

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1695 PCB PKT 05-02 Public Records Exemption for the Voluntary Prekindergarten Education Program

SPONSOR(S): PreK-12 Committee

TIED BILLS:

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: PreK-12 Committee	9 Y, 0 N	Hunt	Mizereck
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill creates a public records exemption for the individual records of a child enrolled in the Voluntary Prekindergarten (VPK) Education Program. The records exempted by the bill include the assessment data, health data, records of teacher observations, and personal identifying information of an enrolled child and his or her parent. The exemption applies to records held by an early learning coalition, the Agency for Workforce Innovation, or a VPK Education Program provider before, on, or after the effective date of the exemption.

The bill provides a parent the right to inspect, review and obtain a copy of the individual VPK Education Program record of his or her child.

The bill allows the exempt records to be released for certain purposes to specified parties. These parties are required to protect the records in a manner that will not permit the personal identification of an enrolled child or his or her parent by persons not authorized to receive the records.

The bill provides for future review and repeal of the exemption and provides a statement of public necessity.

The bill appears to have a minimal fiscal impact on state government, local governments, and the private sector. Please see the FISCAL COMMENTS section of the analysis for more details.

This bill requires a two-thirds vote of the members present and voting for passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty – The bill prevents the release of sensitive, personal information regarding the children enrolled in the Voluntary Prekindergarten Education Program and their parents.

B. EFFECT OF PROPOSED CHANGES:

As part of administering and operating the Voluntary Prekindergarten (VPK) Education Program, early learning coalitions, the Agency for Workforce Innovation (AWI) and providers may need to collect observational, assessment, health, and personally identifying data on the children participating in the program.

This bill creates a public records exemption for the individual records of a child enrolled in program. The records exempted by the bill include:

- Assessment data,
- Health data,
- Records of teacher observations, and
- Personal identifying information of an enrolled child and his or her parent.

The exemption applies to records held by an early learning coalition, AWI, or a VPK Education Program provider before, on, or after the effective date of this exemption.

The bill provides a parent the right to inspect, review and obtain a copy of the individual VPK Education Program record of his or her child.

The bill allows the exempt records to be released to:

- The U.S. Secretary of Education, the U.S. Secretary of Health and Human Services, and the Comptroller General of the U.S., for the purpose of federal audits,
- Individuals or organizations conducting studies for institutions to develop, validate, or administer assessments or to improve instruction,
- Accrediting organizations in order to carry out their accreditation functions,
- Appropriate parties in connection with an emergency if the information is necessary to protect the health or safety of the child or other individuals,
- The Auditor General in connection with his or her official functions,
- A court of competent jurisdiction in compliance with an order of that court pursuant to a lawfully issued subpoena, and
- Parties to an interagency agreement among early learning coalitions, local governmental agencies, VPK Education Program providers, or state agencies for the purpose of implementing the VPK Education Program.

The bill requires that agencies, organizations, or individuals receiving such confidential records must protect the records in a manner that will not permit the personal identification of an enrolled child or his or her parent by persons not authorized to receive the records.

The bill provides for future review and repeal of the exemption on October 2, 2010, pursuant to the Open Government Sunset Review Act of 1995. It also provides a statement of public necessity.

C. SECTION DIRECTORY:

Section 1. Creates s. 1002.72, F.S., relating to the records of children in the Voluntary Prekindergarten Education Program, to create a public records exemption for certain records of children enrolled in the program and their parents, to provide parents the right to inspect, review and obtain copies of the individual record of their child, to authorize release of the records to certain parties for specific purposes, to require parties who receive such records to protect them from specified disclosure, and to provide for future review and repeal of the exemption.

Section 2. Provides a statement of public necessity.

Section 3. Provides that the bill takes effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

Unknown and likely minimal. Please see FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

Unknown and likely minimal. Please see FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Unknown and likely minimal. Please see FISCAL COMMENTS.

D. FISCAL COMMENTS:

The public records law in general creates a significant, although unquantifiable, increase in spending. Employees must locate requested records, and must examine every requested record to determine if a public records exemption prohibits release of the record. There is likely no marginal fiscal impact resulting from a single public records exemption; the location and examination process remains whether or not a particular public records exemption exists. Because these records may be held by either the early learning coalitions, the Agency for Workforce Innovation, or the VPK Education Program providers, who may be school districts or private entities, the costs from this review process apply to state and local governments and to the private sector.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

Article I, s. 24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for passage of a newly created public records or public meetings exemption. Thus, this bill requires a two-thirds vote for passage.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

At its March 8, 2005 meeting, the PreK-12 Committee adopted three amendments to the PCB that added the Agency for Workforce Innovation to the entities that can hold exempt records under this bill. The 3 amendments were engrossed and the PCB was reported favorably.