

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7017 PCB EDC 15-01 Early Learning

**SPONSOR(S):** Education Committee, O'Toole

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 7006

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Committee		Beagle	Mizereck
1) Education Appropriations Subcommittee		deNagy	Heflin

### SUMMARY ANALYSIS

Currently, the School Readiness and Voluntary Prekindergarten Education (VPK) programs are delivered by a diverse range of providers, including licensed and unlicensed child care providers and public and nonpublic schools. The child health and safety standards applicable to each provider type and the degree to which minimum levels of health and safety are inspected and enforced vary widely. The bill increases health and safety of children by:

- Requiring unlicensed private providers to substantially comply with specified health and safety standards and submit to inspections by the Department of Children and Families (DCF) or local licensing agency.
- Requiring providers to notify parents if the provider is cited for a Class I violation and prominently post citations that result in disciplinary action and inspection reports on the premises.
- Making providers sanctioned for Class I violations in the previous year ineligible to offer the School Readiness or VPK programs.

The bill also provides specific grounds in which Early Learning Coalitions (ELC) may immediately terminate a School Readiness or VPK provider's contract, i.e., the provider has been sanctioned for a Class I violation or DCF, a local licensing agency, or a circuit court has ordered the provider to cease operations. The contract must be terminated under these circumstances.

The bill enhances the qualifications of child care personnel working in School Readiness and VPK programs by:

- Phasing in requirements that these personnel must be at least 18 years of age (with exceptions); hold a high school diploma or equivalent credential (with exceptions); and be trained in first aid, CPR, and age-appropriate practices.
- Requiring School Readiness personnel to complete training on the school readiness performance standards.
- Requiring the Office of Early Learning (OEL) to develop online training on the School Readiness program performance standards and provider personnel to complete the training.

Several bill provisions effect child care regulation in general. Among other things, the bill adds failure to report child abuse as a disqualifying offense for child care employment; requires employment history checks; and prohibits licensed child care providers who have been disciplined for serious licensing violations from transferring ownership to relatives in order to avoid sanctions.

Among other things, the bill reduces regulatory burdens on state agencies and child care providers by requiring ELCs, OEL, and DCF to cooperate in reducing paperwork and duplicative regulations; expanding DCF's authority to conduct abbreviated inspections; and extending to large family child care homes certain protections regarding zoning, property insurance, and utility rates currently available to family day care homes.

Lastly, the bill renames the Child Care Executive Partnership as the Child Care Partnership; revises the membership of the partnership's board to include legislative appointments; revises the purpose of the partnership to emphasize soliciting donations from private businesses; shifts responsibility for allocating partnership funds from the board to OEL; and sunsets the partnership in 2018 to allow the Legislature to review its efforts soliciting donations from private businesses.

The bill has a fiscal impact on DCF due to increased regulatory workload and provides an appropriation of \$1,117,084 and 18 new positions to address the impact. Nonpublic schools and license-exempt faith-based providers of state-funded early learning programs may experience increased costs associated with increased health and safety regulation.

The bill takes effect July 1, 2015

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h7017a.EDAS

**DATE:** 3/16/2015

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Early Learning and Child Care Regulation

##### Present Situation

Florida's Office of Early Learning (OEL)<sup>1</sup> provides state-level administration for two state-funded early learning programs serving preschool age children – the School Readiness program and the Voluntary Prekindergarten Education (VPK) program. Both programs differ in purpose and utilize a variety of providers to deliver program services, such as licensed and unlicensed child care providers and public and nonpublic schools.<sup>2</sup> The Florida Department of Children and Families' Office of Child Care Regulation (DCF), as the agency responsible for the state's child care provider licensing program, regulates child care providers that provide early learning programs.<sup>3</sup>

##### School Readiness Program

The School Readiness program provides subsidies for child care services and early childhood education for children of low-income families; children in protective services who are at risk of abuse, neglect, or abandonment; and children with disabilities. The School Readiness Program is a state-federal partnership between OEL and the Office of Child Care of the United States Department of Health and Human Services.<sup>4</sup> 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.<sup>5</sup> The program is administered at the county or regional level by early learning coalitions (ELC).<sup>6</sup>

In order to be eligible to deliver the School Readiness program, a provider must be:

- A licensed child care facility;
- A licensed or registered family day care home (FDCH);
- A licensed large family child care home (LFCCH);
- A public school or nonpublic school;
- A license-exempt faith-based child care provider;
- A before-school or after-school program; or
- An informal child care provider authorized in the state's CCDF plan.<sup>7</sup>

##### Voluntary Prekindergarten Education Program

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<sup>1</sup> In 2013, the Legislature established the Office of Early Learning in the Office of Independent Education and Parental Choice within the Department of Education (DOE). The office is administered by an executive director and is fully accountable to the Commissioner of Education but shall independently exercise all powers, duties, and functions prescribed by law, as well as adopt rules for the establishment and operation of the school readiness program and the Voluntary Prekindergarten Education Program. Section 1, 2013-252, L.O.F., *codified as* s. 1001.213, F.S.

<sup>2</sup> Parts V and VI, ch. 1002, F.S.

<sup>3</sup> *See* ss. 402.301-319, F.S., and Parts V and VI, ch. 1002, F.S.

<sup>4</sup> Part VI, ch. 1002, F.S.; 42 U.S.C. ss. 618 & 9858-9858q.

<sup>5</sup> Specific Appropriation 88, s. 2, ch. 2014-51, L.O.F.

<sup>6</sup> *Sections 1002.83-1002.85, F.S.* There are currently 31 ELCs, which is the maximum permitted by law. Section 1002.83(1), F.S.; *see* Florida's Office of Early Learning, *Early Learning Coalition Directory* (Feb. 5, 2014), <http://www.floridaearlylearning.com/sites/www/Uploads/files/Parents/CoalitionDirectory.pdf>.

<sup>7</sup> Section 1002.88(1)(a), F.S. Generally speaking, informal child care is care provided by a relative. *See* Florida's Office of Early Learning, *Florida's Child Care and Development Fund State Plan FFY 2014-15*, at 71 (Oct. 1, 2013), *available at* [http://www.floridaearlylearning.com/sites/www/Uploads/files/Oel%20Resources/2014-2015 CCDF Plan %20Optimized.pdf](http://www.floridaearlylearning.com/sites/www/Uploads/files/Oel%20Resources/2014-2015%20CCDF%20Plan%20Optimized.pdf).

The VPK program is a voluntary, free prekindergarten program offered to eligible four-year old children in the year before admission to kindergarten.<sup>8</sup> Children enrolled in the VPK program receive instruction in emergent literacy and mathematics skills necessary for kindergarten readiness.<sup>9</sup> A child must be a Florida resident and attain four years of age on or before September 1 of the academic year to be eligible for the VPK program. Parents may choose either a school-year or summer program offered by either a public school or private prekindergarten provider.<sup>10</sup> A parent enrolling a child in the VPK program must complete and submit an application to the ELC. Thus, public school and private prekindergarten providers do not determine child eligibility for the program.<sup>11</sup>

Local oversight of individual VPK program providers is split, with ELCs providing administration over programs delivered by private prekindergarten providers and school districts administering public school VPK programs.<sup>12</sup> Each district school board determines which district schools will offer the school-year and summer VPK programs and such schools must register with the ELC.<sup>13</sup>

The VPK program may be offered by either a private prekindergarten provider or a public school. To offer the VPK program, a private prekindergarten provider must be a:

- Licensed child care facility;
- Licensed FDCH;
- Licensed LFCCH;
- Nonpublic school; or
- License-exempt faith-based child care provider.<sup>14</sup>

In addition, a private prekindergarten provider must:

- Be accredited by an accrediting association that is a member of either the National Council for Private School Accreditation, or the Florida Association of Academic Nonpublic Schools, or be accredited by the Southern Association of Colleges and Schools, the Western Association of Colleges and Schools, the North Central Association of Colleges and Schools, the Middle States Association of Colleges and Schools, or the New England Association of Colleges and Schools; and has written accreditation standards that meet the state's licensing requirements and requires at least one onsite visit before accreditation is granted;<sup>15</sup>
- Hold a current Gold Seal Quality Care designation;<sup>16</sup> or
- Be licensed and demonstrate to the ELC that the provider meets the VPK program's statutory requirements.<sup>17</sup>

Unlicensed (registered) FDCHs and informal child care providers are not eligible to offer the VPK program.<sup>18</sup>

Within the first 30 school days of each academic year, each school district must screen each kindergarten student in the school district to determine his or her readiness for kindergarten. Nonpublic schools are authorized to administer the statewide kindergarten screening to each kindergarten student

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<sup>8</sup> Part V, ch. 1002, F.S.; *see also* Art. IX, s. 1(b)-(c), Fla. Const.

<sup>9</sup> Section 1002.67(1)(a), F.S.

<sup>10</sup> Section 1002.53(2)-(3), F.S.

<sup>11</sup> Section 1002.53(4), F.S.

<sup>12</sup> Sections 1002.53(6), 1002.55(1), 1002.61(1), and 1002.63(1), F.S.

<sup>13</sup> Sections 1002.61(3)(a) and (8)(a) and 1002.63(3) and (8)(a), F.S. School districts must offer a summer VPK program and may limit enrollment at individual public schools so long as admission is provided to every eligible student who seeks enrollment in the district's summer program. Sections 1002.53(6)(b) and 1002.61(3)(a), F.S.

<sup>14</sup> Section 1002.55(3)(a) and (h), F.S.; *see also* rule 6M-8.300(3), F.A.C.; s. 402.305, F.S. (child care facilities licensing); s. 402.3025, F.S. (nonpublic schools); s. 402.313, F.S. (FDCH licensing); s. 402.3131, F.S. (LFCCH licensing); s. 402.316, F.S. (faith-based provider exempt from licensure).

<sup>15</sup> Section 1002.55(3)(b)1., F.S.

<sup>16</sup> Section 402.281, F.S.; rule 65C-22.009, F.A.C.; *see also* Florida Department of Children and Family Services, *Gold Seal Quality Care*, <http://www.dcf.state.fl.us/childcare/goldseal.shtml> (last visited Feb. 21, 2014). DCF issues the Gold Seal Quality Care designation to child care facilities, LFCCHs, and FDCHs that are accredited by a nationally recognized accrediting association with standards that meet or exceed DCF-adopted standards. Section 402.281(1)-(3), F.S.

<sup>17</sup> Section 1002.55(3)(b), F.S.

<sup>18</sup> Section 1002.55(3)(a), F.S..

in a nonpublic school who was enrolled in the VPK program. DOE has adopted the Florida Kindergarten Readiness Screener (FLKRS) for this purpose.<sup>19</sup>

OEL is required to adopt procedures for calculating each VPK provider's kindergarten readiness rate. Currently, the kindergarten readiness rate is the percentage of program completers who score ready for kindergarten on both portions of the FLKRS. It is calculated by dividing the number of program completers who score ready on both measures by the number of program completers who were screened on both measures.<sup>20</sup> The law requires the implementation of a pre- and post-assessment using the Florida VPK Assessment tool to calculate the learning gains made by children while attending VPK. Once implemented, learning gains will be used as a component of the kindergarten readiness rates. This will occur in the 2014-15 program year, when two years of data have been collected and a definition of learning gains is formulated based upon valid assessment data.<sup>21</sup>

### Child Care Personnel and Instructor Qualifications

An application for a child care personnel position with a licensed child care facility, FDCH, or LFCCH must require the applicant to disclose, under penalty of perjury, whether he or she has ever worked for a provider that has had its license denied, revoked, or suspended in any state or jurisdiction or if he or she, individually, has been the subject of a disciplinary action or been fined while so employed.<sup>22</sup> Child care employers must conduct employment history checks on prospective employees.<sup>23</sup> The law generally requires all employers of employees who are subject to background screening requirements to furnish copies of personnel records of employees and former employees, including records of termination or disciplinary actions, when requested by other employers. The law shields such employers from any liability resulting from such release of employment records, unless the employer maliciously falsifies the records.<sup>24</sup>

Child care personnel employed by licensed child care facilities, licensed and registered FDCHs, LFCCHs, licensed-exempt child care providers, and nonpublic schools and VPK program instructors employed by private providers and public schools must undergo Level 2<sup>25</sup> background screening.<sup>26</sup> The Level 2 screening requirement for public school VPK program instructors differs with the screening requirements for other public school instructional personnel. Such personnel are screened against a distinct list of 59 disqualifying offenses.<sup>27</sup>

Currently, the minimum age for employment as child care personnel is 16 years of age.<sup>28</sup> The minimum age for employment in an instructional capacity with a public school district is 18 years of age.<sup>29</sup> Licensed child care facility personnel, licensed and registered FDCH operators, and LFCCH operators must complete introductory child care training and .5 unit of continuing education which includes, among other things, early literacy and language development.<sup>30</sup> Introductory training for licensed child care facility personnel and LFCCH operators includes developmentally appropriate practices courses

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<sup>19</sup> Section 1002.69(1), F.S.; Florida's Office of Early Learning, *VPK Prekindergarten Readiness Rate Resources for Parents*, <https://vpk.fldoe.org/InfoPages/ParentInfo.aspx> (last visited June 12, 2014).

<sup>20</sup> Section 1002.69(5), F.S.; see also rule 6M-8.601 (3), F.A.C. A student is considered to have completed the VPK program if he or she attends the VPK program for 70 percent or more of the total number of instructional hours (*i.e.*, 378 hours of a 540-hour school-year program or 210 hours of a 300-hour summer program). Rule 6M-8.601 (3), F.A.C.

<sup>21</sup> Section 1002.69(5), F.S.

<sup>22</sup> Section 402.3055(1)(b), F.S.

<sup>23</sup> Section 402.302(15), F.S.

<sup>24</sup> Section 435.10, F.S.

<sup>25</sup> Level 2 background screening requires individuals to be screened against a statutorily prescribed list of 52 offenses. See s. 435.04, F.S.

<sup>26</sup> Sections 402.302(15)(definition of screening), 402.305(2)(child care facilities), 402.313(3)(FDCH), 402.3131(2)(LFCCH), 1002.55(3)(d)-(e)(private provider of VPK school year program), 1002.61(5)-(6)(public school and private providers of the VPK summer program), and 1002.63(5)-(6), F.S. (public school provider of school year VPK program).

<sup>27</sup> Sections 1012.315 and 1012.32, F.S.; rule 6A-5.056(8), F.A.C. (crimes involving moral turpitude).

<sup>28</sup> Section 402.305(2)(c), F.S.

<sup>29</sup> Section 1012.32(1), F.S.

<sup>30</sup> Section 402.305(2)(d)1. and 5., F.S. (licensed child care facilities); s. 402.313(1)(a)6. and (6), F.S. and rule 65C-20.009(3), F.A.C. (FDCH) and 402.3131(5), F.S. and rule 65C-20.013(5), F.A.C. (LFCCH).

for serving infants and toddlers, preschoolers, school-age children, and special needs children.<sup>31</sup> There is no requirement that introductory training or continuing education address emergent numeracy skills or that personnel take developmentally appropriate practices courses aligned to the specific age group or child classification to which they are assigned.

A licensed child care facility must have at least one employee on site that is trained in first aid and cardiopulmonary resuscitation (CPR). Operators of licensed FDCHs and LFCCHs and their substitutes must also be trained in these techniques.<sup>32</sup> First aid and CPR training are not required for registered FDCH operators and their substitutes.

Currently, the training requirements for substitutes for licensed FDCH operators differentiate between substitutes who work 40 hours or more per month from those who work less. Substitutes who work 40 hours or more per month must take a 30-clock-hour introductory child care course; a .5 continuing education unit early literacy course, and first aid and CPR training. Substitutes who work less than 40 hours per month must take a 6-clock-hour child care rules and regulations course. These training requirements do not apply to substitutes working in registered FDCHs.<sup>33</sup>

The law specifies minimum allowable educational credentials for VPK program instructors, which vary depending on whether they work for a private or public school provider or teach during a school year or summer program. Such credentials include the child development associate credential, various education and early childhood-related associates or bachelor's degrees, or a Florida professional teaching certificate.<sup>34</sup> There is no requirement that other child care personnel employed by a VPK program provider or School Readiness program provider hold a high school diploma or its equivalent.

The law requires OEL to develop and adopt standards and benchmarks that address the age-appropriate progress of children in the development of school readiness skills. These standards must be aligned with the performance standards adopted for children in the VPK program and must address:

- Approaches to learning.
- Cognitive development and general knowledge.
- Numeracy, language, and communication.
- Physical development.
- Self-regulation.<sup>35</sup>

Each ELC must provide professional development to School Readiness program teachers regarding the OEL-adopted performance standards.<sup>36</sup>

Child Health and Safety

State-funded early learning programs are delivered by a diverse range of providers, including licensed child care providers, licensed-exempt child care providers, public schools, and nonpublic schools. The child health and safety standards applicable to each provider type and degree to which minimum levels of health and safety are inspected and enforced vary widely.

Early Learning Providers by Classification <sup>37</sup>		
December 2014		
Provider Classification	Eligible Providers	
	School Readiness Program	VPK Program

<sup>31</sup> Section 402.305(2)(d), F.S. and rule 65C-22.003(2)(a)3., F.A.C. (licensed child care facilities); s. 402.313(3), F.S. and rule 65C-20.013(5)(b), F.A.C. (LFCCH).

<sup>32</sup> Section 402.305(7)(a), F.S.; rule 65C-20.009(3)(c), F.S.

<sup>33</sup> Section 402.313(1)(a) and (13), F.S.; rule 65C-20.009(3), F.A.C.

<sup>34</sup> Section 1002.55(3)(c)1. and (4), F.S.

<sup>35</sup> Section 1002.82(2)(j), F.S.

<sup>36</sup> Section 1002.83(13), F.S.

<sup>37</sup> Email, Office of Early Learning, Legislative Affairs Director, (Feb. 19, 2015). Regarding the VPK program, there are also 41 providers of specialized instructional services, a program for children with disabilities. *Id.*

Licensed Child Care Facility	5,333	4,661
Licensed FDCH	1,526	39
Registered FDCH	184	Ineligible
Licensed LFCCH	263	46
Public School	959	1,115
Nonpublic School	290	134
Faith-Based Exempt	215	134
Informal Provider	5	Ineligible
Total	8,775	6,129

### Licensed Providers

DCF issues licenses to child care facilities, FDCHs, and LFCCHs. A county may designate a local licensing agency to license such providers if its licensing standards meet or exceed DCF's standards. Five counties have established local licensing agencies – Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota.<sup>38</sup>

Child care provider licenses must be renewed annually.<sup>39</sup> Licensure is optional for FDCHs; however, homes that choose not to be licensed must annually register with DCF or the local licensing agency, as applicable. A county may by ordinance require that FDCHs be licensed. Fifteen counties have enacted such ordinances -- Brevard, Broward, Clay, Duval, Hernando, Hillsborough, Manatee, Miami-Dade, Nassau, Palm Beach, Pasco, Pinellas, Polk, Sarasota, and St. Johns.<sup>40</sup> Among other things, licensed child care facilities, FDCHs, and LFCCHs must annually provide information to parents regarding the influenza virus during the months of August and September.<sup>41</sup>

DCF conducts inspections of all licensed child care providers to determine initial and renewal licensure and periodically assess continued compliance with licensing standards. Licensed child care facilities are inspected three times annually. LFCCHs and licensed FDCHs are inspected twice annually. In each case, the first inspection is an announced initial or renewal licensing inspection. Subsequent inspections are unannounced.<sup>42</sup>

Licensed child care facilities are inspected based upon 354 total licensing standards in 63 categories. Licensed FDCHs are inspected based upon 261 total standards in 38 categories. LFCCHs are inspected based upon 321 total standards in 55 categories.<sup>43</sup> Legislation enacted in 1996 directed DCF and local licensing agencies to develop and implement a plan to eliminate duplicative and unnecessary inspections and implement an abbreviated inspection plan for providers with no Class I or Class II violations in a two-year period.<sup>44</sup> DCF's abbreviated inspection plan is only applicable to child care facilities. Abbreviated inspections consist of 39 of the 63 categories of standards and only the initial or renewal licensing inspection is a full inspection.<sup>45</sup>

DCF rule classifies licensing violations as follows:

- Class I violations are the most serious in nature, pose an imminent threat to a child including abuse or neglect and which could or does result in death or serious harm to the health, safety or well-being of a child.

<sup>38</sup> Section 402.306(1), F.S.; Department of Children and Families, *Licensing Information*, <http://www.myflfamilies.com/service-programs/child-care/licensing-information> (last visited Feb. 10, 2015).

<sup>39</sup> Sections 402.305 and 402.306-402.308, F.S.

<sup>40</sup> Section 402.313(1), F.S.; see Department of Children and Families, *Registered Family Day Care Homes*, <http://www.myflfamilies.com/service-programs/child-care/registered-family-day-care> (last visited Feb. 10, 2015).

<sup>41</sup> Sections 402.305(9), 402.313(14), and 402.3131(9), F.S.

<sup>42</sup> Sections 402.308 and 402.311, F.S. Licensing standards are found throughout ss. 402.301-402.319, F.S., and ch. 65C-22, F.A.C. Prior to 2010, DCF and the Department of Health (DOH) shared responsibility for health/safety inspections of child care facilities. However, legislation enacted that year removed child care facility inspections from the purview of DOH. See, e.g., ss. 17 and 18, ch. 2010-161, L.O.F.; Memorandum of Agreement between DCF and DOH (April 16, 1997).

<sup>43</sup> *Id.*; ch. 65C-22, F.A.C.

<sup>44</sup> Section 79, ch. 96-175, L.O.F., *codified as* s. 402.3115, F.S.

<sup>45</sup> Email, Department of Children and Families, Legislative Affairs Director (Dec. 2, 2013).

- Class II violations are less serious in nature than Class I violations, and could be anticipated to pose a threat to the health, safety or well-being of a child, although the threat is not imminent.
- Class III violations are less serious in nature than either Class I or Class II violations, and pose a low potential for harm to children.<sup>46</sup>

<b>Licensed Child Care Provider Standards By Class of Violation</b>			
<b>Provider Type</b>	<b>Class I</b>	<b>Class II</b>	<b>Class III</b>
<b>Child Care Facility</b>	21 standards	104 standards	229 standards
<b>Family Day Care Home</b>	28 standards	83 standards	150 standards
<b>Large Family Child Care Home</b>	31 standards	96 standards	194 standards

Class I violations include serious threats to health and safety, e.g., failure to report child abuse, child abuse by child care personnel, leaving children alone with personnel who have not been background screened, transporting children in vehicles without enough seat belts, and leaving a child in a vehicle while on a field trip. Although Class I violations are the most serious type of violation, the overwhelming majority of citations are for Class II and Class III violations.<sup>47</sup>

<b>Citations for Licensing Violations by Classification and Provider Type FY 2013-14<sup>48</sup></b>			
<b>Provider Type</b>	<b>Class I</b>	<b>Class II</b>	<b>Class III</b>
<b>Licensed Child Care Facility</b>	80	3173	8791
<b>LFCCH</b>	3	85	201
<b>Licensed FDCH</b>	21	430	881
<b>Total</b>	104	3688	9873

An OEL review of 2012-13 DCF child care licensing inspection results indicates that 106 providers of the School Readiness or VPK programs were issued Class I violations. Since the initial review of the data, eight of the child care providers closed leaving 98 providers with a total of 118 Class I violations. Class I violations were issued for:

- Leaving unscreened individuals alone to supervise children: 25
- Failure to report child abuse: 19
- Inadequate supervision of children in care: 19
- Exceeding vehicle capacity or available child restraints while transporting children: 17
- The number of children in care exceeding licensed capacity: 8
- Misrepresentations by provider personnel to inspectors: 7
- Leaving a child behind in a vehicle: 6
- Use of prohibited forms of discipline: 6
- Records indicating an active employee was convicted of a disqualifying offense: 4
- Child abuse/neglect by a provider: 3
- Failure to follow medication instructions: 3
- Failure to inspect a vehicle after off-loading children: 1
- Total: 118<sup>49</sup>

The law authorizes DCF and local licensing agencies to impose sanctions on child care providers for licensing violations and other misconduct. Sanctions include license suspension or revocation, fines, probation. When cause exists to impose sanctions, DCF or the local licensing agency must provide written notice to the licensee stating the grounds for the sanction and, if requested, grant a hearing on

<sup>46</sup> Rule 65C-22.010(1)(d), F.A.C.

<sup>47</sup> See, e.g., Florida Department of Children and Families, *Facility/Center Classification Summary* (July 2012), available at [http://ccrain.fl-dcf.org/\(X\(1\)\)/documents/2/443.pdf#page=1](http://ccrain.fl-dcf.org/(X(1))/documents/2/443.pdf#page=1).

<sup>48</sup> Email, Department of Children and Families, Legislative Affairs (Feb. 12, 2015).

<sup>49</sup> Email, Office of Early Learning, Legislative Affairs Director (Dec. 4, 2013).

the matter.<sup>50</sup> The law also authorizes DCF and local licensing agencies to issue an emergency suspension order or obtain an injunction from a circuit court to close a provider.<sup>51</sup>

The law requires the owner of a licensed child care facility to notify parents of each child in care regarding any transfer of ownership of the facility. The new owner must apply for a new license.<sup>52</sup> The law does not prohibit the owner of a licensed child care facility from transferring ownership to a relative after having his or her license suspended or revoked or after suspension or revocation proceedings are initiated by DCF or a local licensing agency.

The requirements regarding notifying parents of licensure status and violations vary by child care provider type:

- Each child care facility and LFCCH must conspicuously display on the premises its license.<sup>53</sup>
- Each child care facility must post conspicuously on the premises any citations that resulted in disciplinary action for one-year after its effective date.<sup>54</sup>
- Child care facilities, FDCHs, and LFCCHs must distribute to parents a DCF-developed brochure indicating the licensure status of the provider and that information about the provider's compliance with applicable state and local requirements (including violations) can be obtained by telephoning DCF or the local licensing agency.<sup>55</sup>

These requirements are inapplicable to license-exempt faith-based providers and nonpublic schools. Such providers delivering the School Readiness program must annually complete a health and safety checklist, which must be posted prominently on the premises where parents can view it. The check list must be submitted to the ELC, but the ELC does not have authority to investigate and verify the accuracy of the information therein.<sup>56</sup>

#### *License-Exempt Faith-Based Providers*

Child care facilities that are an integral part of a church or parochial school and accredited by an organization which requires compliance with published health, safety, and sanitation standards are exempt from licensure. DCF does not have authority to investigate whether the accreditor of a faith-based provider actually conducts site visits or otherwise enforces compliance with its health and safety standards.<sup>57</sup>

#### *Public and Nonpublic Schools*

The law requires each public and nonpublic school facility to obtain an environmental health inspection by the local county health department<sup>58</sup> and fire safety inspection by the local fire authority prior to opening and operating in Florida.<sup>59</sup> Sanitation and safety standards for public and nonpublic school facilities are prescribed in State Board of Education rule and county health departments apply these standards when inspecting facilities.<sup>60</sup> For public schools, the law requires that these inspections be conducted periodically.<sup>61</sup> The law is silent regarding the frequency of inspections for nonpublic schools and the Department of Education (DOE) does not verify that nonpublic schools obtain inspections,

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<sup>50</sup> Sections 402.310(1)(a), (2), and (3) and 120.60, F.S.

<sup>51</sup> Sections 402.310 and 402.312, F.S.; rule 65C-22.010, F.A.C.

<sup>52</sup> Section 402.305(18), F.S.

<sup>53</sup> Section 402.3125(1)(a), F.S. (child care facilities); s. 402.3131(7) and rule 65C-20.013(3)(g), F.A.C. (LFCCHs);

<sup>54</sup> Section 402.3125(1)(b), F.S.

<sup>55</sup> Sections 402.3125(5), 402.313(9), and 402.3131(6), F.S.

<sup>56</sup> Section 1002.88(1)(c), F.S.

<sup>57</sup> Sections 402.3025 and 402.316, F.S.

<sup>58</sup> Sections 381.006(16) and 1013.12, F.S. Nonpublic schools are also required to register with the DOE. Section 1002.41, F.S.

<sup>59</sup> Sections 633.206 and 1013.12, F.S.; rule 69A-58, F.A.C. (fire safety in educational facilities).

<sup>60</sup> See rules 6A-2.0010, 6A-2.0040, and 64E-13.004, F.A.C.

<sup>61</sup> Section 1013.12, F.S.

unless the nonpublic school participates in a state-funded school choice scholarship program, in which case the school must annually submit a compliance form to DOE documenting annual health and fire inspections.<sup>62</sup>

Prior to opening, nonpublic schools must also obtain a signed inspection report from the county or city electrical, plumbing, and building department certifying that the school facility meets local standards for educational facilities. If a public or nonpublic school serves or caters food, Department of Health food safety standards apply and a food permit is required. The local county health department permits and inspects food service at all educational facilities.<sup>63</sup>

Currently, unlicensed nonpublic school programs for children who are at least three years of age, but under five years of age, must substantially comply with minimum child care standards for licensed child care facilities. The law defines “substantial compliance” to mean “that level of adherence which is sufficient to safeguard the health, safety, and well-being of all children under care. Substantial compliance is greater than minimal adherence but not to the level of absolute adherence. Where a violation or variation is identified as the type which impacts, or can be reasonably expected within 90 days to impact, the health, safety, or well-being of a child, there is no substantial compliance.”<sup>64</sup>

DCF or a local licensing agency must enforce substantial compliance with the standards to protect child health and safety. Enforcement mechanisms include corrective action plans, fines, and seeking a court order to close a school if conditions there pose a threat to child safety. DCF and local licensing agencies must take measures to eliminate duplicative inspections and unnecessary regulation, as practicable. Nonpublic school personnel who misrepresent or fail to disclose information regarding qualification for the licensing exemption or misuse criminal and juvenile delinquency records obtained in employee background screening may be subjected to criminal penalties.<sup>65</sup> The “substantial compliance” requirement was never implemented by DCF, and has only been implemented by four local licensing agencies -- Broward, Hillsborough, Palm Beach, and Pinellas.<sup>66</sup>

### *Registered Family Day Care Homes*

A registered FDCH must annually register with DCF by submitting the following information:

- The name and address of the home, name of the operator, and number of children served.
- Proof of a written plan to provide a substitute for the operator that includes the name, address, and telephone number of the substitute.
- Proof of screening and background checks.
- Proof that the operator has completed the 30-hour introductory child care training course, as evidenced by passage of a competency examination, and continuing education.
- Proof that immunization records are kept current.<sup>67</sup>

Substitutes for the operator of a registered FDCH are not currently required to complete any training.<sup>68</sup> Operators of FDCHs must annually complete a health and safety self-evaluation checklist. The checklist must be signed by the operator and provided to parents as certification that specified health and safety standards are being met. There is no requirement that the checklist be submitted to DCF, nor does DCF have authority to inspect registered FDCHs.<sup>69</sup>

### *Informal Child Care Providers*

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<sup>62</sup> Section 1002.421(2), F.S. State funded scholarship programs include the John M. McKay Scholarships for Students with Disabilities Program, Personal Learning Scholarship Accounts Program, and Florida Tax Credit Scholarship Program. Sections 1002.39, 1002.385, and 1002.395, F.S.

<sup>63</sup> Section 381.0072, F.S.; ch. 64E-11, F.A.C

<sup>64</sup> Section 402.302(17), F.S.

<sup>65</sup> Section 402.3025(2)(d), F.S.

<sup>66</sup> Department of Children and Families, *Provider Information*, <https://www.dcf.state.fl.us/programs/childcare/programform.shtml> (last visited Feb. 10, 2015).

<sup>67</sup> Section 402.313(1)(a), F.S.

<sup>68</sup> *Id.*

<sup>69</sup> Section 402.313(7), F.S.

Informal providers are individuals who provide in-home child care for a relative or family friend. Federal law requires that states include informal child care providers in CCDF child care programs, i.e., the School Readiness program.<sup>70</sup> Florida's CCDF state plan specifies the eligibility conditions for informal provider participation in the School Readiness program. Among other things, such providers must undergo Level 1 background screening<sup>71</sup> and a Child Abuse and Neglect Screening. Informal providers may only provide care for the children of one family and must complete an annual health and safety checklist and maintain liability or homeowner's insurance coverage.<sup>72</sup>

### Statewide School Readiness and VPK Program Provider Contracts

Currently, the law requires OEL to adopt standard provider contracts for the VPK and School Readiness programs. Among other things, the standard contracts must address provider probation, termination of the contract for cause, and emergency termination stemming from an imminent threat to child health, safety, and welfare.<sup>73</sup> Under both standard contracts adopted by OEL, emergency termination is triggered when the ELC receives notice from DCF that child health, safety, and welfare is in jeopardy. However, the two standard contracts differ in that emergency termination in these circumstances is mandatory for School Readiness providers, whereas an ELC has discretion to bring an emergency termination against VPK providers. ELCs may implement an emergency termination "immediately," e.g., with 24 hours' notice to the provider, whereas contract provisions regarding termination for cause require the ELC to provide at least five calendar days' notice to School Readiness providers and at least 14 business days' notice to VPK providers. The standard contracts also state parameters for other penalties, e.g., probation, withholding of funds, and corrective action.<sup>74</sup>

Additionally, a provider may not offer School Readiness or VPK services during the pendency of an appeal of a termination for cause or emergency termination.<sup>75</sup> Under OEL's appeal procedure, an appeal of a termination may take approximately 60 days or more to complete.<sup>76</sup>

### Child Care Executive Partnership Program

Florida law establishes the Child Care Executive Partnership Program to provide incentives to employers to provide child care subsidies to low-income working parents. State and federal funds are matched with funds generated locally through contributions from local governments,<sup>77</sup> employers, charitable foundations, and other sources. Donors who make contributions to the partnership may direct the funds to provide child care subsidies to their own employees or to the local ELC's general purchasing pool.<sup>78</sup>

The partnership's board consists of 10 members appointed by the Governor. The terms of the most recent board expired June 30, 2013, and new members have not been appointed. The board is required to:

- Make recommendations concerning the implementation and coordination of the school readiness program.

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<sup>70</sup> 45 C.F.R. s. 98.30; *see* s. 1002.88(1)(a), F.S.

<sup>71</sup> Level 1 screening includes, without limitation, employment history, state and local criminal records, and sex offender registry checks. Section 435.03(1), F.S.

<sup>72</sup> Florida's Office of Early Learning, *Florida's Child Care and Development Fund Plan for FFY 2014-2015*, at 62-63 (Oct. 1, 2013), available at [http://www.floridaearlylearning.com/sites/www/Uploads/files/Oel%20Resources/2014-2015\\_CCDF\\_Plan\\_%20Optimized.pdf](http://www.floridaearlylearning.com/sites/www/Uploads/files/Oel%20Resources/2014-2015_CCDF_Plan_%20Optimized.pdf).

<sup>73</sup> Section 1002.82(2)(m), F.S.

<sup>74</sup> *See* Office of Early Learning, *Statewide School Readiness Provider Contract*, [http://www.floridaearlylearning.com/providers/provider\\_resources/provider\\_contract.aspx](http://www.floridaearlylearning.com/providers/provider_resources/provider_contract.aspx) (last visited Feb. 20, 2015) (*see* pages 11-14) [hereinafter *School Readiness Contract*]; *see* Office of Early Learning, *VPK Program Statewide Provider Agreement*, at 5-6 (April 30, 2010), available at [http://www.floridaearlylearning.com/sites/www/Uploads/Form\\_OEL-VPK\\_20\\_07-15-10\\_LOGO\\_\(06-13-13\)\(ENABLED\).pdf](http://www.floridaearlylearning.com/sites/www/Uploads/Form_OEL-VPK_20_07-15-10_LOGO_(06-13-13)(ENABLED).pdf).

<sup>75</sup> Section 1002.82(2)(m), F.S.

<sup>76</sup> *See, e.g., School Readiness Contract, supra* note 74, at 23-25.

<sup>77</sup> Local government participants currently include counties, municipalities, and children's services councils. *See OPPAGA CCEP Memorandum, infra* note 79.

<sup>78</sup> Section 1002.94(1), F.S.

- Solicit, accept, receive, invest, and expend funds from public or private sources.
- Contract with public or private entities as necessary.
- Approve an annual budget.
- Provide an annual report to the Governor and legislative leadership.<sup>79</sup>

The board is responsible for allocating partnership funds to local ELCs. The Legislature appropriated \$15 million to the partnership in both FY 2013-14 and FY 2014-15. This funding is currently not being utilized because no board exists to allocate the funds. OEL has shifted other School Readiness funds to prevent disenrollment of children.<sup>80</sup>

The Office of Program Policy Analysis and Government Accountability (OPPAGA) recently evaluated, among other things, the partnership's effectiveness in raising local matching funds. According to OPPAGA, "the program has been successful in raising funding from local government and not-for-profit entities but has had difficulty attracting private business contributors that are not in the child care industry." The "overwhelming" majority of funds raised by the partnership were from child care businesses, most of which used the funds to provide subsidized child care to their employees in their own facilities.<sup>81</sup>

ELCs must establish a local task force for each child care purchasing pool to determine use of funds. According to OPPAGA, many ELCs have assumed the duties of these task forces. The Redlands Christian Migrant Association is currently participating in the partnership, but lacks specific authority to do so because it is not an ELC.<sup>82</sup>

OPPAGA made several recommendations for improving the program, including:

- Changing the name of the program to better reflect its purpose.
- Refocusing the mission of the partnership on soliciting donations from private business that are not child care.
- Providing OEL with authority to make funding allocations.
- Eliminating establishment of local task forces for each child care purchasing pool and transferring task force duties to ELCs.
- Specifically authorizing Redlands Christian Migrant Association to participate in the program.<sup>83</sup>

## Effect of Proposed Changes

Currently, the state-funded School Readiness and VPK programs are delivered by a diverse range of providers, including public schools, licensed child care providers, licensed-exempt child care providers, and nonpublic schools. The child health and safety standards applicable to each provider type and degree to which minimum levels of health and safety are inspected and enforced varies widely. This bill holds all providers of state-funded early learning programs accountable to high standards of health and safety and site inspections. It also increases the qualifications and training for child care personnel employed by such providers. The bill empowers parents to make informed child care decisions by requiring that early learning providers cited for health and safety violations notify parents regarding violations. While the bill increases health and safety requirements for some providers, a number of the bill's provisions reduce regulatory burdens on state agencies and child care providers.

Additionally, the bill directs the Division of Law Revision and Information to prepare a reviser's bill for the 2016 general session to change the terms "family day care home" and "family day care" to "family child care home" and "family child care." *The term "family day care home" (FDCH) is used in the Effect of Proposed Changes section of this bill analysis to avoid confusion.*

<sup>79</sup> Section 1002.94(1)-(2), F.S.; Office of Program Policy and Government Accountability, *Child Care Executive Partnership Program*, at 1 (Nov. 17, 2014)[hereinafter *OPPAGA CCEP Memorandum*].

<sup>80</sup> Specific Appropriation 78A, s. 2, ch. 2013-40, L.O.F.; Specific Appropriation 87, s. 2, ch. 2014-51, L.O.F.; *OPPAGA CCEP Memorandum*, *supra* note 79, at 3.

<sup>81</sup> *OPPAGA CCEP Memorandum*, *supra* note 79 at 3.

<sup>82</sup> Section 1002.94(2)(d), F.S.; *OPPAGA CCEP Memorandum*, *supra* note 79, at 7-8.

<sup>83</sup> *OPPAGA CCEP Memorandum*, *supra* note 79, at 9.

## Health, Safety, and Welfare

The bill maintains eligibility to offer the School Readiness program for public schools, licensed child care facilities, licensed FDCHs and LFCCHs, license-exempt faith-based providers, nonpublic schools, and informal providers. The bill removes registered FDCHs as eligible School Readiness program providers.

The bill maintains eligibility to offer the VPK school year program for licensed child care facilities, licensed FDCHs, LFCCHs, license-exempt faith-based providers, and nonpublic schools and the existing requirement that unlicensed providers either be accredited by an authorized accreditor or hold a Gold Seal Quality Care Designation. U.S. Department of Defense (DOD)-certified child development centers operating on military installations are added as a new class of eligible private provider.

The bill requires each School Readiness or VPK program provider to comply with basic health and safety standards and specifies the manner for achieving such compliance. For licensed child care providers, this requirement is met through compliance with applicable licensing standards. For public schools, this requirement is met through compliance with existing public school health and safety requirements. The bill does not specify standards for child development centers operating on military bases. Health and safety in these centers is regulated according to standards adopted by DOD, which, among other things, require centers to be inspected at least four times annually.<sup>84</sup>

Most significantly, license-exempt faith-based providers, nonpublic schools, and informal providers must demonstrate substantial compliance with specified child care licensing standards, i.e., standards related to supervision, transportation, access, health, food and nutrition, personnel screening, records, and enforcement. The bill grants DCF and local licensing agencies, as applicable, authority to inspect the premises of such providers.

The bill authorizes DCF or a local licensing agency, as applicable, to issue a certificate of substantial compliance to license-exempt faith-based, nonpublic school, and informal providers of the state-funded early learning programs. Such a school or provider must obtain the certificate in order to offer the programs. The school or provider must pass a site inspection prior to issuance of the certificate. The certificate is valid for one year and must be renewed annually.

The statutory definition of "substantial compliance" is revised to apply directly to license-exempt faith-based, nonpublic school, and informal providers of the state-funded early learning programs. Under the bill, "substantial compliance" means "that level of adherence to adopted standards which is sufficient to safeguard the health, safety, and well-being of all children under care." These new requirements may not be applied in a manner that limits or excludes the curriculum provided by a faith-based provider or nonpublic school. The substantial compliance requirement may not be construed to authorize the state, its officers, local licensing agencies, or any ELC to exceed the regulatory authority granted by the bill.

Additionally, the bill preserves existing authority of local licensing agencies to require compliance with minimum child care standards by unlicensed nonpublic school programs for children who are three to four years of age. Such compliance is currently required by the local licensing agencies of Broward, Hillsborough, Palm Beach, and Pinellas counties. Enforcement of compliance with minimum child care standards must be consistent with that of "substantial compliance," including the limitation on government authority to regulate curriculum.

A private provider is ineligible to offer the School Readiness program or VPK program if it is sanctioned by DCF or a local licensing agency for a Class I violation in the 12 months prior to seeking initial or renewal eligibility. Such a provider is eligible to reapply for program participation 12 months after final disposition of the sanction. The bill also requires providers to notify parents by the close of the next business day following receipt of a citation for a Class I violation. For purposes of provider ineligibility, "final disposition" means the date when a sanction becomes final, after appeals and fulfillment of any

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<sup>84</sup> 10 U.S.C. s. 1794; *see, e.g.*, Army Regulation 608-10.

conditions placed upon the provider pursuant to the sanction, as applicable. In contrast, parental notice is required upon initial citation for a class I violation, which occurs before appeals or sanctions.

The bill revises provisions regarding the statewide standard provider contracts for the School Readiness and VPK programs to eliminate reference to “emergency” terminations and the broad criteria for instituting such terminations, e.g., imminent threats to child health, safety, and welfare. Instead, the bill states specific grounds for “immediately” terminating the contract, i.e., the provider is sanctioned for a Class I violation or is ordered to cease operations by DCF, a local licensing agency, or a circuit court. The bill requires an ELC to immediately terminate the contract under these circumstances. If the contract termination is the result of a sanction for a class I violation, the provider is eligible to reapply for program participation 12 months after final disposition of the sanction. If the contract is terminated for other reasons, the provider is eligible to reapply for program participation 12 months after the date of termination. Furthermore, the bill does not alter existing law regarding termination of the contract for cause or an ELC’s discretion to choose other measures for addressing provider noncompliance, such as probation, withholding funds, or corrective action.

Current law prohibits providers from providing School Readiness or VPK services during the pendency of an appeal of a contract termination, regardless of the grounds for termination. The bill allows a provider to continue providing services while appealing termination of its contract if the termination is not the result of a sanction for a Class I violation or DCF, local licensing agency, or circuit court order to cease operations.

The bill also requires providers to post citations that result in disciplinary action and inspection reports on the premises in an area visible to parents. Such citations must remain posted for a period of one year. Each inspection report must remain posted until the next inspection report is available, at which time the provider must post the new report. OEL is directed to develop and implement best practices for providing parental notifications, including those related to violations, in a parent’s native language if the parent’s native language is a language other than English.

The bill prohibits the owner of a child care facility, FDCH, or LFCCH from transferring ownership to a relative if the owner has had his or her license suspended or revoked by DCF, has received notice from DCF that reasonable cause exists to suspend or revoke the license, or has been placed on the U.S. Department of Agriculture National Disqualified list. The bill defines “relative” to mean father, mother, son, daughter, grandfather, grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.

The bill revises the requirement that licensed child care facilities and FDCHs and LFCCHs provide influenza information to parents during August and September each year. Instead, such information must be provided to parents upon enrollment of the child. Thus, children who enroll after August or September will get this information.

### Child Care Personnel and Instructors

The bill revises several training requirements and employment qualifications applicable to child care personnel employed by early learning program providers:

- Beginning January 1, 2017, child care personnel employed by a School Readiness provider or private VPK provider must be at least 18 years of age and hold a high school diploma (or equivalent).
- By January 1, 2016, at least 50 percent of instructors employed by a School Readiness or VPK provider at each location must complete training in infant and child first aid and CPR. Instructors hired on or after January 1, 2016, must complete this training, as a condition of employment, within 60 days of employment.
- School Readiness and VPK program personnel who supervise children must complete the applicable DCF developmentally appropriate practices course within 30 days of being assigned to supervise an age group of children for which such course has not been completed.

- OEL must develop online training on the School Readiness program performance standards and provider personnel must complete the training.

The new minimum age and diploma requirements will not apply to personnel who are not responsible for supervision of children or under direct supervision by a qualified staff member. The CPR/First Aid requirement will not apply to personnel who are not responsible for supervision of children. The bill's changes to training requirements increase the likelihood that individuals caring for children in state-funded early learning programs are able to respond to emergencies that threaten child safety; have basic reading, writing, and speaking ability necessary to teach early literacy skills; and receive training aligned to the age and needs of children served.

Several bill provisions affect all child care personnel while others impact personnel employed by a specified provider classification. Failure to report child abuse is added as an employment disqualifier for all child care personnel statewide, including School Readiness and VPK program personnel and instructors. The bill eliminates Level 2 screening for public school provider employees and instead subjects them to the background screening requirements applicable to public school instructional personnel.

The bill also clarifies the process child care employers must use to conduct employment history checks on prospective employees. Before employing child care personnel, the employer must conduct employment history checks of each of the personnel's previous employers and document the findings. If unable to contact a previous employer, the employer must document efforts to contact the employer.

The bill adds a requirement that introductory child care and continuing education trainings for personnel serving in licensed child care facilities, FDCHs, and LFCCHs include instruction regarding emergent numeracy skills. This change better aligns this training with skills taught in the School Readiness and VPK programs.

### Early Learning Program and Child Care Administration

The bill requires VPK program providers to provide parents information about the provider's program such as child development information, expectations for parent engagement, the daily schedule, and the attendance policy. School Readiness and VPK program provider attendance policies must include procedures for contacting a parent on the second consecutive day a child is absent for which the reason is unknown. The bill expands eligibility for the School Readiness program currently granted to children with disabilities aged three to five to include such children age birth to five.

The bill reduces regulatory burdens on child care providers and state agencies by:

- Authorizing ELCs to allow private providers or public schools to determine child eligibility for and enroll children in the VPK program. These providers must maintain enrollment records and ELCs may audit the records in order to detect fraud or errors.
- Requiring ELCs, OEL, and DCF to cooperate in reducing paperwork and duplicative regulation regarding the VPK program.
- Clarifying that worker's and unemployment compensation requirements do not apply to early learning providers who are exempt under state and federal law.
- Eliminating the requirement that private School Readiness program providers add the local ELC as an additional insured on its liability insurance policy.
- Expanding DCF's authority to conduct abbreviated inspections to include FDCHs and LFCCHs. These inspections currently apply only to licensed child care facilities with no class 1 or 2 violations in a two year period.

The bill specifically authorizes OEL to hire a general counsel and inspector general. The duties of the Early Learning Advisory Council (ELAC) are revised to specify that it must provide written input to OEL's executive director regarding early learning program administration, efficient use of funding, professional development, and ELC plans. The bill also charges the executive director with responsibility to call ELAC meetings and determine appropriate levels of administrative support for ELAC.

Current law requires OEL to investigate suspected fraud committed by ELCs and early learning providers and refer criminal violations to the Department of Financial Services (DFS).<sup>85</sup> The bill gives OEL flexibility to refer criminal violations that are not within DFS's jurisdiction to the appropriate law enforcement agency.

The bill requires OEL to use pre-and post-assessment data to calculate kindergarten readiness rates, which will include learning gains. The bill requires OEL to conduct a two-year pilot project to study the impact of assessing the kindergarten readiness of VPK program participants who are English Language Learners (ELL) in both English and Spanish. Under the pilot, OEL will administer the Florida Assessments for Instruction in Reading and an appropriate assessment in Spanish. OEL must examine the results of the assessments and report its findings annually to the Governor, President of the Senate, and Speaker of the House of Representatives. The purpose of the pilot project is to better ascertain the capabilities and kindergarten readiness of ELLs, which may otherwise be masked by their lack of English proficiency.

The bill also requires OEL and ELCs to report more specific information regarding expenditures on child care quality and enhancement activities, i.e., the specific activity funded; the effectiveness of the activity; and the number of providers, staff or parents that participated. Currently, only total expenditures are reported. This change will facilitate evaluation of quality expenditures for effectiveness. The bill also requires OEL to post links on its website to DCF's child care provider database. This will enable parents to more readily access information on providers.

The bill also contains several glitch fixes requested by OEL, which, generally speaking, align state law with federal law, the state CCDF plan, or existing administrative practices. Additionally, the bill authorizes ELCs to use School Readiness program quality improvement funds to provide financial support to providers and their staff for, among other things, obtaining a license or accreditation and CPR and first aid training.

### Family Day Care Homes and Large Family Child Care Homes

The bill requires each FDCH to conspicuously post its license or registration on the premises in an area viewable by parents. Each LFCCH must also post its license on the premises. The bill also repeals obsolete provisions requiring DCF to conduct a media campaign to inform the public regarding registration and other operational requirements related to FDCHs. This requirement dates back to early codification of FDCHs and has been fulfilled.<sup>86</sup>

The bill codifies the training requirements in DCF rule for licensed FDCH substitutes, which differentiate between substitutes who work 40 hours or more per month from those who work less. The bill requires substitutes in registered FDCHs to complete the same training as substitutes in licensed FDCHs. Currently, there are no training requirements for such substitutes.

Current law provides special benefits to FDCHs regarding zoning, property insurance, and utility rates that are not provided to LFCCHs, likely because LFCCHs were codified after these provisions were enacted.<sup>87</sup> The law prohibits:

- Counties and municipalities from requiring that FDCHs be commercially zoned;

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<sup>85</sup> Section 1002.91(3), F.S.

<sup>86</sup> See s. 402.313(11), F.S.

<sup>87</sup> Compare, e.g., s. 15, ch. 99-304, L.O.F. (LFCCH statute enacted 1999.) with s.3, ch. 86-87, L.O.F. (FDCH county and municipal zoning exceptions enacted 1986.).

- Property and casualty insurers from canceling residential insurance coverage solely because the residence operates as a FDCH; and
- Utilities from charging FDCHs commercial utility rates.<sup>88</sup>

The bill extends these zoning, insurance, and utility rate benefits to LFCCHs.

### Child Care Executive Partnership Program

The bill revises the purpose and duties of the Child Care Executive Partnership Program and membership of the partnership's board to better focus the program on soliciting donations from private businesses that are not child care providers. The bill implements several of OPPAGA's recommendations by:

- Changing the name of the "Child Care Executive Partnership" to the "Child Care Partnership."
- Transferring authority to allocate funds from the board to OEL and instead requiring the board to establish funding priorities and make recommendations on use of partnership funds.
- Eliminating the requirement that ELCs establish local task forces for each child care purchasing pool, thereby transferring task force duties to ELCs.
- Specifically authorizing Redlands Christian Migrant Association to participate in the program.

Additionally, the bill:

- Reduces the partnership board's membership from 10 to five members, three of whom must be appointed by the Governor, with the Speaker of the House of Representatives and President of the Senate each appointing one member.
- Requires that the all five board members represent private sector corporate businesses.
- Eliminates the board's authority to contract with public or private entities.
- Prohibits use of partnership funds to cover parent fees.

The bill specifically allows participation in the partnership by:

- Private businesses, including child care providers;
- Employers;
- Charitable foundations and other not-for-profit entities; and
- Counties, municipalities, and Children's services councils.

The bill requires all contributors to donate funds directly to ELCs or RCMA. Before matching contributions from child care providers, ELCs and RCMA must verify the parent's employment and child's enrollment with the provider. Contributions by counties and municipalities may not be matched unless the contribution is approved and clearly identified as a contribution to the partnership in the annual budget.

The bill also gives OEL greater flexibility to allocate or reallocate partnership funds to prevent disenrollment of children from School Readiness or partnership-funded child care.

Lastly, the bill provides for annual legislative review of the effectiveness of the partnership in securing contributions from private business and sunsets the partnership in 2018 so that the Legislature can consider revision or repeal of the program.

## B. SECTION DIRECTORY:

**Section 1.** Creates an unnumbered section of law directing the Division of Law Revision and Information to change the term "family day care home" to "family child care home."

**Section 2.** Amends s. 125.0109, F.S., relating to family day care homes; local zoning regulation (counties).

<sup>88</sup> See ss. 125.0109, 166.0445, 627.70161, and 402.313(12), F.S.

**Section 3.** Amends s. 166.0445, F.S., relating to family day care homes; local zoning regulation (municipalities).

**Section 4.** Amends s. 402.302, F.S., relating to child care definitions.

**Section 5.** Amends s. 402.3025, F.S., relating to public and nonpublic schools.

**Section 6.** Amends s. 402.305, F.S., relating to licensing standards; child care facilities.

**Section 7.** Creates s. 402.3085, F.S., relating to a certificate of substantial compliance with minimum child care standards.

**Section 8.** Amends s. 402.311, F.S., relating to inspection.

**Section 9.** Amends s. 402.3115, F.S., relating to elimination of duplicative and unnecessary inspections; abbreviated inspections.

**Section 10.** Amends s. 402.313, F.S., relating to family day care homes.

**Section 11.** Amends s. 402.3131, F.S., relating to large family child care homes.

**Section 12.** Amends s. 402.316, F.S., relating to licensing exemptions for faith-based child care.

**Section 13.** Amends s. 627.70161, F.S., relating to residential property insurance coverage; family day care homes.

**Section 14.** Amends s. 1001.213, F.S., relating to Office of Early Learning.

**Section 15.** Amends s. 1002.53, F.S., relating to Voluntary Prekindergarten Education Program; eligibility and enrollment.

**Section 16.** Amends s. 1002.55, F.S., relating to school-year prekindergarten program delivered by private prekindergarten providers.

**Section 17.** Amends s. 1002.59, F.S., relating to emergent literacy and performance standards.

**Section 18.** Amends s. 1002.61, F.S., relating to summer prekindergarten program delivered by public schools and private prekindergarten providers.

**Section 19.** Amends s. 1002.63, F.S., relating to school-year prekindergarten program delivered by public schools.

**Section 20.** Amends s. 1002.67, F.S.; relating to performance standards, curricula, and accountability.

**Section 21.** Amends s. 1002.69, F.S.; relating to statewide kindergarten screening.

**Section 22.** Amends s. 1002.71, F.S., relating to funding; financial and attendance reporting.

**Section 23.** Amends s. 1002.75, F.S., relating to Office of Early Learning; VPK program powers and duties.

**Section 24.** Amends s. 1002.77, F.S., relating to Florida Early Learning Advisory Council.

**Section 25.** Amends s. 1002.81, F.S., relating to School Readiness program definitions.

**Section 26.** Amends s. 1002.82, F.S., relating to Office of Early Learning; School Readiness program powers and duties.

**Section 27.** Amends s. 1002.84, F.S., relating to early learning coalitions; school readiness powers and duties.

**Section 28.** Amends s. 1002.87, F.S., relating to School Readiness program; eligibility and enrollment.

**Section 29.** Amends s. 1002.88, F.S., relating to School Readiness program provider standards; eligibility to deliver the school readiness program.

**Section 30.** Amends s. 1002.89, F.S., relating to School Readiness program; funding.

**Section 31.** Amends s. 1002.91, F.S., relating to investigations of fraud or overpayment; penalties.

**Section 32.** Amends s. 1002.94, F.S., relating to Child Care Executive Partnership Program.

**Section 33.** Creates an unnumbered section of law authorizing OEL to allocate funds held by the Child Care Executive Partnership.

**Section 34.** Creates an unnumbered section of law directing OEL to conduct a pilot project to study the impact of assessing the early literacy skills of ELLs in both English and Spanish.

**Section 35.** Provides an appropriation.

**Section 36.** Provides that except as otherwise expressly provided, the bill takes effect July 1, 2015.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

Consistent with DCF's current authorization to collect fees for the licensure of child care facilities, it's expected an additional \$70,800 in revenue may be generated to mitigate the expenditure impact of the bill. The bill provides spending authority in the Operations and Maintenance Trust Fund for these revenues to be utilized.

#### 2. Expenditures:

The bill expands DCF's workload by requiring the inspection of license-exempt faith-based providers and nonpublic schools. DCF will need an additional 18.00 full-time equivalent positions and \$1,046,284 in general revenue to address these additional regulatory functions as outlined in the following chart<sup>89</sup>:

Position and FTE Required	Recurring FTE Costs	Nonrecurring FTE Costs	FY 2015-16 Fiscal Impact
Licensing Counselor - 14	\$ 804,485	\$ 3,773	
Licensing Counselor Supervisor - 2	\$ 130,931	\$ 3,773	
Senior Attorney - 2	\$ 170,349	\$ 3,773	
<b>TOTAL FTE - 18</b>	<b>\$ 1,105,765</b>		
LESS: Licensing Fee Revenue	(\$70,800)		
<b>TOTAL Cost to DCF</b>	<b>\$1,034,965</b>	<b>\$ 11,319</b>	<b>\$ 1,046,284</b>

The bill appropriates \$1,034,965 in recurring general revenue, \$11,319 in nonrecurring general revenue, and \$70,800 in trust fund authority for the Operations and Maintenance Trust Fund to cover the cost of the fiscal impact.

<sup>89</sup> Based upon DCF's bill analysis dated March 3, 2015, and on file with staff of the Education Appropriations Committee  
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## B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

### 1. Revenues:

None.

### 2. Expenditures:

The bill extends to LFCCHs the protections that FDCHs currently receive regarding zoning requirements, insurance coverage, and utility rates. Under the bill:

- Local governments are prohibited from requiring that LFCCHs be commercially zoned;
- Property and casualty insurers are prohibited from canceling residential insurance coverage because the residence operates as a LFCCH; and
- Utilities are prohibited from charging LFCCHs commercial utility rates.

The extent to which local governments require LFCCHs to be commercially zoned, property insurers require LFCCHs to obtain additional coverage, and utility companies charge LFCCHs commercial rates is unknown. In order to qualify for licensure as a LFCCH, the home must operate as a licensed FDCH in the two years prior to seeking licensure as a LFCCH. It appears that most local governments, insurers, and utility companies do not treat LFCCHs any differently than FDCHs. In February 2014, there were 2,941 licensed FDCHs and 429 LFCCHs operating in Florida. Given the small number of LFCCHs that will receive these protections under the bill, the fiscal impact on counties, municipalities, property insurers, and utility companies is likely minimal.

## C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill authorizes DCF to charge an inspection fee to nonpublic schools and license-exempt faith-based providers of state-funded early learning programs in order to enforce substantial compliance with minimum health and safety standards. The fee must be sufficient to cover costs and may not exceed that charged for child care licensure. Currently, the licensing fee for a child care facility is \$1 per child, based on the licensed capacity of the facility, with a minimum fee of \$25 and a maximum fee of \$100 per facility.<sup>90</sup>

Protections regarding zoning requirements, insurance coverage, and utility rates provided to LFCCHs may result in cost savings. Other bill provisions with positive financial implications on private sector child care providers include:

- Clarifying that worker's and unemployment compensation requirements do not apply to early learning providers who are exempt under state and federal law.
- Eliminating the requirement that certain providers add the local ELC as an additional insured on its liability insurance policy.

## D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

#### 2. Other:

None.

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<sup>90</sup> Section 402.315(3)(a), F.S.  
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## B. RULE-MAKING AUTHORITY:

The bill requires DCF, in consultation with OEL, to adopt rules to define and enforce substantial compliance with minimum child care health and safety standards by license-exempt faith-based child care providers and nonpublic schools providing state-funded early learning programs. This includes the adoption of minimum standards and procedures for inspection and disciplinary actions. The bill requires DCF to adopt rules establishing criteria and procedures for abbreviated inspections and inspection schedules which provide for both announced and unannounced inspections.

The bill requires OEL to adopt rules governing the Child Care Partnership Program. Rulemaking will also be necessary to align the existing standard School Readiness and VPK provider contracts to the requirements of the bill, e.g., contract termination, parental notice of Class I violations, and personnel training.

## C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 18, 2015, the Education Committee adopted eight amendments and reported the proposed committee bill (PCB) favorably. The amendments:

- Specified that providers are ineligible to offer the School Readiness or VPK programs if they are “sanctioned” for a Class I in the preceding 12 months. The PCB stated that providers are ineligible if they are “cited” for a Class I violation. Providing that ineligibility is triggered by “sanction” not “citation” allows for appeals to play out.
- Added provisions authorizing an ELC to “immediately” terminate a School Readiness or VPK program provider’s contract if the provider is sanctioned for a Class I violation or is ordered to cease operations by DCF, a local licensing agency, or a circuit court.
- Added provisions allowing a provider that has its provider contract terminated to continue providing School Readiness or VPK services while an appeal of the termination is pending, if the termination is not related to a sanction for a Class I violation or DCF, local licensing agency, or circuit court order. Current law flatly prohibits providers from providing services during the pendency of an appeal of a termination, regardless of the grounds for termination.
- Required providers cited for a Class I violation to notify parents about the violation by the close of the next business day.
- Removed provisions enabling providers to delay notifying parents regarding Class I violations pending a DCF or a local licensing agency review of the violation.
- Added provisions:
  - Changing the name of the “Child Care Executive Partnership” to the “Child Care Partnership.”
  - Revising the purpose and duties of the partnership to better focus its efforts on soliciting donations from private businesses that are not child care.
  - Revising membership of the partnership’s board and providing for legislative appointments.
  - Eliminating the ability of child care businesses and local governments to draw down state and federal matching funds for contributions they make to the partnership program.
  - Authorizing OEL, rather than the board, to allocate partnership funds.
  - Sunsetting the partnership in 2018 so that the Legislature can review its progress soliciting donations from private businesses that are not child care.
- Added authorization for ELCs to allow public schools to determine child eligibility for the VPK program. The PCB only authorized ELCs to allow private providers to determine eligibility.
- Provided a grant of rulemaking authority to OEL regarding VPK pre-and post-assessment and child performance standards and removed State Board of Education authority to adopt such rules.
- Restored liability insurance requirements for informal providers of the School Readiness program.

On March 12, 2015, the Education Appropriations Subcommittee adopted seven amendments and reported the bill favorably as a committee substitute. The amendments:

- Restored existing authority of local licensing agencies to enforce compliance with minimum child care standards.
- Reorganized provisions revising FDCH requirements and clarified that training requirements for licensed FDCH operators and substitutes also apply to operators and substitutes in registered FDCH.
- Aligned provisions authorizing OEL to hire an inspector general with CS/CS/HB 1385 (2014), which provided that the inspector general of an agency under the Executive Office of the Governor reports directly to the Chief Inspector General.
- Required ELCs to terminate a School Readiness or VPK provider's contract if the provider is sanctioned for a Class I violation or ordered to close by DCF or a circuit court.
- Set timelines in which a provider whose contract is terminated may reapply to offer the School Readiness program or VPK program.
- Required OEL and ELCs to report more specific information regarding expenditures on child care quality and enhancement activities.
- Required OEL to post links on its website to DCF's child care provider database
- Authorized OEL to refer criminal violations revealed in a fraud investigation that are not within DFS's jurisdiction to the appropriate law enforcement agency.

The amendments also revised provisions regarding the Child Care Partnership Program to:

- Specifically allow RCMA and ELCs participating in the Child Care Partnership Program to match contributions from:
  - Private businesses, including child care providers;
  - Employers;
  - Charitable foundations and other not-for-profit entities; and
  - Counties, municipalities, and children's services councils.
- Require all matching contributors to donate funds directly to ELCs or RCMA.
- Require ELCs and RCMA to verify the parent's employment and child's enrollment with the child care provider before matching contributions from child care providers made for the purpose of providing a child care benefit to employees.
- Require counties and municipalities to approve and clearly identify contributions to the partnership in their annual budget.
- Give OEL greater flexibility to allocate or reallocate partnership funds to prevent disenrollment of children from School Readiness or partnership-funded child care.