



General Assembly

January Session, 2011

**Raised Bill No. 6486**

LCO No. 3921

\*03921\_\_\_\_\_HS\_\*

Referred to Committee on Human Services

Introduced by:  
(HS)

**AN ACT CONCERNING HOME HEALTH CARE SERVICES AND THE ESTABLISHMENT OF A PERSONAL CARE ATTENDANT WORKFORCE COUNCIL.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2011*) (a) For purposes of sections 1  
2 to 4, inclusive, of this act: (1) "Consumer" means a person who receives  
3 services from a personal care attendant under a state-funded program,  
4 including, but not limited to, (A) the program for individuals with  
5 acquired brain injuries, established pursuant to section 17b-260a of the  
6 general statutes, (B) the personal care assistance program, established  
7 pursuant to section 17b-605a of the general statutes, (C) the  
8 Connecticut home care program for the elderly, established pursuant  
9 to section 17b-342 of the general statutes, (D) the pilot program to  
10 provide home care services for disabled persons, established pursuant  
11 to section 17b-617 of the general statutes, (E) the individual and family  
12 support waiver program administered by the Department of  
13 Developmental Services, (F) the comprehensive waiver program  
14 administered by the Department of Developmental Services, and (G)  
15 any state-funded program that provides services from a personal care  
16 attendant; (2) "surrogate" means a consumer's legal guardian or a

17 person identified in a written agreement as having responsibility for  
18 the care of a consumer; (3) "personal care attendant" means a person  
19 employed by a consumer or surrogate to provide personal care  
20 assistance to a consumer; and (4) "personal care assistance" means  
21 supportive home care, personal care or another nonprofessional  
22 service provided to a person with a disability or an elderly person who  
23 requires assistance to (A) meet such person's daily living needs, (B)  
24 ensure such person may adequately function in such person's home, or  
25 (C) provide such person with safe access to the community.

26 (b) There is established a council to ensure the quality of long-term  
27 personal home care that shall be known as the Personal Care  
28 Attendant Quality Home Care Workforce Council. The council shall be  
29 composed of thirteen members including the Commissioner of Social  
30 Services, or the commissioner's designee, who shall serve as  
31 chairperson, the Commissioner of Developmental Services, or the  
32 commissioner's designee, and the Healthcare Advocate or the  
33 Healthcare Advocate's designee. The remaining ten members of the  
34 council shall be consumers or surrogates and shall be appointed as  
35 follows: Two each by the Governor, the speaker of the House of  
36 Representatives and the president pro tempore of the Senate, one each  
37 by the majority leader of the House of Representatives, the majority  
38 leader of the Senate, the minority leader of the House of  
39 Representatives and the minority leader of the Senate. All  
40 appointments to the council shall be made not later than August 1,  
41 2011. The chairperson shall convene the first meeting of the council not  
42 later than September 1, 2011. Subsequent meetings shall be held at  
43 times determined by the council chairperson or upon the written  
44 request of any five members of the council to the chairperson.  
45 Members may serve three-year terms from the date of their  
46 appointment or until successors are appointed, except (1) the initial  
47 appointees of the speaker of the House of Representatives and the  
48 president pro tempore of the Senate shall serve two-year terms, and (2)  
49 the initial appointees of the majority leader of the House of  
50 Representatives and the majority leader of the Senate shall serve one-

51 year terms. A majority of the members of the council shall constitute a  
52 quorum for the transaction of any business. Vacancies shall be filled by  
53 the appointing authority for the expiration of the term of the member  
54 being replaced not later than thirty days after the date of the vacancy.  
55 Members of the council shall receive no compensation for their service  
56 on the council but shall be reimbursed for actual expenses necessarily  
57 incurred in performance of their duties.

58 (c) (1) The council, with the assistance of the Department of Social  
59 Services, shall have the following duties and responsibilities relating to  
60 personal care attendants: (A) Not later than October 1, 2011, commence  
61 a study of issues relating to the recruitment, retention and adequacy of  
62 personal care attendants; (B) develop a plan and make  
63 recommendations to the Commissioner of Social Services to improve  
64 the quality, stability and availability of personal care attendants by (i)  
65 developing better means to identify and recruit personal care  
66 attendants, (ii) developing training and educational opportunities for  
67 personal care attendants and consumers, (iii) developing one or more  
68 registries to (I) provide routine, emergency and respite referrals of  
69 qualified personal care attendants to consumers and surrogates who  
70 are authorized to receive long-term, in-home personal care services by  
71 a personal care attendant, (II) enable consumers and surrogates to  
72 access relevant information about prospective personal care attendants  
73 such as their training, educational background and work experience,  
74 and (III) provide appropriate employment opportunities for personal  
75 care attendants, and (iv) establishing standards concerning the wages,  
76 benefits, and conditions of employment for personal care attendants.

77 (2) The members of the council shall develop the expertise necessary  
78 to perform their responsibilities in accordance with subdivision (1) of  
79 this subsection by studying the experiences and best practices of other  
80 states that administer similar programs providing personal care  
81 assistance.

82 (3) The Commissioner of Social Services may implement, modify or

83 reject the recommendations made by the council, in accordance with  
84 subparagraph (B) of subdivision (1) of this subsection.

85 (d) Commencing July 1, 2013, the council shall have the authority to  
86 (1) recruit prospective personal care attendants, (2) provide training  
87 and education to personal care attendants and consumers, (3) establish  
88 or operate a registry, as described in subparagraph (B) (iii) of  
89 subdivision (1) of subsection (c) of this section. The council may take  
90 such action directly, through a contractual agreement with another  
91 entity or with the agreement of the Department of Social Services.

92 (e) If personal care attendants designate a collective bargaining  
93 representative, the authority exercised by the council and the  
94 Commissioner of Social Services pursuant to this subsection shall be  
95 subject to the provisions of sections 5-270 to 5-280, inclusive, of the  
96 general statutes, made applicable to personal care attendants in  
97 accordance with sections 1 to 4, inclusive, of this act, except as  
98 otherwise provided in sections 1 to 4, inclusive, of this act.

99 (f) (1) The Commissioner of Social Services, in consultation with and  
100 with the assistance of the Commissioner of Developmental Services,  
101 shall compile and maintain a list of the names and addresses of all  
102 personal care attendants who have been paid through a state-funded  
103 program that provides personal care services. The list shall not include  
104 the name of any consumer, any designation that a personal care  
105 attendant is a relative of a consumer or any designation that the  
106 personal care attendant's home address is the same as a consumer's  
107 address. Such list shall be updated not less than one time per month.  
108 Any vendor or contractor that provides personal care services shall  
109 assist and cooperate with said commissioners in compiling and  
110 maintaining such list. The commissioners, in consultation with the  
111 council, shall use such list to monitor recruitment, retention and other  
112 employment patterns of personal care attendants and for other  
113 appropriate purposes.

114 (2) Not later than October 1, 2011, the Commissioner of Social

115 Services shall provide the initial list of personal care attendants to the  
116 council and to the State Board of Labor Relations. The commissioner  
117 shall also provide updated lists of personal care attendants upon  
118 request of the council or the State Board of Labor Relations. The  
119 commissioner shall comply with any reasonable request of the council  
120 or the State Board of Labor Relations concerning the form of the list.

121 (3) Not later than seven days after receiving a request from an  
122 employee organization, as defined in subsection (d) of section 5-270 of  
123 the general statutes, that is interested in representing an appropriate  
124 unit of personal care attendants and that may petition the State Board  
125 of Labor Relations pursuant to section 5-275 of the general statutes, the  
126 State Board of Labor Relations shall provide the most recent list of  
127 personal care attendants that has been provided to the State Board of  
128 Labor Relations in accordance with this subsection, to such employee  
129 organization.

130 (g) A consumer or surrogate shall have the right to (1) hire or refuse  
131 to hire, (2) supervise, (3) direct the activities of, and (4) terminate the  
132 employment of any personal care attendant. A consumer or surrogate  
133 may hire a personal care attendant who has not been referred by the  
134 council.

135 Sec. 2. (NEW) (*Effective July 1, 2011*) (a) A personal care attendant  
136 shall be a state employee, as defined in subsection (b) of section 5-270  
137 of the general statutes, only for the purposes of collective bargaining  
138 pursuant to sections 5-270 to 5-280, inclusive, of the general statutes  
139 and not for any other purpose. Sections 5-270 to 5-280, inclusive, of the  
140 general statutes shall apply to personal care attendants except as  
141 provided in this section. A personal care attendant shall not be eligible  
142 for benefits available to a state employee.

143 (b) As the employer of personal care attendants for purposes of  
144 collective bargaining, the Personal Care Attendant Quality Home Care  
145 Workforce Council established under section 1 of this act shall have  
146 the authority and obligation to bargain and enter into agreements with

147 a representative of personal care attendants that has been designated  
148 by the State Board of Labor Relations, pursuant to section 5-275 of the  
149 general statutes, as the exclusive bargaining agent of such attendants  
150 to establish wages, benefits and other terms and conditions of  
151 employment for such attendants. For purposes of section 5-278 of the  
152 general statutes, the council shall be considered an executive branch  
153 employer and the Commissioner of Social Services, or the  
154 commissioner's designee, shall be considered the employer's chief  
155 executive officer. Notwithstanding the provisions of this subsection,  
156 consumers and surrogates shall have the rights described in subsection  
157 (g) of section 1 of this act.

158 (c) Any collective bargaining agreement reached between the  
159 council and the bargaining agent of the personal care attendants and  
160 any arbitrator's award that is issued concerning the council and the  
161 bargaining agent of the personal care attendants shall be binding on  
162 the parties except no provision of any such agreement or award that  
163 requires additional state funding shall become final until the General  
164 Assembly approves the appropriation of such funds. The council and  
165 the bargaining agent of the personal care attendants may participate in  
166 the elective binding arbitration procedures as provided in section 5-  
167 276a of the general statutes. The factors to be considered by the  
168 arbitrator in arriving at a decision on the issues submitted by the  
169 council and the bargaining agent shall include: (1) The factors  
170 described in subdivision (5) of subsection (e) of section 5-276a of the  
171 general statutes; (2) the nature of the personal care services programs  
172 at issue; and (3) the needs and welfare of consumers, including  
173 recruitment, retention and quality needs with respect to personal care  
174 attendants.

175 (d) Personal care attendants shall not be considered employees of  
176 the council or the state for any purpose except for the purpose of  
177 collective bargaining, pursuant to sections 5-270 to 5-280, inclusive, of  
178 the general statutes. The provisions of this section shall not alter the  
179 obligations of the state or the consumer to provide the state's or the

180 consumer's share of Social Security, federal and state unemployment  
181 taxes, Medicare and workers' compensation insurance under the  
182 Federal Insurance Contributions Act, federal and state unemployment  
183 law or the Connecticut Workers' Compensation Act.

184 (e) Consistent with the provisions of section 5-279 of the general  
185 statutes, no provision of this section shall grant personal care  
186 attendants a right to strike and such strikes are prohibited.

187 (f) The only bargaining unit appropriate for the purpose of  
188 collective bargaining between the council and a representative of  
189 personal care attendants, as provided in this section, shall be (1) a  
190 state-wide unit of all personal care attendants, (2) a state-wide unit of  
191 personal care attendants who provide services under programs  
192 administered by the Department of Social Services, or (3) a state-wide  
193 unit of personal care attendants who provide services under programs  
194 administered by the Department of Developmental Services. Personal  
195 care attendants who are members of the consumer's or surrogate's  
196 family shall not be excluded from the bargaining unit for the reason of  
197 the family relationship.

198 (g) Notwithstanding section 5-275 of the general statutes, the State  
199 Board of Labor Relations shall not require an employee organization  
200 interested in being designated as an exclusive bargaining  
201 representative of personal care attendants to (1) notify the State Board  
202 of Labor Relations that more than ten per cent of employees in a  
203 bargaining unit desire to be exclusively represented for the purposes of  
204 collective bargaining within the unit by the petitioning organization  
205 and request the designation of such employee organization as their  
206 exclusive representative, or (2) establish that more than ten per cent of  
207 employees desire to be exclusively represented by the organization  
208 before the State Board of Labor Relations directs an election. All  
209 elections involving questions concerning the representation of  
210 personal care attendants shall be conducted by mail ballot.

211 Sec. 3. (NEW) (*Effective July 1, 2011*) (a) The Personal Care Attendant

212 Quality Home Care Workforce Council established under section 1 of  
213 this act may seek and accept any grant of money, services or property  
214 from the federal government, the state, a political subdivision or an  
215 agency of such governmental entities, including, but not limited to,  
216 federal matching funds under Title XIX of the Social Security Act, and  
217 may do all things necessary to make an application for any such grant.

218 (b) The council may coordinate its activities and cooperate with  
219 similar agencies in other states.

220 Sec. 4. (NEW) (*Effective July 1, 2011*) (a) The Department of Social  
221 Services, the Department of Developmental Services, other state  
222 agencies, members of the Personal Care Attendant Quality Home Care  
223 Workforce Council, established pursuant to section 1 of this act,  
224 consumers, surrogates, contractors, agents of the state and fiscal  
225 intermediaries shall cooperate in the implementation of sections 1 to 3,  
226 inclusive, of this act and with any agreements reached by the Personal  
227 Care Attendant Quality Home Care Workforce Council and a  
228 representative of personal care attendants that has been designated by  
229 the State Board of Labor Relations, pursuant to section 5-275 of the  
230 general statutes, as the exclusive bargaining agent of such attendants.  
231 Such obligation to cooperate shall include making required payroll  
232 deductions as authorized by the collective bargaining agreement or  
233 any arbitrator's award.

234 (b) The Commissioner of Social Services shall submit an application  
235 for a waiver of federal law, as is necessary, to effectuate the provisions  
236 of sections 1 to 3, inclusive, of this act, in accordance with the  
237 provisions of section 17b-8 of the general statutes. The Commissioner  
238 of Social Services, the Commissioner of Developmental Services and  
239 other state agencies shall take all actions reasonably necessary to  
240 obtain approval for any such waiver and to ensure the continuation of  
241 necessary federal funding.



This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2011</i>	New section
Sec. 2	<i>July 1, 2011</i>	New section
Sec. 3	<i>July 1, 2011</i>	New section
Sec. 4	<i>July 1, 2011</i>	New section

**Statement of Purpose:**

To establish a Personal Care Attendant Quality Home Care Workforce Council.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*