

**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 Committee on Children, Families, and Elder Affairs

BILL: SB 1650  
 INTRODUCER: Senator Gibson  
 SUBJECT: Child Care Facilities  
 DATE: March 27, 2013      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peterson	Hendon	CF	<b>Pre-meeting</b>
2.	_____	_____	AHS	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

SB 1650 revises the minimum standards for nutritional practices in child care facilities to limit the type and quantity of drinks that can be served. Specifically, the bill requires facilities to serve only low fat or nonfat milk to children over 2; to serve not more than one serving of 100 percent fruit juice daily; and to make drinking water readily available. The bill also prohibits serving beverages with added sweeteners.

The bill does not have a fiscal impact on the state and has an effective date of July 1, 2013.

This bill substantially amends section 402.305 of the Florida Statutes.

**II. Present Situation:**

Child care facilities in the state must meet licensing standards that are established by the Department of Children and Family Services.<sup>1</sup> A child care facility generally includes any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit.<sup>2</sup>

The statute directs DCF to adopt minimum licensing standards by rule which must be designed to address each of the following areas:

<sup>1</sup> Section 402.305, F.S.

<sup>2</sup> Section 402.302(2), F.S.

- The health, sanitation, safety, and adequate physical surroundings for all children in child care.
- The health and nutrition of all children in child care.
- The child development needs of all children in child care.<sup>3</sup>

In addition, the law establishes minimum requirements with respect to:

- Personnel
- Staff Credentials
- Staff-to-Children Ratios
- Physical Facilities
- Square Footage Per Child
- Sanitation and Safety
- Nutritional Practices
- Admissions and Recordkeeping
- Transportation Safety
- Access
- Child Discipline
- Plan of Activities
- Urban Child Care Facilities
- Transition Periods (periods of arrival and departure)
- Evening and Weekend Child Care
- Specialized Child Care Facilities for the Care of Mildly Ill Children
- Transfer of Ownership<sup>4</sup>

The specific licensing criteria applicable to child care facilities that have been adopted by DCF are set forth in Chapter 65C-22 of the Florida Administrative Code. The current nutrition standard generally requires that meals and snacks of a quality and quantity to meet the nutritional needs of children be served. Facilities must use the USDA MyPlate<sup>5</sup> to determine what food groups will be served at each meal. Special diets may be required by physician order. If a facility chooses not to provide meals and snacks, arrangements must be made with the parent or guardian to provide nutritious meals.<sup>6</sup>

Florida law permits a county that meets or exceeds the state's minimum licensing requirements to designate a local agency to license child care facilities or to contract with DCF to delegate administration of the standards to the department.<sup>7</sup> Currently, DCF is responsible for administering child care licensing in 62 of Florida's 67 counties. Five counties (Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota) administer their own inspections and licensure

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<sup>3</sup> Section 402.305(1), F.S.

<sup>4</sup> Sections 402.305, 402.3055, 402.3057, F.S.

<sup>5</sup> The MyPlate replaced the MyPyramid, which is the guideline currently referenced in the DCF rule.

<sup>6</sup> Rule 65C-22.005, F.A.C.

<sup>7</sup> Section 402.306(1), F.S.

of child care facilities.<sup>8</sup> Currently, DCF and local licensing agencies regulate approximately 6,782 child care facilities.<sup>9</sup>

### **Florida Child Care Food Program**

The Child Care Food Program (CCFP) provides reimbursement for nutritious meals and snacks served to children in child care settings. The program, which is authorized by the National School Lunch Act,<sup>10</sup> is funded by the U.S. Department of Agriculture (USDA) and is administered in Florida by the Department of Health, Bureau of Childcare Food Programs. To be eligible for reimbursement, a child care facility must be a public or private nonprofit organization, or a for-profit organization whose enrollment or licensed capacity consists of at least 25 percent low-income children meeting eligibility criteria.<sup>11</sup> Meals served to children are reimbursed at rates that are based upon a child's eligibility for free, reduced price, or paid meals. Meals and snacks served to children must meet specific USDA and Florida-specific meal pattern requirements. Currently, 43 percent of child care facilities participate in the program providing meals to an estimated 200,000 children daily.<sup>12</sup>

In 2010, Congress enacted the Healthy Hunger Free Kids Act (Act)<sup>13</sup> which reauthorized funding for the child nutrition programs for five years and included an additional \$4.5 billion in new funding over the next 10 years. In addition, the Act promotes nutrition and wellness in child care settings. Among its many provisions, the Act requires facilities participating in the CCFP to provide children with potable water throughout the day, including at meal times,<sup>14</sup> and to serve children over the age of two only low fat or nonfat milk.<sup>15</sup> The American Academy of Pediatrics (AAP) also recommends serving low fat or nonfat milk.<sup>16</sup> Florida, through the meal pattern it has approved for facilities seeking reimbursement through the CCFP, requires that fruit juice be 100 percent juice, but limits servings to not more than one per day,<sup>17</sup> consistent with recommendations of the AAP.<sup>18</sup> Florida does not currently prohibit serving drinks with added sweeteners, but those drinks would not be reimbursable through the CCFP.

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<sup>8</sup> Fla. Dep't. of Children and Families, *Child Care Regulation Licensing Information*, available at <http://www.dcf.state.fl.us/programs/childcare/licensing.shtml> (last visited Mar. 27, 2013).

<sup>9</sup> Fla. Dep't of Children and Families, *Fiscal Note SB 1650* (Mar. 8, 2013) (on file with the Senate Committee on Children, Families and Elder Affairs).

<sup>10</sup> 42 U.S.C. 1766.

<sup>11</sup> Fla. Dep't. of Health, *FACT SHEET: Child Care Food Program/Child Care Centers* (July 2012), available at <http://www.doh.state.fl.us/ccfp/Program/ccfpfactsheet.pdf> (last visited Mar. 26, 2013).

<sup>12</sup> Conversation with Maria Williamson, Chief, Bureau of Childcare Food Programs, Fla. Dep't of Health (Mar. 26, 2013). Participating facilities are reimbursed the cost of meals for all children, not just those meeting eligibility requirements.

<sup>13</sup> Pub. Law No. 111-296, S. 3307, 111th Cong. (Dec. 13, 2010).

<sup>14</sup> *Id.* at s. 221.

<sup>15</sup> *Id.* The Act requires participating facilities to serve milk in accordance with the most recent version of the Dietary Guidelines for Americans. The Dietary Guidelines for Americans 2010, which contains nutrition standards for Americans 2 years and older, recommends low fat or nonfat milk. U.S. Dept. of Agriculture, *Dietary Guidelines for Americans 2010* (Dec. 2010), available at <http://www.health.gov/dietaryguidelines/2010.asp> (last visited Mar. 27, 2013).

<sup>16</sup> S.S. Gidding et al., American Academy of Pediatrics, *Dietary Recommendations for Children and Adolescents: A Guide for Practitioners* (2006), available at <http://pediatrics.aappublications.org/content/117/2/544.full.pdf+html> (last visited Mar. 27, 2013).

<sup>17</sup> Fla. Dep't. of Health, *Child Care Food Program Meal Pattern for Children*, (undated), available at <http://www.doh.state.fl.us/ccfp/Nutrition/Children/mealpattern.pdf> (last visited Mar. 27, 2013).

<sup>18</sup> American Academy of Pediatrics, *The Use and Misuse of Fruit Juice in Pediatrics*, (May 1, 2001), available at <http://pediatrics.aappublications.org/content/107/5/1210.full> (last visited Mar. 27, 2013).

## Childhood Obesity

According to the Centers for Disease Control:

- Childhood obesity has more than doubled in children and tripled in adolescents in the past 30 years.
- The percentage of children aged 6–11 years in the United States who were obese increased from 7 percent in 1980 to nearly 18 percent in 2010. Similarly, the percentage of adolescents aged 12–19 years who were obese increased from 5 percent to 18 percent over the same period.
- In 2010, more than one third of children and adolescents were overweight or obese.<sup>19</sup>

Childhood obesity has both immediate and long-term effects on health and well-being.

- Obese youth are more likely to have risk factors for cardiovascular disease, such as high cholesterol or high blood pressure.
- Obese adolescents are more likely to have prediabetes, a condition in which blood glucose levels indicate a high risk for development of diabetes.
- Children and adolescents who are obese are at greater risk for bone and joint problems, sleep apnea, and social and psychological problems such as stigmatization and poor self-esteem.
- Children and adolescents who are obese are likely to be obese as adults and are therefore more at risk for adult health problems such as heart disease, type 2 diabetes, stroke, several types of cancer, and osteoarthritis.
- Overweight and obesity are associated with increased risk for many types of cancer, including cancer of the breast, colon, endometrium, esophagus, kidney, pancreas, gall bladder, thyroid, ovary, cervix, and prostate, as well as multiple myeloma and Hodgkin's lymphoma.<sup>20</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 402.305, F.S., to require licensed child care facilities to serve only low fat or nonfat milk to children over 2; to serve not more than one serving of 100 percent fruit juice daily; and to make drinking water readily available. The bill also prohibits child care facilities from serving beverages with added sweeteners.

**Section 2** provides an effective date of July 1, 2013.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

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<sup>19</sup> Centers for Disease Control and Prevention, *Adolescent and School Health*, available at <http://www.cdc.gov/healthyyouth/obesity/facts.htm> (last visited Mar. 26, 2013).

<sup>20</sup> *Id.*

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:

Providers who are not currently participating in the CCFP or who do not voluntarily comply with the recommendations of the AAP or the Dietary Guidelines for Americans 2010 may have to alter their menus.

C. Government Sector Impact:

Public providers who are not currently participating in the CCFP or who do not voluntarily comply with the recommendations of the AAP or the Dietary Guidelines for Americans 2010 may have to alter their menus.

**VI. Technical Deficiencies:**

The bill appears to remove DCF's general authority to require that meals and snacks meet the nutritional needs of children and substitutes in its place the limited authority to regulate beverages as provided in the bill.

**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.