

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 Judiciary

BILL: CS/SB 1254

INTRODUCER: Education Committee and Senator Passidomo and others

SUBJECT: Early Learning

DATE: February 5, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bouck</u>	<u>Graf</u>	<u>ED</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1254 modifies provisions relating to the school readiness program. Specifically, the bill:

- Requires the Office of Early Learning to:
 - Adopt a program assessment that measures the quality of teacher-child interactions including classroom organization and specified supports.
 - Provide a differential payment of up to 10 percent for each care level and unit of child care for a child care provider that meets specified requirements.
 - Revise the statewide provider contract to include contracted slots, quality improvement strategies, and program assessment requirements.
 - Modify the annual report to include specified data regarding school readiness program provider compliance with requirements relating to the program assessment.
- Revises Early Learning Coalitions (ELC) plans to add information regarding:
 - An assessment of local priorities based on the needs of families and provider capacity using available community data.
 - Local eligibility priorities for children, the use of contracted slots in the ELC's procedures for program implementation, a payment rate schedule, and a description of quality improvement strategies in the ELC's quality activities and services.
- Modifies school readiness program eligibility, provider standards, and funding to:
 - Revise the child eligibility priorities for participation in the school readiness program based on the ELC's local priorities; and also revise the definition of "at-risk" children for eligibility purposes.

- Revise provider eligibility requirements to specify that the providers must participate in a program assessment that measures the quality of teacher-child interactions.
- Authorize the award of grants and financial supports to providers and instructors to also meet program assessment requirements.

The bill appropriates \$6 million for the 2018-2019 fiscal year from the Child Care and Development Block Grant Trust Fund to the Office of Early Learning to implement the program assessment for school readiness program providers.

The bill takes effect July 1, 2018.

II. Present Situation:

Established in 1999,¹ 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.² The School Readiness program offers financial assistance for child care to support working families and children to develop skills for success in school and provides developmental screening and referrals to health and education specialists where needed.

The school readiness program is a state-federal partnership between the Office of Early Learning (OEL)³ and the Office of Child Care of the United States Department of Health and Human Services.⁴ It is administered by early learning coalitions (ELCs) at the county or regional level.⁵ The OEL administers the program at the state level, including statewide coordination of the ELCs.⁶

Office of Early Learning

The OEL is the lead agency in Florida for administering the federal Child Care and Development Block Grant Trust Fund (CCDF).⁷ The school readiness program is funded primarily by the CCDF.⁸

¹ Ch. 99-357, s. 1 Laws of Fla.

² Section 1002.87, F.S.

³ 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 VPK Program. Ch. 2013-252, s. 1, Laws of Fla., codified as s. 1001.213, F.S.

⁴ See U.S. Department of Health and Human Services, *Child Care and Development Fund Fact Sheet*, <http://www.acf.hhs.gov/programs/occ/fact-sheet-occ> (last visited Feb. 2, 2018).

⁵ Section 1002.83, F.S.

⁶ Section 1001.213(3), F.S.

⁷ Section 1002.82(1), F.S.

⁸ The Office of Early Learning, 2016-2018 Child Care Development Fund State Plan, http://www.floridaearlylearning.com/oel_resources/ccdf_plan.aspx (last visited Feb. 2, 2018).

The OEL is required to focus on improving the educational quality of all program providers participating in the school readiness program while preserving parental choice by permitting parents to choose from a variety of child care categories.⁹ Other OEL duties include, but are not limited to, requirements to:

- Enter into a memorandum of understanding with local licensing agencies and the Department of Children and Families (DCF) for inspections of school readiness program providers to monitor and verify compliance with program provider standards and OEL’s health and safety checklist.¹⁰
- Develop and adopt standards and benchmarks that address the age-appropriate progress of children in the development of school readiness skills.¹¹
- Select assessments that are valid, reliable, and developmentally appropriate for use as preassessment and postassessment.¹² The assessments must be designed to measure progress in the domains of the performance standards and be administered by qualified individuals.¹³
- Adopt, by rule, a standard statewide provider contract to be used with each school readiness program provider that includes, at a minimum, provisions for provider probation, termination for cause, and emergency termination for those actions or inactions of a provider that pose an immediate and serious danger to the health, safety, or welfare of the children.¹⁴
- Monitor and evaluate the performance of each ELC in administering the school readiness program.¹⁵
- Establish procedures for the biennial calculation of the average market rate.¹⁶ The OEL must establish procedures for the adoption of a market rate schedule that include minimum and maximum rates for child care providers that hold a Gold Seal Quality Care designation,¹⁷ and a market rate for providers that do not hold such designation.¹⁸
- Review each early learning coalition’s school readiness program plan every 2 years.¹⁹

The OEL is also required to annually, by January 1, publish an annual report to include a summary of early learning coalition annual reports, a statewide summary; an analysis of early learning activities throughout the state, including the school readiness program, student disenrollment and reasons for disenrollment, providers by type, and actions on provider contracts.²⁰

⁹ Section 1002.82(1) and (2)(a)-(b), F.S. Care and curriculum by a faith-based provider must not be limited or excluded in any of these categories. *Id.*

¹⁰ Section 1002.82(2)(i), F.S.

¹¹ Section 1002.82(2)(j), F.S.

¹² Section 1002.82(2)(k), F.S.

¹³ Section 1002.82(2)(k), F.S.

¹⁴ Section 1002.82(2)(m), F.S.

¹⁵ Section 1002.82(2)(p), F.S.

¹⁶ Section 1002.82(2)(d), F.S. OEL must establish procedures for the adoption of a market rate schedule that include minimum and maximum rates for child care providers that hold a Gold Seal Quality Care designation, and a market rate for providers that do not hold such designation. Section 1002.895(1), F.S.

¹⁷ A child care facility, large family child care home, or family day care home that is accredited by an accrediting association approved by the DOE and meets all other requirements shall, upon application to the DOE, receive a separate “Gold Seal Quality Care” designation. Section 402.281(1)(a), F.S.

¹⁸ Section 1002.895(1), F.S.

¹⁹ Section 1002.82(2)(e), F.S.

²⁰ Section 1002.82(5), F.S.

Early Learning Coalitions

The OEL governs the day-to-day operations of statewide early learning programs and administers federal and state child care funds. Across the state, 30 regional ELCs and the Redlands Christian Migrant Association are responsible for delivering local services.²¹ Each ELC is governed by a board of directors comprised of various stakeholders and community representatives.²²

In order to participate in the school readiness program, each ELC must submit a school readiness plan to the OEL for approval.²³ The plan must include, but is not limited to:²⁴

- The ELC’s operations, including its membership and business organization.
- The minimum number of children to be served by care level.
- The procedures for implementing program requirements such as single point of entry, uniform waiting list, eligibility and enrollment, sliding fee scale, and payment rate.
- A detailed description of the ELC’s quality activities and services.
- A detailed budget outlining the estimated expenditures for state, federal, and local matching funds.
- A detailed accounting of all revenues and expenditures during the previous state fiscal year²⁵
- Policies and procedures governing procurement, maintenance of tangible personal property, maintenance of records, information technology security, and disbursement controls.
- A description of the procedures for monitoring school readiness program providers, including the process for responding to a parental complaint.
- Documentation that the coalition has solicited and considered comments regarding the proposed school readiness plan from the local community.

School Readiness Program

School Readiness Eligibility and Enrollment

Florida law specifies that ELCs must admit children into the School Readiness program according to the following priorities:²⁶

- **First priority** is a child younger than 13 years of age from families in which an adult is receiving temporary cash assistance²⁷ and subject to federal work requirements.²⁸
- **Second priority** is a child younger than the age of 9 who is at-risk.

²¹ The Office of Early Learning, *Coalitions*, <http://www.floridaearlylearning.com/coalitions.aspx> (last visited Feb 2, 2018). *See also* 1002.83(1), F.S.

²² Section 1002.83(3), F.S.

²³ Section 1002.85(2), F.S.

²⁴ *Id.*

²⁵ Section 1002.85(2)(a)-(i), F.S.

²⁶ Section 1002.87(1), F.S.

²⁷ Temporary cash assistance under chapter 414. Section 1002.87(1)(a), F.S.

²⁸ Federal work requirements require a state to meet or exceed minimum rates of recipients participating in “work activities,” *e.g.*, employment, education, job search, community service, and vocational training. 42 U.S.C. s. 607(a)-(d). Under Florida law, the maximum number of hours a recipient of subsidized child care, who is not otherwise exempt from work activity, may be required to work is 40 hours per week. Section 445.024(2), F.S.

- **Third priority** is a child, birth to beginning of the school year for which the child is eligible for kindergarten, from a working family that is economically disadvantaged²⁹ and may include such a child's eligible siblings who are eligible to enter kindergarten through the summer before sixth grade, provided that the ELC uses local revenues first.
- **Fourth priority** is a child of a parent who transitions from the work program into employment from birth through the summer before kindergarten.
- **Fifth priority** is an at-risk child, at least 9 years of age but younger than 13. The child is given priority over other children if his or her sibling is enrolled in the School Readiness program under eligibility priorities 1, 2, or 3.
- **Sixth priority** is a child younger than 13 years of age from a working family that is economically disadvantaged. Such a child is given priority over other children if his or her sibling is enrolled in the School Readiness program under eligibility priority 3.
- **Seventh priority** is a child under age 13 whose parent transitions from the work program into employment.
- **Eighth priority** is a child ages 3-5 years of age who has a current individual education plan with a Florida school district. Such a child is eligible until he or she is old enough for kindergarten admission.
- **Last priority** is a child who is also concurrently enrolled in the Head Start program and the VPK Program.³⁰

A child is considered to be "at risk" if, among other things, the child is in the custody of a parent who is a victim of domestic violence residing in a certified domestic violence center.³¹

School Readiness Program Provider Standards

In order to be eligible to deliver the school readiness program, a provider must be:³²

- A licensed child care facility;
- A licensed or registered family day care home;
- A licensed large family child care home;
- A public school or nonpublic school;
- A license-exempt faith-based child care provider;
- A before-school or after-school program; or
- An authorized informal child care provider.³³

Provider responsibilities include, but are not limited to, a requirement to:³⁴

²⁹ "Economically disadvantaged" means having a family income that does not exceed 150 percent of the federal poverty level. Section 1002.81(7), F.S.

³⁰ Section 1002.87(1), F.S.

³¹ At-risk children can also include children who are homeless or who may be experiencing abuse, neglect, abandonment or exploitation. See s. 1002.81(1), F.S., for the definition of "at-risk child".

³² Section 1002.88(1), F.S.

³³ Section 1002.88(1)(a). Generally speaking, informal child care is care provided by a relative. See Florida Office of Early Learning, *Child Care and Development Fund (CCDF) Plan FFY 2016-2018* (2016) at 99, available at http://www.floridaearlylearning.com/sites/www/Uploads/14-Draft-FY2016-2018%20CCDF%20Plan%20Preprint%20%2012-17-15_final_markup_SC_Comments_CLEAN_PDF_ADA.pdf.

³⁴ Section 1002.88(1), F.S.

- Provide instruction and activities to enhance the age-appropriate progress of each child in attaining the child development standards.
- Provide basic health and safety of its premises and facilities and compliance with requirements for age-appropriate immunizations of children enrolled in the school readiness program.
- Employ child care personnel who have satisfied background screening and training requirements.
- Provide activities to foster brain development in infants and toddlers in an environment rich in language and music and visual, tactile, auditory, and linguistic stimulation and including 30 minutes of reading to children each day.
- Execute the standard statewide provider contract adopted by the OEL.
- Implement a character development program.
- Administer preassessments and postassessments that have been approved by the OEL, but only if the provider chooses to administer such assessments.

School Readiness Funding

Funding for the school readiness program is allocated among the ELCs according to law and the General Appropriations Act.³⁵ State, federal, and local matching funds provided to an ELC for purposes of the school readiness program must be used for implementation of its approved school readiness program plan, including the hiring of staff to effectively operate the school readiness program.³⁶

Costs must be kept to the minimum necessary for the efficient and effective administration of the school readiness program with the highest priority of expenditure being direct services for eligible children. Among the administrative costs and nondirect services authorized for expenditure of funds as specified in law,³⁷ allowable activities to improve the quality of child care^{38, 39} must be to, in part:

- Award grants and providing financial support to school readiness program providers and their staff to assist them in meeting applicable state requirements for child care performance standards,
- Implement developmentally appropriate curricula and related classroom resources that support curricula,
- Provide literacy supports, and
- Provide continued professional development and training.

For FY 2017-18, a total of \$608.4 million was appropriated for the School Readiness program from state and federal funds, including \$140.6 million from the state's General Revenue Fund, \$370.7 million from the CCDF block grant, \$500,000 from Federal Grants Trust Fund, and \$96.6 million from the Welfare Transition Trust Fund.⁴⁰

³⁵ Section 1002.89(1), F.S.

³⁶ Section 1002.89(5), F.S.

³⁷ Section 1002.89(6)(a) and (c), F.S.

³⁸ Section 1002.89(6)(b)2, F.S.

³⁹ 45 C.F.R. s. 98.51.

⁴⁰ Specific Appropriation 84, ch. 2017-70, s. 2, Laws of Fla.

III. Effect of Proposed Changes:

CS/SB 1254 modifies provisions relating to the school readiness program. Specifically, the bill:

- Requires the Office of Early Learning to:
 - Adopt a program assessment that measures the quality of teacher-child interactions including classroom organization and specified supports.
 - Provide a differential payment of up to 10 percent for each care level and unit of child care for a child care provider that meets specified requirements.
 - Revise the statewide provider contract to include contracted slots, quality improvement strategies, and program assessment requirements.
 - Modify the annual report to include specified data regarding school readiness program provider compliance with requirements relating to the program assessment.
- Revises Early Learning Coalitions (ELC) plans to add information regarding:
 - An assessment of local priorities based on the needs of families and provider capacity using available community data.
 - Local eligibility priorities for children, the use of contracted slots in the ELC's procedures for program implementation, a payment rate schedule, and a description of quality improvement strategies in the ELC's quality activities and services.
- Modifies school readiness program eligibility, provider standards, and funding to:
 - Revise the child eligibility priorities for participation in the school readiness program based on the ELC's local priorities; and also revise the definition of "at-risk" children for eligibility purposes.
 - Revise provider eligibility requirements to specify that the providers must participate in a program assessment that measures the quality of teacher-child interactions.
 - Authorize the award of grants and financial supports to providers and instructors to also meet program assessment requirements.

Office of Early Learning

The bill requires the OEL to adopt a program assessment for providers participating in the school readiness program that measures the quality of teacher-child interactions, including emotional and behavioral support, engaged support for learning, classroom organization, and instructional support. Program assessment requirements adopted by OEL must include, at a minimum, quality measures, a minimum threshold for contracting purposes, processes for provider participation, granting of exemptions, and the achievement of improvement through the completion of an improvement plan.

The bill provides for a differential payment, based on the quality measures adopted as a part of the program assessment, of up to 10 percent for each care level and unit if child care for a provider that has completed a program assessment and scored above an established minimum threshold for contracting purposes.

Additionally, the bill requires the OEL to revise the standard statewide provider contract for school readiness program providers to include the following provisions:

- Contracted slots, if applicable;

- Quality improvement strategies, if applicable;⁴¹ and
- Program assessment requirements.

The bill also requires provisions for termination for cause, included within the standard statewide provider contract. The provisions must include a provider's failure to meet the minimum quality measures adopted as a part of the program assessment for a period of up to 5 years, unless the ELC determines that the provider is essential to meeting capacity needs based on an assessment of local priorities and the provider has an active improvement plan as a part of the program assessment.

Finally, the bill requires the OEL to revise its annual report to include the number of school readiness program providers who have completed the program assessment requirement, the number of providers who have not met the minimum quality measures to be eligible for a contract, and the number of providers that have an active improvement plan based on the results of the program assessment.

Early Learning Coalitions

The bill requires each Early Learning Coalition (ELC) plan to include:

- An assessment of local priorities within the county or multicounty region based on the needs of families and provider capacity using available community data.
- Local eligibility priorities for children and a payment rate schedule as a part of the ELC's procedures for implementation of the school readiness program.
- The use of contracted slots, as applicable, based on the results of the completed community needs assessment.
- A description of quality improvement strategies utilized by the ELC to strengthen teaching practices and improve child outcomes.

School Readiness Program

School Readiness Eligibility and Enrollment

The bill revises the definition of an "at-risk child" to specify that an at-risk child means a child is in the custody of a parent who is considered a victim of domestic violence and is receiving services through a certified domestic violence center. Under current law, an "at-risk" child means a child in the custody of a parent who is a victim of domestic violence residing in a certified domestic violence center. The bill does not require a parent who is a victim of domestic violence to reside in the certified domestic violence center for the child to be considered at risk.

The bill revises child eligibility priorities and criteria by requiring ELCs, after serving children in the first two child priority categories, to prioritize services for children in subsequent categories based on the ELC's community needs assessment. Additionally, the bill modifies the subsequent priority category relating to a child who is younger than 13 years of age from a working family that is economically disadvantaged to remove the requirement for priority enrollment in that category for such child who has a sibling enrolled in the school readiness program.

⁴¹ Section 658(c)(2)(a) of the Child Care and Development Block Grant Act of 2014.

School Readiness Provider Standards

As a requirement for eligibility to deliver the school readiness program, the bill requires school readiness program providers to participate in a program assessment identified by the OEL.

School Readiness Funding

The bill includes implementation of the program assessment adopted by OEL to the grants and financial support to school readiness program providers as part of authorized activities to improve the quality of child care, as specified in law.⁴²

The bill takes effect July 1, 2018.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

CS/SB 1254 requires school readiness program providers to participate in program assessment and quality improvement strategies as a condition of participation in the program, subject to legislative appropriation.⁴³

C. Government Sector Impact:

CS/SB 1254 appropriates \$6 million for the 2018-2019 fiscal year from the Child Care and Development Block Grant Trust Fund to the Office of Early Learning to implement the program assessment for school readiness program providers.

⁴² 45 C.F.R. 98.51

⁴³ Florida Department of Education, Office of Early Learning, *2017 Agency Bill Analysis for SB 1254* (Dec. 19, 2017).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1002.81, 1002.82, 1002.84, 1002.85, 1002.87, 1002.88, 1002.89, and 1002.92.

The bill creates an undesignated section of Florida Law.

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

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

CS by Education on January 29, 2018:

The committee substitute maintains the substance of the bill with some modifications.

Specifically, the committee substitute:

- Modifies the definition of an “at-risk” child to mean a child who is in the custody of a parent who is considered a victim of domestic violence and who is receiving services through a certified domestic violence center. The bill defined such child to mean a child in the custody of a parent who is a victim of domestic violence as verified by a certified domestic violence center.
- Removes from the bill, the provision requiring a triennial evaluation of accrediting agencies for school readiness program providers.
- Revises from 20 percent to 10 percent, the differential payment for providers who meet specified criteria.
- Removes from the bill, the provision requiring the standard statewide contract to include health and safety provisions.
- Adds a provision to specify that provisions for termination for cause must include failure to meet the minimum quality standards adopted as a part of the program assessment for a period of 5 years, unless the coalition determines that the provider is essential to meeting capacity needs based on the specified local priority assessment and the provider has an active improvement plan.

B. Amendments:

None.