

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1045 Palm Beach County

**SPONSOR(S):** Brandenburg

**TIED BILLS:** **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee	12 Y, 0 N	Nelson	Hoagland
2)	Health Care Services Policy Committee	11 Y, 0 N	Schoonover	Schoolfield
3)	Economic Development & Community Affairs Policy Council		Nelson	Tinker
4)				
5)				

### SUMMARY ANALYSIS

The Department of Children and Family Services establishes licensing standards that must be met by each licensed child care facility in the state. The purpose of this program is to ensure that children are well cared for in a safe, healthy, positive and educational environment by trained, qualified child care staff. Any county with licensing standards that meet or exceed the state minimum standards may designate a licensing agency for local child care facilities.

HB 1045 amends a special act which provides for the operation and licensing of child care facilities in Palm Beach County. This bill:

- revises and provides definitions for various words and phrases;
- provides requirements for the operation and licensing of large family child care homes;
- provides for the issuance of provisional licenses to child care facilities, large family child care homes, and family day care homes;
- updates obsolete language;
- revises membership requirements for the Palm Beach County Child Care Advisory Council; and
- provides an effective date of upon becoming law.

The bill may have a positive fiscal impact on child care providers in Palm Beach County.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Licensing of Child Care Facilities

Pursuant to s. 402.305(1), F.S., the Department of Children and Family Services (DCF) establishes licensing standards that must be met by each licensed child care facility in the state. The purpose of this program is to ensure that children are well cared for in a safe, healthy, positive and educational environment by trained, qualified child care staff.

Section 402.306 (1), F.S., provides that counties with child care facility licensing standards that meet or exceed the state minimum standards (chs. 65C-20, 65C-22 and 65C-25, F.A.C.) may designate a local licensing agency or contract with the DCF to delegate the administration of the state minimum standards in the county. The DCF is responsible for the inspection and licensure of child care facilities in 61 of Florida's 67 counties. The remaining six counties (Brevard, Broward, Hillsborough, Palm Beach, Pinellas and Sarasota) have elected to regulate these facilities.<sup>1</sup>

##### Palm Beach County

The Board of County Commissioners of Palm Beach County acting as the Child Care Facilities Board is the local licensing agency for child care facilities in the county. The Board has appointed a Child Care Advisory Council (CCAC) to act on its behalf for approving, denying or revoking licenses, and for recommending revisions to local child care rules and regulations. The CCAC meets monthly.

The Palm Beach County Health Department serves as staff to the CCAC, and is responsible for administering the child care licensing program. This includes conducting inspections of child care centers and family day care facilities to ensure that minimum standards are met and maintained for issuing and renewing licenses. The Department's child care inspectors also provide information, consultations, and technical assistance to licensed facilities and prospective facility owners and operators.

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<sup>1</sup> <http://www.dcf.state.fl.us/childcare/licensing.shtml>.

Chapter 59-1698, L.O.F., as amended by ch. 77-620, L.O.F., provides the legal framework for child care licensing in Palm Beach County. This special act enables the county to create its own local rules and regulations for child care facilities and family day care homes.<sup>2</sup>

### Effect of Proposed Changes

HB 1045 amends ch. 59-1698, L.O.F., as amended, relating to child care regulation in Palm Beach County. The bill:

- revises the definition of “children.” Currently, that term includes all persons related to the operator of a facility under 12 years of age, and all other persons under the age of 18. The bill increases the maximum age for included, related children from 12 to 13 years old.

The rationale for this change was to remove conflicts between the definition of children, as provided in the special act, and several provisions regarding household children in the Palm Beach County regulations. Although the special act defines children as persons under 12 years of age and related to the operator, the regulations—and state laws—require the counting of such children under 13 years of age for purposes of determining the number of children that can be accommodated in particular child care arrangements.

- deletes the definition of “child boarding homes.” A similar definition is not included in the current Florida Statutes, and this type of facility no longer exists in Palm Beach County.<sup>3</sup>
- revises the definition of “family day care facilities,” renaming such an entity a “family day care home,” and requiring that it be an occupied residence. This will align the special act’s terminology with that contained in s. 402.302(7), F.S.
- increases the maximum number of children allowed in family day care homes from five to six. This change is in response to a request from a local family child care association to increase the capacity of family day care homes. Local family day care providers have indicated that the current restrictions have a negative impact on their ability to operate as a viable small business. This proposed expansion in the capacity of family day care homes will result in an increase in available child care slots by more than 325 in Palm Beach County.

The current definition for the term “family day care home” found at s. 402.302(7), F.S., provides that these facilities are allowed to provide care for one of the following groups of children, which includes those children under 13 years of age who are related to the caregiver:

- a maximum of four children from birth to 12 months of age.

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<sup>2</sup>Section 6 of ch. 77-620, L.O.F., provides: MINIMUM STANDARDS, REASONABLE RULES AND REGULATIONS TO BE PRESCRIBED BY THE BOARD.

1. The Board shall make, promulgate, amend and repeal such rules and regulations as are necessary to protect the health and safety of persons in child care facilities, child boarding homes, or family day care facilities; prescribing standards for living quarters, including provisions pertaining to sanitary conditions, light, air, safety, protection from fire hazards, equipment, operation, qualifications and number of staff, and such other matters as may be appropriate to protect the life and health of the occupants thereof. Standards established by rules and regulations of the Board shall meet or exceed state minimum standards, to wit: standards established by the Department of Health and Rehabilitative Services pursuant to chapter 402, Florida Statutes.

2. The Board may make, promulgate, amend, and repeal such rules and regulations as are necessary:

a. To require facilities regulated hereunder to secure liability insurance and set minimum limits and standards for carriers; and,  
b. To establish fees for inspection and licensing under this Act.

No such rules and regulations of the Board shall be adopted or become effective until after a public hearing has been held by the Board pursuant to at least one notice published in a newspaper of general circulation in the County at least ten (10) days prior to the hearing. When approved by the Board and filed with the Clerk of the County Commission, such rules and regulations shall have the force and effect of law. Until the Board adopts rules and regulations, the State standards aforementioned shall apply to all facilities regulated by this Act.

<sup>3</sup> March 2, 2010, e-mail from Courtney Shippey, Division of Environmental Public Health, Palm Beach County Health Department.

- a maximum of three children from birth to 12 months of age, and other children, for a maximum total of six children.
- a maximum of six preschool children if all are older than 12 months of age.
- a maximum of 10 children if no more than five are preschool age and, of those 5, no more than two are under 12 months of age.

The proposed language of the special act does not contain any limitations based on the ages of children. However, the Palm Beach County Health Department has indicated that the details of caregiver-child ratios will be laid out in their rules and regulations.<sup>4</sup>

The Palm Beach County Rules & Regulations Governing Family Day Care Facilities currently provide that a family day care facility is allowed to provide care for one of the following groups of children, which includes those children under the age of 13 years of age who are related to the caregiver, or who are household members:

- a maximum of four children from birth to 12 months of age for a total of four children.
- a maximum of five children from birth to 12 years of age, for a total of five children, provided that no more than three of the children are from the ages of birth to 12 months of age.<sup>5</sup>
- creates a new category of “large family child care home.” This is an occupied residence which has at least two full-time child care personnel on the premises, including the owner or occupant. Such a home must first have operated as a licensed family day care home for two years, with an operator who has had a child development associate credential or its equivalent for one year, before seeking licensure. A large family child care home has a maximum capacity of eight children under the age of two, or a maximum of 12 children with no more than four children under the age of two. These maximums include those children under 13 years of age who are related to the caregiver.

This definition corresponds to the one provided at s. 402.302 (8), F.S. Currently, this type of child care arrangement is not allowed in Palm Beach County. Ultimately, establishment of such facilities will be dependent on local zoning approvals.<sup>6</sup>

- designates one of the private enterprise seats on the Child Care Advisory Council to be filled by a family day care provider. Currently, the CCAC is composed of seven members consisting of the following:
  - two members who represent and operate as a regulated facility as a private enterprise;
  - one member who represents and operates a regulated parochial facility;
  - one member who represents a consumer protection enforcement official;
  - one member for fire protection, engineering or technology;
  - one member who, at the time of appointment, is was a parent of a child in a regulated facility; and
  - one member who represents the Department of Children and Family Services.

<sup>4</sup> March 4, 2010, e-mail from Courtney Shippey, Division of Environmental Public Health, Palm Beach County Health Department

<sup>5</sup> [http://www.pbchd.com/pdfs/environmental/familydaycare/pbchd\\_family\\_day\\_care-rules-regs.pdf](http://www.pbchd.com/pdfs/environmental/familydaycare/pbchd_family_day_care-rules-regs.pdf). Regardless of the language of this regulation, it is assumed that it means a maximum of three children from birth to 12 months of age, and other children, for a maximum of five children.

<sup>6</sup> Id.

There are approximately 330 family day care homes and 420 child care centers in the county. This revision will provide family day care providers with representation on the council.

- adds provisions relating to provisional licenses. This language authorizes the Board to issue provisional licenses for child care facilities, large family child care homes, or family day care homes. A provisional license may not be issued for a period that exceeds six months and may only be renewed once.
- A provisional license cannot be issued unless the child care facility, large family child care home, or family day care home is in compliance with the requirements for screening of child care personnel and the requirements for ensuring the health and safety of children. This language loosely conforms to that contained in s. 402.309, F.S.
- updates other language to conform to new definitions, correct usage, current agency names, and to fix typographical errors.

The act takes effect upon becoming a law.

**B. SECTION DIRECTORY:**

Section 1: Amends ch. 59-1698, L.O.F., as amended by ch. 77-620, L.O.F., relating to child care in Palm Beach County.

Section 2: Provides an effective date.

**II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN? January 15, 2010

WHERE? *The Palm Beach Post*, a daily newspaper published in Palm Beach County, Florida

B. REFERENDUM(S) REQUIRED? Yes ☐ No ☒

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached ☒ No ☐

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached ☒ No ☐

According to the Economic Impact Statement, the bill will result in minimal revenue generation anticipated from annual license fees for an estimated 10 new large family child care facilities. No negative impact is expected.

The Economic Impact Statement also provides:

Family day care homes comprise an important component of the child care and early education industry. These homes provide more than 300 jobs in owner-operated small businesses in Palm Beach County, in addition to tens of thousands of dollars in annual gross receipts, including federal and state funds which add to the economic base of the county. The increased capacity of children in care at these homes will enable these home-based small

businesses to increase their revenue and potentially be more viable and competitive with the larger child care industry.

Child care and early education sets the stage for a strong future economy by preparing young children to develop the attitudes, skills and abilities to be productive workers and citizens.

The availability of affordable and accessible child care and early education in underserved communities allows parents to pursue and maintain employment opportunities and thereby improve their quality of life.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

##### **Drafting Issues**

None.

##### **Other Comments.**

This bill is supported by the Palm Beach County Commission, the Palm Beach County Health Department and the Child Care Advisory Council.

The Department of Children and Families has declined to comment on the bill, other than to say that as per their Child Care Program office, the bill is specific to Palm Beach County, and that the content of the bill would not affect the child care programs it regulates.<sup>7</sup> However, it should be noted that s. 402.306(2), F.S., provides that child care facilities in any county whose standards do not meet or exceed state minimum standards will be subject to licensing by the DCF.

### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

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<sup>7</sup> February 23, e-mail from Gina Sisk, Department of Children and Families, Legislative Affairs.