

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Committee

BILL: SB 1974 (SPB 7080)

INTRODUCER: Budget Committee

SUBJECT: Early Learning

DATE: February 15, 2012 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|---------------------------|
| 1. | Hamon | Rhodes | | SPB 7080 Favorable |
| 2. | | | | |
| 3. | | | | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

I. Summary:

This bill conforms applicable statutes to the appropriations provided in the Senate proposed budget which makes appropriations for the school readiness program for the 2012-2013 fiscal year.

The bill enhances early learning accountability and funding by:

- Providing additional authority to the Office of Early Learning to investigate fraud and remove participants and providers;
- Reducing administrative and nondirect expenditures and increasing the percentage of the school readiness allocation used for direct services to children;
- Prioritizing services to eligible children from infants to age five;
- Requiring statewide pre-assessments and post-assessments to be aligned to child performance standards and used by early learning program providers;
- Requiring the Office of Early Learning to collect the assessment results and evaluate the effectiveness of the school readiness program;
- Requiring a statewide standardized contract to be used by all coalitions when contracting with providers, and requiring the Office of Early Learning to adopt a statewide standardized contract monitoring process to be used by coalitions;
- Removing the waiver for coalitions that serve a small number of children and modifying the minimum number of children required for a coalition;
- Requiring the adoption of a uniform chart of accounts for budgeting and financial reporting that will provide standard definitions for expenditures and reports;
- Requiring the Office of Early Learning to standardize provider payment rates;

- Requiring a parent copayment of at least 10 percent of a family's income with limited waivers;
- Requiring each provider that receives school readiness funds to submit its market rate to the Office of Early Learning; and
- Requiring the Office of Early Learning to establish the prevailing market rate schedule.

This bill substantially amends sections 411.01, 411.0101, 411.01013, 411.0106, and 1002.71 of the Florida Statutes.

II. Present Situation:

School Readiness Program

Established in 1999,¹ the School Readiness Program provides subsidies for early childhood education and child care services to children of low-income families; children in protective services who are at risk of abuse, neglect, or abandonment; and children with disabilities.² The School Readiness Program is a state-federal partnership between Florida's Office of Early Learning (OEL) and the Office of Child Care of the United States Department of Health and Human Services.³

The School Readiness Program receives funding from a mixture of state and federal sources, including the federal Child Care and Development Fund (CCDF) block grant, the federal Temporary Assistance for Needy Families (TANF) block grant, and general revenue and other state funds.⁴

For FY 2011-12, a total of \$616.8 million was appropriated for the School Readiness Program from state and federal funds, including \$358.6 million from the CCDF block grant, \$116.4 million from the TANF block grant, \$137.5 million from the state's General Revenue Fund, \$3.8 million from other state fund sources, and \$500,000 from other federal fund sources.⁵ As part of the other state and federal funding sources, OEL was provided \$12.3 million⁶ for the continued development of a computerized data system known as the Early Learning Information System (ELIS).

The program is administered by early learning coalitions (ELC) at the county or regional level.⁷ OEL administers the program at the state level, including statewide coordination of the ELCs.⁸ Each ELC administers the School Readiness Program,⁹ the VPK Program,¹⁰ and the state's child care resource and referral network in its county or multi-county region.¹¹ There are currently 31

¹ See s. 1, ch. 99-357, L.O.F.

² Section 411.01(6), F.S.

³ See U.S. Department of Health and Human Services, *Child Care and Development Fund Fact Sheet*, <http://www.acf.hhs.gov/programs/ccb/ccdf/factsheet.htm> (last visited January 20, 2012).

⁴ Specific Appropriation 2033, s. 6, ch. 2011-69, L.O.F.

⁵ *Id.*

⁶ Specific Appropriation 2037D, s. 6, and sections 55, 56, and 58, ch. 2011-69, L.O.F.

⁷ Section 411.01(5), F.S.

⁸ Section 411.01(4)(a), F.S.

ELCs.¹² Each ELC is governed by a board of directors comprised of various stakeholders and community representatives. Three board members, including the chair, are appointed by the Governor.¹³

Each ELC must serve a minimum of 2,000 children based upon the monthly average number of children served by the coalition's school readiness program during the previous 12 months.¹⁴ If the number of children served by an ELC falls below this level, it must merge with another ELC to form a multicounty coalition.¹⁵ OEL must waive this merger requirement if certain criteria are met.¹⁶

Florida law requires each ELC to include a “choice of settings and locations in licensed, registered, religious-exempt, or school-based programs.”¹⁷ A wide range of public and private providers of early childhood education and child care services participate in the School Readiness Program, including:

- Public and private schools;
- Licensed child care facilities and large family child care homes;
- Licensed and registered family day care homes;
- Faith-based child care facilities and after-school programs, which are both exempt from licensure; and
- Informal providers¹⁸ (e.g., in-home and relative care).¹⁹

In FY 2010-11, a total of 10,852 child care providers participated in the School Readiness Program, including 965 public schools; 6,561 private providers; and 3,050 family day care homes. Of these providers, 818 were faith-based.²⁰

Each ELC must also follow the procurement and expenditures procedures adopted by the OEL, including, but not limited to, applying the procurement and expenditure procedures required by federal law for the expenditure of federal funds.

⁹ Section 411.01(5), F.S.

¹⁰ Section 1002.55(1) and 1002.61(1)(b), F.S.

¹¹ Section 411.0101, F.S.

¹² Office of Early Learning, *Early Learning Coalition Directory*, http://www.floridaearlylearning.com/EarlyLearning/OEL_Coalitions_CoalitionsDirectory.html (last visited Jan 22, 2012). Florida law permits the establishment of 31 or fewer ELCs. Section 411.01(5)(a)2.a., F.S.

¹³ Section 411.01(5)(a)4.-6., F.S.

¹⁴ Section 411.01(5)(a)2.b., F.S.

¹⁵ Section 411.01(5)(a)3., F.S. OEL must adopt procedures for merging ELCs. *Id.*

¹⁶ Section 411.01(5)(a)3.a.-c., F.S. OEL must waive the merger requirement if it determines that the ELC has substantially implemented its school readiness plan; the ELC demonstrates to OEL its ability to effectively and efficiently implement the VPK Program; and the ELC demonstrates to OEL its ability to perform its duties in accordance with the law. *Id.*

¹⁷ Section 411.01(5)(d)4.c., F.S.

¹⁸ *CCDF State Plan*, *supra* note 8, at 105.

¹⁹ *See* s. 411.01(5)(d)4.c., F.S.; *CCDF State Plan*, *supra* note 8, at 35. Federal regulations governing the CCDF block grant, in effect, require the School Readiness Program to serve children in center-based child care, group home child care, family child care, and in-home child care. 45 C.F.R. s. 98.30(e)(1).

²⁰ Email, Office of Early Learning (Jan 22, 2012).

Prevailing Market Rate

Florida's OEL is responsible for annually calculating a market rate schedule as a provision of the Child Care and Development Block Grant that must include county by county rates by provider type including licensed child care facilities; religious exempt facilities, public and non-public schools, large family day care homes, family day care homes and those who hold a Gold Seal quality Care Designation under section 402.281, Florida Statutes. It must also differentiate rates by care level to include infants, toddlers, pre-school age, and school-age children. The market rate schedule is required to be set at the 75th percentile of a reasonable frequency distribution based exclusively on the prices charged for child care services. Each ELC then must utilize the prevailing market rate schedule to set its school readiness provider payment rates.

Eligibility

The federal regulations governing the CCDF block grant,²¹ the primary funding source for the School Readiness Program, authorize states to use the funds for child care services, if:

- The child is under 13 years of age or, at the state's option, under age 19 and physically or mentally incapable of caring for himself or herself or under court supervision;
- The child's family income does not exceed 200% of the published federal poverty guidelines for a family of the same size; and
- The child:
 - Resides with a parent or parents who work or attend job training or educational programs; or
 - Receives, or needs to receive, protective services.²²

Within these broad federal eligibility categories, Florida law specifies that the School Readiness Program is established for children from birth to kindergarten entry.²³ Additionally, ELCs must admit children into the School Readiness Program according to the following priorities:

- First priority is children from families in which an adult is receiving temporary cash assistance and subject to federal work requirements.²⁴

²¹ 45 C.F.R. parts 98 and 99.

²² 45 C.F.R. s. 98.20(a). Florida's CCDF state plan for allows CCDF-funded child care for children above age 13, but below age 19 who are physically, mentally incapable of self-care, or both. The CCDF Plan defines physical or mental capacity as a developmental delay or established physical or mental condition or mild or moderate emotional problems as certified by a licensed psychiatrist, psychologist, or licensed mental health professional. The CCDF Plan does not allow CCDF-funded child care for children in the same age groups who are under court supervision. Florida's Office of Early Learning, *Child Care and Development Fund Plan*, available at http://www.floridaearlylearning.com/EarlyLearning/OEL_SysDev_CCDF.html [hereinafter *CCDF State Plan*]; see also rule 60BB-4.200(1), F.A.C.

²³ Section 411.01(6), F.S.

²⁴ Section 411.01(6), F.S. Federal law provides mandatory work requirements for recipients of assistance under a state's Temporary Assistance for Needy Families Block Grant. 42 U.S.C. s. 607. These work requirements establish that a state must meet or exceed minimum rates of recipients participating in "work activities" (e.g., employment, education, and vocational training). 42 U.S.C. s. 607(d); see s. 445.024, F.S.

- Second priority is children who are eligible for a school readiness program but who have not yet entered school, who are served by child protective services, and for whom child care is needed to minimize the risk of further abuse, neglect, or abandonment.²⁵
- Third priority is children who meet one or more of the following criteria:
 - A child under the age of kindergarten eligibility who is:
 - At risk of welfare dependency, including an economically disadvantaged²⁶ child, a child of a participant in the welfare transition program,²⁷ a child of a migratory agricultural worker, or a child of a teen parent.
 - A child of a working family that is economically disadvantaged.
 - A child for whom financial assistance is provided through the Relative Caregiver Program.²⁸
 - A three year-old or four year-old child who:
 - Has a disability;
 - Has been served in a specific part-time exceptional student education program or a combination of part-time exceptional education programs with required special services, aids, or equipment; and
 - Who was previously reported for funding part time under the Florida Education Finance Program as an exceptional student.²⁹
 - An economically disadvantaged child, child with a disability, or child at-risk of future school failure, from birth to 4 years of age, who is served at home through a home visitor program or an intensive parent education program.³⁰
 - A child who meets federal and state eligibility requirements for the migrant preschool program, but is not economically disadvantaged.³¹

Enrollment

A parent may apply for his or her child's admission in the School Readiness Program by submitting an application to an ELC. OEL has established, and ELCs must use, a single point of entry that enables a parent to apply for services for his or her child in the school readiness program at various locations throughout a county, by telephone, or through an Internet website.³²

²⁵ Section 411.01(6)(b), F.S.; *see also* chs. 39 and 409, F.S.

²⁶ "Economically disadvantaged" means having a family income that does not exceed 150 percent of the federal poverty level. Section 411.01(6), F.S. (flush-left provisions at the end of the subsection). Annually, the U.S. Department of Health and Human Services establishes the poverty guidelines. For 2011, the federal poverty level for a family of four persons is \$22,350. Thus, 150 percent of the federal poverty level for a family of four is \$33,525. U.S. Department of Health and Human Services, *The 2011 HHS Poverty Guidelines*, <http://aspe.hhs.gov/poverty/11poverty.shtml> (last visited Jan 22, 2012).

²⁷ The goal of Florida's Welfare Transition Program is to emphasize work, self-sufficiency, and personal responsibility. To accomplish this goal, the structure of the program includes child care assistance. Florida Department of Economic Opportunity, *Welfare Transition Program*, available at <http://www.floridajobs.org/office-directory/division-of-workforce-services/workforce-programs/welfare-transition-program> (last visited Jan 22, 2012).

²⁸ Section 411.01(6)(c), F.S.; *see also* s. 39.5085, F.S.

²⁹ Section 411.01(6)(c)2., F.S.

³⁰ Section 411.01(6)(c)3., F.S.

³¹ Section 411.01(6)(c)4., F.S.

³² Section 411.01(5)(c)1.e, F.S.

Office of Early Learning

The Office of Early Learning (OEL) is Florida's lead agency for administering the federal CCDF from which funds are used to implement the School Readiness Program.³³ Florida law directs OEL to establish a unified approach to the state's school readiness efforts by adopting specific system support services for the state's school readiness programs.³⁴ System support services include:

- Child care resource and referral services.
- Warm-Line services.³⁵
- Eligibility determinations.
- Child performance standards.
- Child screening and assessment.
- Developmentally appropriate curricula.
- Health and safety requirements.
- Statewide data system requirements.
- Rating and improvement systems.³⁶

Additionally, OEL must develop and adopt performance standards and outcome measures for school readiness programs. Child performance standards must describe age-appropriate expectations for what a child in the School Readiness Program should know and be able to do. The standards for children from birth to age five must be integrated with the performance standards adopted by the Department of Education (DOE) for the Voluntary Prekindergarten Education (VPK) Program.³⁷ ELC administered programs must be aligned to these performance standards.³⁸

In order to participate in the School Readiness Program, each ELC must submit a school readiness plan to OEL for approval.³⁹ The plan must demonstrate how ELC-offered programs will be aligned to statutory requirements, performance standards, and outcome measures. The

³³ Section 411.01(4)(c), F.S. The law directs the Governor to designate OEL as the lead agency for administering the CCDF. *Id.*

³⁴ Section 411.01(4)(d)3., F.S.

³⁵ OEL is required to contract with the "statewide resource information and referral agency" to establish a statewide toll-free Warm-line for the purpose of assisting child care providers in serving children with disabilities and special needs. Section 402.3018, F.S.

³⁶ Section 411.01(4)(d)3.a.-i., F.S.

³⁷ Section 411.01(4)(d)8., F.S.; *see also* Office of Early Learning, *Birth to Five Performance Standards*, <http://www.flbt5.com/selection.aspx> (last visited Jan 22, 2012). The performance standards must address the following school readiness skills: compliance with rules, limitations, and routines; ability to perform tasks; interactions with adults; interactions with peers; ability to cope with challenges; self-help skills; ability to express the child's needs; verbal communication skills; problem-solving skills; following of verbal directions; demonstration of curiosity, persistence, and exploratory behavior; interest in books and other printed materials; paying attention to stories; participation in art and music activities; and ability to identify colors, geometric shapes, letters of the alphabet, numbers, and spatial and temporal relationships. Section 411.01(4)(j), F.S.

³⁸ Section 411.01(5)(c)1.a., F.S.

³⁹ Section 411.01(5)(d)1., F.S.

plan must address how instruction will enable children from birth through five years of age to meet the performance standards.⁴⁰ OEL must adopt rules establishing school readiness plan approval criteria which, among other things, must include:

- A community plan that addresses the needs of eligible children and providers within the coalition's county or multicounty region.
- A sliding fee scale establishing a copayment for parents based upon their ability to pay, which is the same for all program providers.⁴¹
- A choice of settings and locations in licensed, registered, religious-exempt, or school-based programs to be provided to parents.
- Child eligibility priorities.
- Performance standards and outcome measures adopted by OEL.
- Payment rates adopted by the ELCs and approved by OEL.
- Direct enhancement services for families and children.⁴²
- The business organization of the ELC.
- The implementation of locally developed, quality programs in accordance with the requirements adopted by OEL regarding the expenditure of funds for improving the quality of child care.⁴³

An ELC with an approved school readiness plan must implement a comprehensive system of school readiness services which enhance children's attainment of OEL-adopted performance standards and outcome measures.⁴⁴ School readiness programs within each ELC's service area must include, among other things, use of a developmentally appropriate curriculum, age appropriate developmental assessment, and a pretest and post-test administered to children as they enter and leave the program; character development education; appropriate staff to child ratios; a healthy and safe learning environment; and a parental resource and referral network.⁴⁵

ELCs receive an allocation in accordance with the allocation formula approved by the Legislature. Within each ELCs allocation they must administer the program within the federal funding caps of 5 percent for administration, 14 percent for nondirect expenditures, a minimum of 70 percent on direct services, a minimum of 4 percent on quality expenditures and targeted funds for resource and referral, infant and toddlers, and quality expansion activities.

⁴⁰ Section 411.01(5)(d)2.a.-b., F.S.

⁴¹ Each ELC is required to adopt, subject to approval by OEL, a local sliding fee scale for the School Readiness Program. Section 411.01(5)(d)4.b., F.S.; rule 60BB-4.400(1), F.A.C. This fee scale establishes a co-payment charged to a parent based on the parent's income and family size. Rule 60BB-4.400(1), F.A.C. A provider receives payment for school readiness services from the ELC and is responsible for collecting the co-payment directly from the parent. Rule 60BB-4.401, F.A.C. A school readiness provider is not prohibited from charging parent fees beyond the co-payment. *See* rule 60BB-4.400, F.A.C.

⁴² Direct enhancement services for families may include parent training and involvement activities and strategies to meet the needs of unique populations and local eligibility priorities. Enhancement services for children may include provider supports and professional development approved in the plan by OEL. Section 411.01(5)(d)4.g., F.S.

⁴³ Section 411.01(5)(d)4.a.-i., F.S.

⁴⁴ Section 411.01(5)(c)1.a. and (d)2., F.S.

⁴⁵ Section 411.01(5)(c)2., F.S.

III. Effect of Proposed Changes:

The bill:

- Provides additional authority to the Office of Early Learning to investigate fraud and remove participants and providers.
- Reduces administrative and nondirect expenditures and increases the percentage of the school readiness allocation used for direct services to children.
- Prioritizes services to eligible children from infants to age five.
- Requires statewide pre-assessments and post-assessments to be aligned to child performance standards and used by early learning program providers.
- Requires the Office of Early Learning to collect the assessment results and evaluate the effectiveness of the school readiness program.
- Requires a statewide standardized contract which must be used by all coalitions when contracting with providers. The Office of Early Learning must adopt a statewide standardized contract monitoring process to be used by coalitions.
- Removes the waiver for coalitions that serve a small number of children and modifies the minimum number of children required for a coalition.
- Requires the adoption of a uniform chart of accounts for budgeting and financial reporting that will provide standard definitions for expenditures and reports.
- Requires the Office of Early Learning to standardize provider payment rates.
- Requires a parent copayment of at least 10 percent of a family's income with limited waivers.
- Requires each provider that receives school readiness funds to submit its market rate to the Office of Early Learning.
- Requires the Office of Early Learning to establish the prevailing market rate schedule.
- Makes a technical correction to the good cause exemption criteria for re-enrollment of a child in the voluntary prekindergarten program.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill will standardize funding, create efficiencies, and reduce fraud which will enable additional 0 to 5 year-old children to receive additional services. In addition, with the additional emphasis on education, including the use of a standardized pre- and post-assessment to aid instruction and determine effectiveness of service delivery, a greater number of young children will be ready for kindergarten.

C. Government Sector Impact:

The bill conforms applicable statutes to the appropriations provided in the Senate proposed budget which makes appropriations for the school readiness program for the 2012-2013 fiscal year.

The bill will reduce the cost of government services for eligible children by requiring standardization of payment rates and parent co-payments, increasing efficiency, increasing economies of scale by merging small coalitions, requiring reduction of administrative and non-direct services, and reducing fraudulent activity. Funds saved will then be available to provide additional services to a greater number of 0 to 5 year-old children.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.