to claims pursuant to Chapter 1 (commencing with Section 3200) of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.

(2) Records related to the discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the fund, and any related deliberations.

(3) Records related to the impressions, opinions, recommendations, meeting minutes of meetings or sessions that are lawfully closed to the public, research, work product, theories, or strategy of the fund or its staff, on the development of rates, contracting strategy, underwriting, or competitive strategy pursuant to the powers granted to the fund in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.

(4) Records obtained to provide workers' compensation insurance under Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, including, but not limited to, any medical claims information, policyholder information provided that nothing in this paragraph shall be interpreted to prevent an insurance agent or broker from obtaining proprietary information or other information authorized by law to be obtained by the agent or broker, and information on rates, pricing, and claims handling received from brokers.

(5) (A) Records that are trade secrets pursuant to Section 6276.44, or Article 11 (commencing with Section 1060) of Chapter 4 of Division 8 of the Evidence Code, including, without limitation, instructions, advice, or training provided by the State Compensation Insurance Fund to its board members, officers, and employees regarding the fund's special investigation unit, internal audit unit, and informational security, marketing, rating, pricing, underwriting, claims handling, audits, and collections.

(B) Notwithstanding subparagraph (A), the portions of records containing trade secrets shall be available for review by the Joint Legislative Audit Committee, California State Auditor's Office, Division of Workers' Compensation, and the Department of Insurance to ensure compliance with applicable law.

(6) (A) Internal audits containing proprietary information and the following records that are related to an internal audit:

(i) Personal papers and correspondence of any person providing assistance to the fund when that person has requested in writing that their papers and correspondence be kept private and confidential. Those papers and correspondence shall become public records if the written request is withdrawn, or upon order of the fund.

(ii) Papers, correspondence, memoranda, or any substantive information pertaining to any audit not completed or an internal audit that contains proprietary information.

(B) Notwithstanding subparagraph (A), the portions of records containing proprietary information, or any information specified in subparagraph (A)

shall be available for review by the Joint Legislative Audit Committee, California State Auditor's Office, Division of Workers' Compensation, and the Department of Insurance to ensure compliance with applicable law.

(7) (A) Except as provided in subparagraph (C), contracts entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code shall be open to inspection one year after the contract has been fully executed.

(B) If a contract entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.

(C) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(D) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to this paragraph.

(E) This paragraph is not intended to apply to documents related to contracts with public entities that are not otherwise expressly confidential as to that public entity.

(F) For purposes of this paragraph, "fully executed" means the point in time when all of the necessary parties to the contract have signed the contract.

This section does not prevent any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

This section does not prevent any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act (29 U.S.C. Sec. 158).

SEC. 30. Section 19815.4 of the Government Code is amended to read: 19815.4. The director shall do all of the following:

- (a) Be responsible for the management of the department.
- (b) Administer and enforce the laws pertaining to personnel.
- (c) Observe and report to the Governor on the conditions of the nonmerit aspects of personnel.
- (d) Formulate, adopt, amend, or repeal rules, regulations, and general policies affecting the purposes, responsibilities, and jurisdiction of the department and that are consistent with the law and necessary for personnel administration.

All regulations relating to personnel administration heretofore adopted pursuant to this part by the State Personnel Board, California Victim Compensation Board, the Department of General Services, and the Department of Finance, and in effect on the operative date of this part, shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the director.

(e) Hold hearings, subpoena witnesses, administer oaths, and conduct investigations concerning all matters relating to the department's jurisdiction.

(f) Act on behalf of the department and delegate powers to any authorized representative.

(g) Serve as the Governor's designated representative pursuant to Section 3517.

(h) Perform any other duties that may be prescribed by law, and any other administrative and executive duties that have by other provisions of law been previously imposed.

(i) Serve as the Governor's designated representative pursuant to Section 8434.5 of the Education Code.

SEC. 31. Section 1596.86 of the Health and Safety Code is amended to read:

1596.86. (a) The director shall annually publish and make available to interested persons a list or lists covering all licensed child day care facilities, other than small family day care homes, and the services for which each facility has been licensed or issued a special permit. The lists shall also specify the licensed capacity of the facility and whether it is licensed by the department or by another public agency.

(b) To encourage the recruitment of small family day care homes and protect their personal privacy, the department shall prevent the use of lists containing names, addresses and other identifying information of facilities identified as small family day care homes, except as necessary for administering the licensing program, facilitating the placement of children in these facilities, and providing the names and addresses to resource and referral agencies funded by the State Department of Education, food and nutrition programs funded by the State Department of Education, alternative payment programs funded by the State Department of Education, county programs under the Greater Avenues for Independence Act of 1985 (Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code), family day care organizations, provider organizations that have been determined to be provider organizations pursuant to subdivision (a) of Section 8432 of the Education Code, the Department of Human Resources and the Public Employment Relations Board for the administration of Article 19.5 (commencing with Section 8430) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, or specialized health care service plans licensed under the Knox-Keene Health Care Service Plan Act of 1975, as contained in Chapter 2.2 (commencing with Section 1340), which provide employee assistance program services that include childcare referral services. Upon request, parents seeking local day care services may receive the names and telephone numbers of local small family day care providers.

(c) The department, in consultation with the Child Development Division of the State Department of Education, shall adopt regulations relating to the confidentiality of information provided pursuant to subdivision (b) on small family day care homes. These regulations shall include procedures for updating lists or other information on small family day care providers to

ensure referral only to licensed homes in good standing with the department. Any person or entity violating the regulations under this subdivision may be denied access by the department to information on small family day care homes and shall be reported by the department to the appropriate funding or licensing department.

SEC. 32. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 33. The Legislature finds and declares that Sections 3 to 27, inclusive, of this act, adding to, and amending various sections of, Article 19.5 (commencing with Section 8430) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code address a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Sections 3 to 27, inclusive, of this act apply to all cities and counties, including charter cities and counties.

SEC. 34. The Legislature finds and declares that Section 25 of this act, which adds Section 8439.6 to the Education Code, and Section 29 of this act, which amends Section 6254 of the Government Code, impose a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

This act balances the right of the public to access writings and meetings of public agencies while protecting the privacy of providers.