

# Senate Bill 137

Sponsored by Senator MONNES ANDERSON (at the request of Albert Contreras) (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits Oregon Department of Administrative Services from entering into collective bargaining agreement with adult foster care home providers that modifies rights of adults with developmental disabilities to choose providers and to have providers paid in accordance with terms and conditions of home and community-based waiver granted by Centers for Medicare and Medicaid Services.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to adult foster care; amending ORS 443.733; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 443.733 is amended to read:

5 443.733. (1) As used in this section, "adult foster care home provider" means a person who op-  
6 erates an adult foster home in the provider's home and who receives fees or payments from the state  
7 for providing adult foster care home services. "Adult foster care home provider" does not include  
8 a person:

9 (a) Who is a resident manager of an adult foster home who does not provide adult foster care  
10 home services in the resident manager's own home or who does not have a controlling interest in,  
11 or is not an officer or partner in, the entity that is the provider of adult foster care home services;

12 (b) Who is not a natural person; or

13 (c) Whose participation in collective bargaining is determined by the licensing agency to be in-  
14 consistent with this section or in violation of state or federal law.

15 (2) For purposes of collective bargaining under ORS 243.650 to 243.782, the State of Oregon is  
16 the public employer of record of adult foster care home providers.

17 (3) Notwithstanding ORS 243.650 (19), adult foster care home providers are considered to be  
18 public employees governed by ORS 243.650 to 243.782. Adult foster care home providers have the  
19 right to form, join and participate in the activities of labor organizations of their own choosing for  
20 the purposes of representation and collective bargaining on matters concerning labor relations.  
21 Mandatory subjects of collective bargaining include but are not limited to provider base rates and  
22 add-on payments. These rights shall be exercised in accordance with the rights granted to public  
23 employees, with mediation and interest arbitration under ORS 243.742 as the method of concluding  
24 the collective bargaining process. Adult foster care home providers may not strike.

25 (4) Notwithstanding subsections (2) and (3) of this section, adult foster care home providers are  
26 not for any other purpose employees of the State of Oregon or any other public body.

27 (5) The Oregon Department of Administrative Services shall represent the State of Oregon in  
28 collective bargaining negotiations with the certified or recognized exclusive representative of an  
29 appropriate bargaining unit of adult foster care home providers. The Oregon Department of Admin-

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.  
New sections are in **boldfaced** type.

1 istrative Services is authorized to agree to terms and conditions of collective bargaining agreements  
2 on behalf of the State of Oregon.

3 (6) Notwithstanding ORS 243.650 (1), an appropriate bargaining unit for adult foster care home  
4 providers is any bargaining unit recognized by the Governor in an executive order issued prior to  
5 January 1, 2008.

6 (7) *[This section does not modify]* **The Oregon Department of Administrative Services may**  
7 **not enter into a collective bargaining agreement with an adult foster care home provider**  
8 **that modifies** any right of an adult receiving foster care, **including but not limited to the right**  
9 **of adults with developmental disabilities to select providers of their own choosing who are**  
10 **paid at rates calculated in accordance with the terms and conditions in the home- and**  
11 **community-based waiver granted by the Centers for Medicare and Medicaid Services.**

12 **SECTION 2. This 2013 Act being necessary for the immediate preservation of the public**  
13 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**  
14 **on its passage.**

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