

**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.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Education

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BILL: SB 1688

INTRODUCER: Senator Harrell

SUBJECT: Early Learning and Early Grade Success

DATE: February 24, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brick</u>	<u>Sikes</u>	<u>ED</u>	<b>Favorable</b>
2.	<u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	<b>Pre-meeting</b>
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 1688 modifies the administration of the Voluntary Prekindergarten Education Program (VPK) and the school readiness program and reorganizes the regulatory structure of the Office of Early Learning (OEL) to consolidate authority and oversight within the State Board of Education (SBE).

The bill expands accountability and assessment requirements for VPK providers. Specifically, the bill repeals the pre- and post-assessment and statewide kindergarten screening and readiness rate requirements for VPK providers and replaces them with:

- A coordinated screening and progress monitoring program (CSPM) for students in VPK through grade 3 to provide information on students' progress in mastering the appropriate grade-level standards to parents, teachers, and school and program administrators.
- A program assessment that measures the quality of teacher-child interactions, including emotional and behavioral support, engaged support for learning, classroom organization, and instructional support for children ages 3 to 5 years, in each VPK classroom.
- A performance metric that provides a score to each VPK provider based on performance.

The bill creates the Council for Early Grade Success within the Department of Education (DOE) to oversee the CSPM and requires the new screenings and assessments to be administered by individuals meeting SBE requirements.

The bill modifies the market rate schedule paid to school readiness providers to require a market rate schedule based on the prevailing market rate. The bill also removes authority for each Early Learning Coalition (ELC) to adopt a payment schedule for providers and requires the Early Learning Programs Estimating Conference to adopt the payment schedules to be used statewide in each county.

The Florida Department of Education estimates that it would cost approximately \$22 million to implement the revised assessment and screening requirements. See Section V.

The bill takes effect July 1, 2020.

## II. Present Situation:

### State Level Governance

#### *State Board of Education*

The State Board of Education (SBE)<sup>1</sup> is the chief implementing and coordinating body of public education in Florida and is authorized to adopt rules to implement the provisions of law conferring duties upon the SBE to improve the state system of K-20 public education, except for the state university system. The SBE has authority over the Department of Education (DOE) and is authorized to delegate the SBE's general powers to the Commissioner of Education (commissioner) or the directors of the divisions of the DOE.<sup>2</sup>

#### *Department of Education*

The DOE is the administrative and supervisory agency under the implementation direction of the SBE.<sup>3</sup> The commissioner is appointed by the SBE and serves as the executive director of the DOE.<sup>4</sup> The DOE includes the Office of Early Learning (OEL), which is administered by an executive director who is fully accountable to the commissioner.<sup>5</sup>

#### *Office of Early Learning*

The OEL oversees three programs—the school readiness program, the Voluntary Prekindergarten Education Program (VPK), and child care resource and referral services<sup>6</sup>—and an annual budget of \$1.3 billion.<sup>7</sup> The OEL is the lead agency in Florida for administering the federal Child Care and Development Block Grant Trust Fund (CCDF).<sup>8</sup> The OEL adopts rules as required for the establishment and operation of the school readiness program and the VPK program.<sup>9</sup> The executive director of the OEL is responsible for administering early learning programs at the state level.

The OEL employs an inspector general, as required by law, to promote accountability, integrity, and efficiency in the administration of early learning programs.<sup>10</sup> Statutory duties of the

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<sup>1</sup> The State Board of Education is established as “a body corporate and [shall] have such supervision of the system of free public education as is provided by law.” Art. IX, s. 2, Fla. Const.

<sup>2</sup> Section 1001.02, F.S.

<sup>3</sup> Section 1001.20(1), F.S.

<sup>4</sup> Section 20.15(2), F.S.

<sup>5</sup> Section 20.15(3)(i), F.S.

<sup>6</sup> *Id.*

<sup>7</sup> Early Learning Services Program Total, s. 2, ch. 2019-115, L.O.F.

<sup>8</sup> Section 1002.82(1), F.S.

<sup>9</sup> The OEL is required to submit the rules to the State Board of Education for approval or disapproval. If the state board does not act on a rule within 60 days after receipt, the rule shall be immediately filed with the Department of State. Section 1001.213, F.S.

<sup>10</sup> Section 20.055(1), F.S.

inspector general include the duty to advise the OEL in the development of performance measures, standards, and procedures employed by the OEL.<sup>11</sup> The inspector general also maintains the duty to support the OEL by preventing and detecting fraud and abuse. The OEL annually processes approximately \$2 million in repayments from early learning coalitions (ELCs) or individuals who have committed fraud.<sup>12</sup>

### ***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 early learning coalitions (ELCs) are responsible for delivering local services, including the VPK program and the school readiness program.<sup>13</sup> Each ELC is governed by a board of directors comprised of various stakeholders and community representatives.<sup>14</sup> The SBE does not have authority over ELCs, and early learning data is not collected in the K-20 student database as part of the management information databases governed by the SBE.<sup>15</sup>

### **The Voluntary Prekindergarten Education Program**

The Florida Constitution requires the State to provide every four-year old child a high quality pre-kindergarten learning opportunity in the form of an early childhood development and education program which must be voluntary, high quality, free, and delivered according to professionally accepted standards.<sup>16</sup> In 2004, the State established a free VPK program offered to eligible four-year-old children.<sup>17</sup> Parents may choose either a school-year or summer program offered by either a public or private school.<sup>18</sup> \$402.3 million was appropriated from General Revenue for the VPK program in the 2019 General Appropriations Act.<sup>19</sup> During the 2017-2018 academic year, 6,378 VPK providers served 169,076 students enrolled in a VPK program.<sup>20</sup>

ELCs and school districts administer the VPK program at the county or regional level. Each ELC is the single point of entry for VPK program registration and enrollment in the coalition's county or multi-county service area.<sup>21</sup> A local ELC must coordinate with the local school district in the

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<sup>11</sup> Section 20.055(1), F.S.

<sup>12</sup> Florida Department of Education, *Agency Legislative Bill Analysis for HB 1013* (2020), at 19.

<sup>13</sup> The Office of Early Learning, *Coalitions*, <http://www.floridaearlylearning.com/coalitions.aspx> (last visited Jan. 22, 2020). See also 1002.83(1), F.S.

<sup>14</sup> Section 1002.83(3), F.S.

<sup>15</sup> Florida Department of Education, *Agency Legislative Bill Analysis for HB 1013* (2020), at 13.

<sup>16</sup> Art. IX, s. 1(b), Fla. Const. An early childhood development and education program means an organized program designed to address and enhance each child's ability to make age appropriate progress in an appropriate range of settings in the development of language and cognitive capabilities and emotional, social, regulatory and moral capacities through education in basic skills and such other skills as the Legislature may determine to be appropriate.

<sup>17</sup> Section 1, ch. 2004-484, L.O.F.; part V, ch. 1002, F.S.; see also Art. IX, s. 1(b)-(c), Fla. Const.

<sup>18</sup> Section 1002.53(3), F.S.

<sup>19</sup> Specific Appropriation 89, s. 2, ch. 2019-115, L.O.F.

<sup>20</sup> Florida Office of Early Learning, *Early Learning Programs Profile: Monthly State Report* (June 2018), [https://factbook.floridaearlylearning.com/oel\\_1.aspx](https://factbook.floridaearlylearning.com/oel_1.aspx), (last visited Jan. 23, 2020).

<sup>21</sup> Section 1002.53(4), F.S. There are currently 30 ELCs. Florida's Office of Early Learning, *Early Learning Coalitions*, <http://www.floridaearlylearning.com/family-resources/find-quality-child-care/locate-your-early-learning-coalition> (last visited Jan. 23, 2020).

ELC's service area to develop procedures for enrolling children in public school VPK programs.<sup>22</sup>

The OEL adopts procedures governing the administration of the VPK program for ELCs and school districts, including procedures for:<sup>23</sup>

- Enrolling children and documenting and certifying student enrollment and student attendance.
- Providing parents with profiles of VPK providers.
- Registering private prekindergarten providers and public schools to deliver the program.
- Determining the eligibility of private prekindergarten providers to deliver the program and streamlining the process of provider eligibility whenever possible.
- Verifying the compliance and removing VPK providers from eligibility to deliver the program due to noncompliance or misconduct.
- Placing schools on probation and requiring corrective actions.
- Paying VPK providers.
- Reconciling advance payments in accordance with the uniform attendance policy.
- Reenrolling students dismissed by a VPK provider for noncompliance with the VPK provider's attendance policy.
- Approving improvement plans.
- Approving and paying specialized instructional services providers.

The OEL consults with the DOE regarding procedures implemented by ELCs and school districts for administering corrective action to VPK providers and administering the VPK program for specialized instructional services for children with disabilities.<sup>24</sup>

### ***Early Learning Advisory Council***

The Florida Early Learning Advisory Council (ELAC) is required to submit recommendations to the OEL on best practices, including recommendations relating to the most effective administration of the VPK program and the school readiness program. The ELAC must also periodically analyze and provide recommendations to the OEL on the effective and efficient use of local, state, and federal funds; the content of professional development training programs; and best practices for the development and implementation of coalition plans.<sup>25</sup>

### ***VPK Instructor Requirements***

A VPK provider offering a school-year VPK program must have, for each class, at least one instructor with:<sup>26</sup>

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<sup>22</sup> Section 1002.53(4), F.S.

<sup>23</sup> Section 1002.75(2), F.S.

<sup>24</sup> Section 1002.67(3), F.S.; *see also* s. 1002.66, F.S.

<sup>25</sup> Section 1002.77, F.S.

<sup>26</sup> Sections 1002.55(3)(c)1.a. and 2., 1002.59, and 1002.63(4), F.S. An active Birth Through Five Child Care Credential awarded as a Florida Child Care Professional Credential, Florida Department of Education Child Care Apprenticeship Certificate, or Early Childhood Professional Certificate satisfies the staff credential requirement. Florida Department of Children and Families, *Child Care Facility Handbook* (2017), *incorporated by reference in* Rule 65C-22.001(7), F.A.C.

- A Child Development Associate (CDA) issued by the National Credentialing Program of the Council for Professional Recognition; or
- A credential approved by the Department of Children and Families (DCF) as being equivalent to or greater than the CDA; and
- Five clock hours of training in emergent literacy and successful completion of a student performance standards training course.

An instructor in a school-year VPK program implemented by a public school district must meet the same qualifications that are required of a private VPK program instructor, in addition to standard employment requirements for all instructional personnel in public schools.<sup>27</sup> A school-year VPK provider must have a second adult instructor for each class of 12 or more students; however, the second instructor is not required to meet the same qualifications as the lead instructor.<sup>28</sup>

The OEL sets minimum standards for emergent literacy training courses for VPK instructors. Each course must be at least five clock hours long and provide strategies and techniques regarding the age-appropriate progress of prekindergarten students in developing emergent literacy skills. Each emergent literacy course must also provide strategies for helping students with disabilities and other special needs maximize their benefit from the VPK program.<sup>29</sup>

Each course on performance standards must be at least three clock hours, provide instruction in strategies and techniques to address age-appropriate progress of each child in attaining the standards, and be available online.<sup>30</sup>

### ***VPK Performance Standards***

The OEL develops and adopts performance standards for students in VPK programs. The performance standards must address the age-appropriate progress of students in the development of:<sup>31</sup>

- The capabilities, capacities, and skills required in the development of language and cognitive capabilities and emotional, social, regulatory and moral capacities.
- Emergent literacy skills, including oral communication, knowledge of print and letters, phonemic and phonological awareness, and vocabulary and comprehension development.

Each VPK provider's curriculum must be developmentally appropriate, designed to prepare a student for early literacy, enhance age-appropriate student progress in attaining state-adopted performance standards, and prepare students to be ready for kindergarten based on the statewide kindergarten screening. VPK providers may select or design the curriculum for their classrooms,

<sup>27</sup> Sections 1002.63(5)-(6), F.S.; *see also* Florida Department of Education, *Technical Assistance Paper: VPK Instructor Qualifications #07-01*, at 2 (Jan. 2007), available at <https://info.fldoe.org/docushare/dsweb/Get/Document-4196/07-02att1.pdf>.

<sup>28</sup> Sections 1002.55(3)(f) and 1002.63(7), F.S.

<sup>29</sup> Section 1002.59(1), F.S.

<sup>30</sup> Section 1002.59(2), F.S.

<sup>31</sup> Section 1002.67, F.S.; Art. IX, s. 1(b), Fla. Const.

unless they are on probation as a result of their kindergarten readiness rates falling below the minimum rate.<sup>32</sup>

### ***Statewide Kindergarten Readiness Screening***

The DOE has adopted a statewide kindergarten readiness screening, the Florida Kindergarten Readiness Screener (FLKRS),<sup>33</sup> and requires each school district to administer the statewide kindergarten readiness screening within the first 30 days of each school year.<sup>34</sup> The screening must measure a child's readiness for kindergarten in eight domains: physical development; approaches to learning; social and emotional development; language and literacy; mathematical thinking; scientific inquiry; social studies; and creative expression through the arts.<sup>35</sup>

Kindergarten student scores on the FLKRS administered during the first 30 days of the school year must demonstrate a score of at least 500 on the Star Early Literacy assessment to be considered "ready for kindergarten." The "Percent of Children Ready for Kindergarten" is calculated as the number of "Children Ready for Kindergarten" on the screening measure divided by the total number of "Children Screened."<sup>36</sup> For the fall 2018 administration of FLKRS, 97,652 out of 185,252 kindergarten students, or 53 percent, were designated as "ready for kindergarten".<sup>37</sup>

### ***Kindergarten Readiness Rate***

The OEL annually calculates a kindergarten readiness rate for each VPK provider based on results of the annual screening.<sup>38</sup> The readiness rates are expressed as the percentage of children whose scores demonstrate readiness for kindergarten.<sup>39</sup> The methodology for calculating the readiness rate must include student learning gains, when available, based on a VPK pre- and post-assessment, known as the "Florida VPK Assessment."<sup>40</sup> The OEL must determine learning gains using a value-added measure based on growth demonstrated by the results of the Florida VPK Assessment from at least two successive years of administration.<sup>41</sup>

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<sup>32</sup> Florida Department of Education, *Agency Legislative Bill Analysis for HB 1013* (2020); Section 1002.67, F.S.

<sup>33</sup> The DOE selected the Star Early Literacy Assessment, developed by Renaissance Learning, Inc., as the Florida Kindergarten Readiness Screener (FLKRS) in 2017. Florida Department of Education Contract No. 17-651 (2017). See rule 6M-8.602(3)(b)1., F.A.C. Rule 6M-8.601(3)(b)1., F.A.C.

<sup>34</sup> Sections 1002.69(1)-(3) and 1002.73, F.S.

<sup>35</sup> See s. 1002.67(1), F.S. See also Florida's Office of Early Learning, *Early Learning and Developmental Standards: 4 Years Old to Kindergarten* (2017) at 1, incorporated by reference in rule 6M-8.602, F.A.C.

<sup>36</sup> Florida Department of Education, *Agency Legislative Bill Analysis for HB 1013* (2020), at 15. Rule 6M-8.601, F.A.C.

<sup>37</sup> Florida Department of Education, *Fall 2018 FLKRS Results by District* (2019), available at <http://www.fldoe.org/core/fileparse.php/18494/urlt/Fall18FLKRSbyDistrict.xls>.

<sup>38</sup> Rule 6M-8.601(3)(b), F.A.C.

<sup>39</sup> Sections 1002.69(5)-(6), F.S.; To be considered "ready for kindergarten," a student must achieve a score of 500 or higher on the Star Early Literacy assessment. Rule 6M-8.601, F.A.C.

<sup>40</sup> Section 1002.69(5), F.S.; Rule 6A-1.09433(1)(b), F.A.C.

<sup>41</sup> Section 1002.69(5), F.S. The current readiness rate determined by the OEL is calculated by the results of the kindergarten screening only. Rule 6M-8.601(3)(b), F.A.C.

VPK Provider Readiness Rates are calculated based on the statewide kindergarten readiness screening in combination with learning gains from the Florida VPK Assessment counting ten percent toward a provider's readiness rate.<sup>42</sup>

### ***VPK Provider Probation and Corrective Action***

At least 60 percent of a VPK provider's students must meet the "ready for kindergarten" score on the screening in order for the provider to avoid probationary status.<sup>43</sup> Providers that do not meet the minimum readiness rate are placed on probation.<sup>44</sup> An ELC or school district must require a VPK provider that falls below the minimum kindergarten readiness rate to:<sup>45</sup>

- Submit for approval and implement an improvement plan;
- Place the provide or school on probation; and
- Take certain corrective actions, including the use of an OEL-approved curriculum or an OEL approved staff development plan to strengthen instruction in language development and phonological awareness.

Based on the fall 2017 administration of FLKRS, 2,615 of the 6,026 rated VPK providers failed to meet the minimum rate.<sup>46</sup>

### ***Good Cause Exemption***

A VPK provider on probation and failing to meet the minimum readiness rate for two consecutive years must be removed from eligibility to provide the VPK program for 5 years; unless the provider receives a good cause exemption.<sup>47</sup> A VPK provider must submit a request for a good cause exemption to OEL for review and approval. The request must include:<sup>48</sup>

- Data which documents student achievement and learning gains, as measured by a state-approved pre- and post-assessment.
- Data available from the respective ELC or district school board, the DCF, local licensing authority, or an accrediting association, as applicable, relating to the provider's compliance with state and local health and safety standards.
- Data available to the OEL on the performance of the children served and the calculation of the provider's kindergarten readiness rate.

A VPK provider that receives a good cause exemption must continue to implement its improvement plan and take corrective actions until the provider meets the minimum kindergarten readiness rate.<sup>49</sup> The OEL must notify the applicable ELC of the good cause exemption, which remains valid for one year, and may be renewed upon request by the VPK provider.<sup>50</sup>

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<sup>42</sup> Rule 6M-8.601, F.A.C.; Florida Department of Education, *Agency Legislative Bill Analysis for HB 1013* (2020), at 14.

<sup>43</sup> Rule 6M-8.601(3)(b), F.A.C.

<sup>44</sup> Section 1002.67(4), F.S.

<sup>45</sup> Section 1002.67(4)(c)1., F.S.

<sup>46</sup> Email from Elizabeth Moya, Director of Legislative Affairs, Florida Department of Education (Mar. 29, 2019) (on file with the Senate Committee on Education).

<sup>47</sup> Section 1002.67(4)(c)3., F.S.

<sup>48</sup> Section 1002.69(7)(b)-(c), F.S.

<sup>49</sup> Sections 1002.69(7)(e) and 1002.67(3)(c)2., F.S.

<sup>50</sup> Section 1002.69(7), F.S.

A good cause exemption may not be granted to any VPK provider that has any class I violations or two or more class II violations within the two years preceding the provider's request for an exemption.<sup>51</sup> Additionally, if a provider refuses to comply with program requirements or engages in misconduct, the OEL must require the ELC or district school board to remove the provider from eligibility to deliver the VPK program for a period of five years.<sup>52</sup>

### **The 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.<sup>53</sup> 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.<sup>54</sup> To participate in the school readiness program, a provider must execute a school readiness contract.<sup>55</sup> During the 2017-2018 academic year, 7,668 school readiness providers served 201,474 children enrolled in a school readiness program.<sup>56</sup>

#### ***Program Assessment***

The OEL is required to adopt a program assessment for school readiness program providers that measures the quality of teacher-child interactions, including emotional and behavioral support, engaged support for learning, classroom organization, and instructional support for children ages birth to 5 years.<sup>57</sup> The OEL budgeted \$6 million for the administration of the program assessment for the 2018-2019 fiscal year.<sup>58</sup> All school readiness providers must receive an annual program assessment and meet the required minimum program assessment composite score prior to executing a school readiness contract.<sup>59</sup> In the 2017-2018 academic year, 11, or 0.3 percent, of providers failed to attain the minimum program assessment composite score required for contracting.<sup>60</sup>

The OEL has adopted a differential payment program based on quality measures of school readiness providers.<sup>61</sup> The differential payment may not exceed a total of 15 percent for each

<sup>51</sup> Section 1002.69(7)(d), F.S. DCF classifies licensing violations as class I, II, and III violations. Class I violations consist of conduct posing an imminent threat to a child. Class II violations pose a threat to the health, safety or well-being of a child, although the threat is not imminent. Rule 65C-22.010(1)(d), F.A.C.

<sup>52</sup> Section 1002.67(4)(b), F.S.

<sup>53</sup> Section 1002.87, F.S.

<sup>54</sup> Section 1002.86, F.S.

<sup>55</sup> Rule 6M-4.610, F.A.C. Form OEL-SR 20, *Statewide School Readiness Provider Contract*, available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/Form%20OEL-SR%202020-%20Statewide%20School%20Readiness%20Provider%20Contract\\_12-19-18\\_Fi....pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/Form%20OEL-SR%202020-%20Statewide%20School%20Readiness%20Provider%20Contract_12-19-18_Fi....pdf).

<sup>56</sup> Florida Office of Early Learning, *Early Learning Programs Profile: Monthly State Report* (June 2018), [https://factbook.floridaearlylearning.com/oel\\_1.aspx](https://factbook.floridaearlylearning.com/oel_1.aspx), (last visited Jan. 23, 2020).

<sup>57</sup> Section 1002.82(2)(n), F.S.

<sup>58</sup> Office of Early Learning, *OEL Annual Report: School Readiness Program – Financial Review* (2019); available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/images/2018-19%20OEL%20Annual%20Report\\_FINAL\\_ADA.pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/images/2018-19%20OEL%20Annual%20Report_FINAL_ADA.pdf), at 6.

<sup>59</sup> Rule 6M-4.741, F.A.C.

<sup>60</sup> Florida Department of Education, *School Readiness Funding Model Allocation Methodology* (Oct. 1, 2019) (On file with staff of the Education Committee).

<sup>61</sup> Rule 6M04.500, F.A.C.



care level and unit of child care for a child care provider.<sup>62</sup> No more than five percent of the 15 percent total differential may be provided to providers who submit valid and reliable data to the statewide information system in the domains of language and executive functioning using a child assessment. Providers who fail to attain a minimum composite score on the program assessment are ineligible for a differential payment.<sup>63</sup>

### ***School Readiness Funding***

Funding for the school readiness program is allocated among the ELCs according to law and the General Appropriations Act.<sup>64</sup> The school readiness program is funded primarily by the CCDF block grant.<sup>65</sup> 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.<sup>66</sup>

For Fiscal Year 2019-2020, a total of \$760.8 million was appropriated for the school readiness program from state and federal funds.<sup>67</sup>

### ***Market Rate***

The OEL is required to establish procedures for the adoption of a market rate schedule for the school readiness program. The schedule must include, at a minimum, county-by-county rates, differentiated by type of child care provider and the type of child care services provided. Rates must be differentiated for the types of providers by:<sup>68</sup>

- The minimum and the maximum rates for child care providers that hold a Gold Seal Quality Care (GSQC) designation.
- Child care providers that do not hold a GSQC designation.
- Licensed child care facilities.
- Public or nonpublic schools exempt from licensure.
- Faith-based child care facilities exempt from licensure.
- Licensed large family child care homes.
- Licensed or registered family day care homes.

The market rate schedule must also differentiate rate by the type of child care services provided, including services provided for:<sup>69</sup>

- Children with special needs or risk categories.
- Infants, toddlers, preschool-age children, and school-age children.
- Full-time and part-time child care.

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<sup>62</sup> Section 1002.82(2)(o), F.S.

<sup>63</sup> *Id.*

<sup>64</sup> Section 1002.89(1), F.S.

<sup>65</sup> The Office of Early Learning, *2019-2021 Child Care Development Fund State Plan*, [http://www.floridaearlylearning.com/oel\\_resources/ccdf\\_plan.aspx](http://www.floridaearlylearning.com/oel_resources/ccdf_plan.aspx) (last visited Jan. 22, 2020).

<sup>66</sup> Section 1002.89(5), F.S.

<sup>67</sup> Specific Appropriation 86, s. 2, ch. 2019-115, L.O.F.

<sup>68</sup> Section 1002.895, F.S.

<sup>69</sup> Section 1002.895, F.S.

Reimbursement rates for school readiness providers are paid based on a child's care level and unit of care as defined by the ELC's approved provider rate schedule for the county in which the provider's facility is located.<sup>70</sup> ELCs are required to consider the market rate schedule in the adoption of a payment schedule.

The payment schedule must consider the average market rate, include the projected number of children to be served, and be submitted for approval by the OEL. Informal child care arrangements may be reimbursed at no more than 50 percent of the rate adopted for a family day care home.<sup>71</sup>

The 2017 market rate report, updated in 2019, includes a state summary that reflects market rates by provider type and service type. For example, the average market rate in the state for GSQC designated private child care facilities was \$195.72 for services provided to infants.<sup>72</sup> The 75<sup>th</sup> percentile rate for the same services was \$225.<sup>73</sup> The reimbursement rate for providers was \$156.76. For private child care facilities without a GSQC designation, the average market rate was \$169.02 for services provided to infants, and the 75<sup>th</sup> percentile rate was \$190, and the reimbursement rate was \$131.93.<sup>74</sup>

### ***Early Learning Programs Estimating Conference***

The Early Learning Programs Estimating Conference is required to develop estimates and forecasts of the unduplicated count of children eligible for the school readiness program<sup>75</sup> and the VPK program.<sup>76</sup> The OEL is required to provide information as requested by the Early Learning Programs Estimating Conference in a timely manner.<sup>77</sup>

### ***Contracted Slots***

The OEL is required to adopt a standard statewide provider contract to be used with each school readiness program provider. The standard statewide contract must include minimum statutory requirements, such as contracted slots and provisions for provider probation and termination.<sup>78</sup> A school readiness child care slot is the number of school readiness paid child care slots filled during a month of service.<sup>79</sup> The standard statewide provider contract provides an option for school readiness providers to participate in a Contracted Slots Program whereby a provider agrees to reserve a specified number of slots determined necessary by the ELC in return for a higher reimbursement rate.<sup>80</sup>

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<sup>70</sup> Rule 6M-4.500, F.A.C.

<sup>71</sup> Section 1002.895, F.S.

<sup>72</sup> Office of Early Learning, *2017 Market Rate Report* (2019), available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/Market\\_Rate\\_Report\\_2017\\_Full\\_Time\\_Final\\_web\\_04292019.pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/Market_Rate_Report_2017_Full_Time_Final_web_04292019.pdf), at 3.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> Section 1002.87, F.S.

<sup>76</sup> Section 216.136, F.S.

<sup>77</sup> Section 216.136, F.S.

<sup>78</sup> Section 1002.82(2)(m), F.S.

<sup>79</sup> Rule 6M-4.740, F.A.C.

<sup>80</sup> Rule 6M-4.610, F.A.C., Form OEL-SR 20 (July 2019).

If an ELC participates in the Contracted Slots Program, and the ELC determines a provider is eligible for the program, then the coalition may reimburse the provider up to ten percent above the 75th percentile of the market rate.<sup>81</sup>

### ***Gold Seal Quality Care Program***

The DCF is responsible for enforcing compliance with licensing standards by child care facilities, including large family child care homes and family day care homes.<sup>82</sup>

The DCF also adopts rules to administer the GSQC Program.<sup>83</sup> A GSQC designation entitles a school readiness provider to a rate differential at 20 percent above the ELC's approved reimbursement rate.<sup>84</sup> The law disqualifies child care facilities from accreditation if they receive a specified maximum number of Class I, II, or III violations within the two-year period preceding the application for accreditation.<sup>85</sup>

Educational materials, such as glue, paper, paints, crayons, unique craft items, scissors, books, and educational toys purchased by a licensed child care facility that meets minimum statutory standards, holds a current GSQC designation, and provides basic health insurance to all employees are exempt from sales, rental, use, consumption, distribution, and storage tax.<sup>86</sup> A licensed or legally exempt child care facility that achieves GSQC status is an educational institution exempt from ad valorem tax.<sup>87</sup>

Currently, 1,852 child care facilities, large family child care homes, and family day care homes possess a GSQC designation.<sup>88</sup>

### **Research-Based Reading Allocation**

The Florida Education Finance Program (FEFP), which is used to provide equalized funding for all school districts across the state, includes a research-based reading allocation for districts to provide a K-12 comprehensive system of research-based reading instruction. Authorized uses of funds allocated under the research-based reading allocation include the following.<sup>89</sup>

- An additional hour per day of intensive reading instruction to students in the 300 lowest performing elementary schools by teachers and reading specialists who have demonstrated effectiveness in teaching reading.

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<sup>81</sup> Rule 6M-4.500, F.A.C.

<sup>82</sup> Section 402.305, F.S. Certain child care facilities which are an integral part of a church or specified parochial school are exempt from licensing standards. Section 402.316, F.S.

<sup>83</sup> Section 402.281, F.S.

<sup>84</sup> Rule 6M-4.500, F.A.C.

<sup>85</sup> Section 402.281, F.S. DCF rules governing child care facilities define Class I, II, and III violations, which are designated in ascending order of severity, for noncompliance with minimum licensing standards of child care facilities. Rule 65C-20.012, F.A.C.

<sup>86</sup> Section 212.08, F.S.

<sup>87</sup> Section 402.26, F.S.

<sup>88</sup> Florida Department of Children and Families, *Gold Seal Quality Care Summary and Detail Data* (Dec. 2019), available at <https://www.myflfamilies.com/service-programs/child-care/docs/gold-seal/December%202019%20Gold%20Seal%20Summary%20Website%20Report%201.6.20.pdf>.

<sup>89</sup> Section 1011.62(9), F.S.

- Kindergarten through grade 5 reading intervention teachers to provide intensive intervention during the school day and in the required extra hour for students identified as having a reading deficiency.
- Highly qualified reading coaches to specifically support teachers in making instructional decisions based on student data, and improve teacher delivery of effective reading instruction, intervention, and reading in the content areas based on student need.
- Professional development for school district teachers in scientifically based reading instruction, including strategies to teach reading in content areas and with an emphasis on technical and informational text, to help school district teachers earn a certification or an endorsement in reading.
- Summer reading camps, using only teachers or other district personnel who are certified or endorsed in reading, for all students in kindergarten through grade 2 who demonstrate a reading deficiency as determined by district and state assessments, and students in grades 3 through 5 who score at Level 1 on the statewide, standardized English Language Arts assessment.
- Supplemental instructional materials that are grounded in scientifically based reading research as identified by the Just Read, Florida! Office.
- Intensive interventions for students in kindergarten through grade 12 who have been identified as having a reading deficiency or who are reading below grade level as determined by the statewide, standardized English Language Arts assessment.

The Legislature appropriated \$130 million for research-based reading instruction for the 2019-2020 fiscal year.<sup>90</sup>

### **III. Effect of Proposed Changes:**

The bill modifies the administration of the Voluntary Prekindergarten Education Program (VPK) and the school readiness program and reorganizes the regulatory structure of the Office of Early Learning (OEL) to consolidate authority and oversight within the State Board of Education (SBE).

The bill expands accountability and assessment requirements for VPK providers. Specifically, the bill repeals the pre- and post-assessment and statewide kindergarten screening and readiness rate requirements for VPK providers and replaces them with:

- A coordinated screening and progress monitoring program (CSPM) for students in VPK through grade 3 to provide information on students' progress in mastering the appropriate grade-level standards to parents, teachers, and school and program administrators.
- A program assessment that measures the quality of teacher-child interactions, including emotional and behavioral support, engaged support for learning, classroom organization, and instructional support for children ages 3 to 5 years, in each VPK classroom.
- A performance metric that provides a score to each VPK provider based on performance.

The bill creates the Council for Early Grade Success within the Department of Education (DOE) to oversee the CSPM and requires the new screenings and assessments to be administered by individuals meeting SBE requirements.

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<sup>90</sup> Specific Appropriations 6 and 93, s. 2, ch. 2019-115, L.O.F.

The bill modifies the market rate schedule paid to school readiness providers to require a market rate schedule based on the prevailing market rate. The bill also removes authority for each Early Learning Coalition (ELC) to adopt a payment schedule for providers and requires the Early Learning Programs Estimating Conference to adopt the payment schedules to be used statewide in each county.

The fiscal impact of the bill is discussed in section V.

The bill takes effect July 1, 2020.

### **State Level Governance**

The bill shifts regulatory authority over the early learning system from the OEL to the SBE and the DOE and repeals the Early Learning Advisory Council. The bill makes conforming changes throughout Florida law and re-designates:

- The K-20 education system as the Early Learning-20 education system.
- The K-20 Education Code as the Early Learning-20 Education Code.
- The OEL as the Division of Early Learning.
- The K-20 data warehouse as the education data warehouse.

### ***State Board of Education***

The bill adds responsibilities for the SBE in the administration of early learning programs, including the responsibility to oversee the performance of ELCs. The conforming changes in the bill that transform the K-20 public education system into the Early Learning-20 public education system confer general rulemaking authority to the SBE for the improvement of the early learning system. The bill extends SBE oversight and enforcement authority to ELCs. The bill also transfers specific rulemaking authority to the SBE for various duties formerly assigned to the OEL.

The bill also requires early learning data, which is currently not part of the K-20 education data warehouse, to be included in the management information system databases overseen by the SBE in conjunction with the Florida Board of Governors.

### ***Department of Education***

The bill requires the DOE to assume responsibilities for executing processes governing the administration of early learning programs that were formerly assigned to the OEL, including the adoption of performance standards for students and instructors in early learning programs.

The bill brings ELCs under SBE oversight authority. The bill also modifies the membership requirements of ELCs. Specifically, the bill:

- Reduces the number of authorized ELCs in the state to reflect the current total of 30.
- Removes the requirement that ELCs appoint a central agency administrator, where applicable.

The bill also makes conforming changes to law regarding the reorganization of the OEL within the DOE and removes the authority for the OEL to access records of the DCF concerning reports

of child abandonment, abuse, or neglect, including records of reports made to the central abuse hotline.

### **The Voluntary Prekindergarten Education Program**

The bill transfers to the DOE the requirements for the OEL to adopt rules for VPK administration by ELCs and school districts. For example, the bill requires the DOE to adopt procedures for distributing funds to ELCs. The bill also modifies performance standards for VPK providers, instructors, and students.

The bill adds to the list of eligible VPK providers:

- A child development program operating on a certified military installation, which may also demonstrate required liability coverage by affirming that it is subject to jurisdiction under the federal Tort Claims Act.<sup>91</sup>
- A private prekindergarten provider with a provisional child care facility license.

### ***VPK Instructor Requirements***

The bill also modifies requirements for VPK instructors and administrators by adding to the requirement that school districts give priority to teachers who have experience or coursework in early childhood education that the teachers must also have completed emergent literacy and performance standards courses. The bill also provides that:

- A VPK instructor in a class of 11 or less children must complete two additional emergent literacy training courses, for a total of three.
- The completion by a prekindergarten instructor of a student performance standards training course is not required until July 1, 2021, and the bill requires the course to be provided for free or at a low cost and available online or in person.
- A prekindergarten director credential must include training in the implementation of curriculum and usage of student level data to inform the delivery of instruction.
- The possession of a child care facility director credential completed before the later of the establishment of the prekindergarten director credential or July 1, 2006, no longer satisfies the requirement that a private VPK provider have a prekindergarten director who has a prekindergarten director credential.
- VPK curricula must support student learning gains through differentiated instruction as measured by the CSPM.

The bill modifies requirements for professional development training courses to require the DOE to make professional development courses available that train prekindergarten instructors and increase the competency of teacher-child interactions. Each course must be comprised of at least eight clock hours, provide instruction in strategies and techniques to address the age-appropriate progress of each child in attaining performance standards, and be available online.

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<sup>91</sup> 28 U.S.C. s. 2671.

### ***VPK Performance Standards***

The bill modifies the performance standards for students in the VPK program and adds mathematical thinking and early math skills to the list of student skills required to be addressed in performance standards adopted by the DOE for the VPK program. The bill also:

- Adds early math skills to the required curricula of a VPK provider.
- Removes the requirement that performance standards be tied to the statewide kindergarten screening.
- Modifies the existing requirement that the OEL periodically review and revise the performance standards to require the DOE to review and revise the standards at least once every 3 years.

The bill repeals the existing statewide kindergarten readiness screening, but requires public schools to administer a statewide kindergarten screening in the 2020-2021 academic year within the first 30 school days and authorizes private schools to administer the statewide kindergarten screening.

### ***Coordinated Screening and Progress Monitoring Program***

The bill requires the Commissioner of Education (commissioner) to design a statewide, standardized coordinated screening and progress monitoring program (CSPM) to assess early literacy, dyslexia, and mathematics skills, and the English Language Arts and mathematics standards established in law. The bill repeals the minimum kindergarten readiness rate and the VPK pre- and post-assessment.

Beginning in the 2021-2022 academic year, the bill requires all VPK and public school students to participate in the CSPM within the first 30 days of enrollment, midyear, and within last 30 days of the school year. The bill requires each parent who enrolls a child in VPK to allow the child to participate in the CSPM.

The bill establishes the purposes of the CSPM. Specifically, the bill requires the CSPM to:

- Assess progress of students in VPK to grade 3 in meeting expectations in early literacy and math skills and English Language Arts and math.
- Provide data for VPK provider accountability.
- Provide baseline data to the DOE for each student's readiness for kindergarten, and requires the kindergarten readiness to be based on progress monitoring results within the first 30 days of enrollment.
- Identify strengths and needs of students in VPK to grade 3.
- Assess achievement of educational goals and curricular standards at the provider, school, district, and state levels.
- Provide information to aid in the development of educational programs and policies.
- Measure equivalent levels of growth and be a developmentally appropriate valid and reliable direct assessment.
- Accurately measure core content in the applicable grade level standards.
- Document learning gains for the achievement of grade level standards.
- Provide teachers with progress monitoring supports and materials that enhance differentiated instruction and parent communication.

- Be able to capture students performing below grade or developmental level.

The bill provides requirements for the use of data obtained from the administration of the CSPM. Specifically, the bill provides that the data from the CSPM must be used by VPK providers and school districts to improve instruction. The data must also be used by teachers to guide learning objectives and provide timely and appropriate supports and interventions to students not meeting grade level expectations.

The bill requires the results of the CSPM to be reported to the DOE for inclusion in the educational data warehouse and requires the DOE to use the data to:

- Identify student learning gains;
- Index development learning outcomes upon program completion relative to performance standards and representative norms; and
- Inform a provider's performance metric.

The bill requires each VPK provider and public school to provide parents with screening or progress monitoring results within seven days.

#### Research-Based Reading Allocation

The bill requires any VPK student with a substantial early literacy deficiency be referred to the local school district for intensive reading intervention using the research-based reading allocation before the student's participation in kindergarten. The bill also requires ELC and school district representatives to meet annually to develop strategies to transition students from VPK to kindergarten.

#### Council for Early Grade Success

The bill creates the Council for Early Grades Success (Council) and requires the commissioner to coordinate with the Council to develop a plan for implementation of the CSPM in consideration of the timeline required for completion of the review of the Next Generation Sunshine State Standards and the VPK program standards. The bill requires the commissioner to provide data, reports, and information as requested to the Council. The bill also provides that the Council be composed of 15 members, who must all be residents of the state, and include:

- Two members appointed by the Governor, to include:
  - One representative from the DOE.
  - One parent of a child who is four to nine years of age.
- Thirteen members appointed jointly by the President of the Senate and the Speaker of the House, to include one representative from each of the following:
  - An urban school district
  - A rural school district
  - An urban early learning coalition
  - A rural early learning coalition
  - An early learning provider
  - A faith-based early learning provider
  - A kindergarten teacher with at least five years of teaching experience
  - A second grade teacher with at least five years of teaching experience



- A school principal
- Four representatives with subject matter expertise in early learning, early grade success, or child assessments, who must not be direct stakeholders within the 67 early learning or public school systems or potential recipients of a contract resulting from the council's recommendations.

The bill requires the Council to elect a chair and vice chair. The chair must be one of the four members with subject matter expertise and the vice chair must be a member appointed by the President of the Senate and Speaker of the House. The bill requires the Council to meet at least bi-annually in person or by teleconference to:

- Review the implementation of, training for, and outcomes of the CSPM and provide recommendations to the DOE to support grade-level reading by grade 3.
- Identify appropriate personnel, processes, and procedures for administration of the CSPM.
- Continually review data and inform the DOE on recommendations to achieve grade level proficiency by grade 3.
- Make recommendations to the DOE regarding the:
  - Methodology for calculating the performance metric and grading system for VPK providers.
  - Methodology for determining kindergarten readiness.
  - Age-appropriate learning gains by grade level required to demonstrate proficiency by grade 3.

### ***Performance Metric***

The bill requires the DOE to adopt a performance metric to measure the effectiveness of a VPK provider. The bill repeals the minimum kindergarten readiness rate and the pre- and post-assessment. For the 2019-2020 academic year, the DOE must calculate the performance metric for each VPK provider based upon learning gains and the percentage of students who are assessed as ready for kindergarten.

The DOE must adopt a methodology for the performance metric beginning in the 2020-2021 academic year. The performance metric must include:

- Program assessment scores weighted at approximately 50 percent.
- Learning gains from the initial and final progress monitoring results. The learning gains must be determined using a value-added measure based on growth demonstrated by the results of the pre-and post-assessment in use before the 2021-2022 program year; however, the pre-and post-assessment are not authorized for the 2020-2021 program year.
- Norm-referenced developmental learning outcomes.

The bill requires the methodology for calculating the performance metric to include only prekindergarten students who have attended at least 85 percent of a VPK provider's program as opposed to the current 75 percent attendance rate required for inclusion in the kindergarten readiness rate. Based on 2017-2018 data, the new methodology would result in an 11 percent decrease of children included in the performance metric.<sup>92</sup>

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<sup>92</sup> Florida Department of Education, *Agency Legislative Bill Analysis for HB 1013 (2020)*, at 23.

The methodology must also include a statistical latent profile analysis that is conducted by a contracted expert. The bill requires the contracted expert to:

- Have experience in relevant quantitative analysis, early childhood assessment, and designing state-level accountability systems.
- Produce an analysis that includes a limited number of program performance metric profiles that summarize all programs' profiles that inform the assignment of a letter grading system to include grades "A" through "F".
- Confer with the DOE and the Council in the development of the methodology.
- Not have had a stake or financial interest in the design or delivery of the VPK program or public school system within the last five years.

Beginning in the 2022-2023 academic year, the DOE must calculate each VPK provider's performance metric and grade within 45 days of the conclusion of the delivered school year or summer program.

The bill specifies that the grading system adopted by the DOE must provide for a differential payment to VPK providers based on program performance. The maximum differential payment may not exceed 15 percent of the base student allocation per full-time equivalent student. A VPK provider may not receive a differential payment if it is assigned a grade of "C" or below.

The bill adds the performance metric of a VPK provider to the information that the DOE must publish and provide to each parent enrolling a child in the VPK program.

### ***Probation***

The bill requires the DOE to adopt a minimum performance metric or grade that would demonstrate satisfactory delivery of the VPK program. Beginning in the 2020-2021 academic year, if a VPK provider fails to meet the minimum performance metric or grade, the bill requires the applicable ELC or school district to place the VPK provider on probation and requires the VPK provider to:

- Submit an improvement plan for approval by the ELC or school district, as applicable, and implement the plan; and
- Implement a curriculum approved by the DOE; or
- Implement a staff development plan to strengthen instruction in in emotional and behavioral support, engaged support for learning, classroom organization, language development, phonological awareness, alphabet knowledge, and mathematical thinking.

The probation lasts until the VPK provider attains the minimum required performance metric or grade. The bill requires an annual notification by the DOE to any providers who have been placed on probation and continue to fail to meet the minimum performance metric. The failure to comply with the probation or attain the minimum performance metric after two years of probation must result in the VPK provider's suspension from the program for a period of two to five years, as determined by the applicable ELC or school district.

The bill also prohibits a VPK provider from delivering a VPK program if the provider's program assessment composite score falls below the minimum threshold for contracting or the provider's

license has been converted to a probation-status license by the Department of Children and Families (DCF).

### ***Good Cause Exemption***

The bill authorizes the DOE to grant a VPK provider a good cause exemption from being determined ineligible to deliver the VPK program and receive state funds for the program. The exemption is valid for one year and is renewable. A request for a good cause exemption must include data from:

- The VPK provider which documents the achievement and progress of the children served, as measured by any required screenings or assessments.
- Program assessments which demonstrates effective teaching practices as recognized by the contracted expert.
- The ELC or district school board, the DCF, or the local licensing authority reflecting compliance with state and local health and safety standards.

The bill requires the DOE to adopt criteria to consider when determining whether to grant a request for an exemption. The criteria must include:

- Child demographic data that evidences a VPK provider serves a statistically significant population of children with special needs who have individual education plans and can demonstrate progress toward meeting the goals outlined in the student's individual education plans.
- Learning gains of children served in the VPK program on an alternative measure that has comparable validity and reliability of the screening and progress monitoring program.
- Program assessment data which demonstrates effective teaching practices as recognized by the contracted expert.
- Verification that local and state health and safety requirements are met.

The bill prohibits the DOE from granting a good cause exemption to any VPK provider that has any class I violations involving an imminent threat to the health, safety, or welfare of a student or two or more class II<sup>93</sup> violations involving an unreasonable risk to the health, safety, or welfare of a student within the two years preceding the provider's request for an exemption. The DOE is required to inform the applicable ELC or school district if an exemption is granted to a VPK provider that remains on probation for 2 consecutive years.

The bill requires each ELC or school district, as applicable, to verify VPK provider compliance with the statutory requirements for delivering the VPK. The DOE must require each applicable ELC or school district to suspend a provider who refuses to comply with VPK requirements or commits misconduct. The ELC or school district must suspend the provider's eligibility to provide VPK for a period of two to five years.

The bill incorporates the number of good cause exemptions and justifications into the annual reporting requirements of the DOE.

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<sup>93</sup> Class I and Class II violations are defined in s. 402.281(4), F.S.

### **The School Readiness Program**

The bill modifies requirements for regulating the school readiness program. Specifically, the bill:

- Requires the SBE to adopt rules for the implementation of the school readiness program assessment.
- Modifies the requirement that the OEL adopt rules for ELCs in the implementation of statewide procedures. The bill instead requires the DOE to provide technical support to ELCs in implementing the statewide procedures.
- Requires the commissioner to prepare, publish, and disseminate materials relating to the school readiness program.
- Requires the DOE to monitor the alignment and consistency of the standards and benchmarks that address the age-appropriate progress of children in the development of school readiness skills. This requirement modifies existing law which only requires the OEL to develop and adopt the standards and benchmarks.

The bill modifies requirements for school readiness providers. Specifically, the bill:

- Exempts a qualified provider at a military installation from child care facility licensing requirements, health and safety and immunization requirements, and liability coverage requirements.
- Authorizes provisionally licensed child care facilities or homes to deliver the school readiness program.
- Prohibits a child care facility or home from delivering the school readiness program while its license is on a probation status.
- Provides that the DOE and the ELCs may not require a school readiness provider to administer a VPK program assessment.
- Clarifies that a contract with a qualified entity to administer a regional school readiness program in the place of a noncompliant ELC lasts until the DOE reestablishes the ELC and a new school readiness plan is approved.
- Adds a parent's participation in an Early Head Start or Head Start Program to the list of circumstances that qualify for waiver of a school readiness program copayment.

### ***Contracted Slots***

The bill requires, by July 1, 2021, the DOE to develop and adopt requirements for the implementation of a program designed to make available contracted slots to serve children:

- In the custody of a homeless parent.
- In court-ordered, long-term custody or under the guardianship of a relative or nonrelative after termination of supervision by the DCF.
- At the greatest risk of school failure as determined by being located in an area that has been designated as a poverty area tract according to the latest census data.

The bill also provides that the contracted slot program may be used to increase the availability of child care capacity based on the assessment of local priorities within the county or multicounty region based on the needs of families and provider capacity using available community data.

### ***Market Rate***

The bill modifies the market rate to be paid to school readiness providers by the DOE. Specifically, the bill:

- Redefines the average market rate as the “prevailing market rate” to mean the biennially determined 75<sup>th</sup> percentile of a reasonable frequency distribution of the market rate by program level and provider type in a geographical market at which child care providers charge a person for child care services.
- Modifies the requirement that the market rate include minimum and maximum rates for Gold Seal Quality Care (GSQC) providers to clarify that the GSQC providers included in the determination of rates must also adhere to the teacher to child ratios and group size requirements of their respective accrediting associations.
- Clarifies that the payment schedule must account for the prevailing market rate and the projected number of children served in each county.
- Removes the requirement for each ELC to consider the market rate schedule.
- Removes the requirement that informal child care arrangements be reimbursed at 50 percent or less than the rate adopted for a family day care home.

### ***Early Learning Estimating Conference***

The bill removes the authority for ELCs to adopt payment schedules for providers and provides additional duties for the Early Learning Programs Estimating Conference related to the payment schedule and market rate for school readiness providers. Specifically, the bill requires the estimating conference to meet biannually to review:

- The data and procedures used by the DOE in the adoption of the market rate schedule.
- Base payment rates and the application of legislatively approved differentials.
- Reasonable access to quality early learning settings in each county.
- All data sources and calculations used to determine funding recommendations by county for the school readiness program and the VPK program before submission of any legislative budget request.
- Consider the market rate schedule in the adoption of a payment schedule.

### ***Gold Seal Quality Care Program***

The bill repeals the law providing for a GSQC Program within the DCF. The bill reestablishes the program within the DOE and requires the SBE to adopt rules establishing GSQC accreditation standards using nationally recognized accrediting standards as well as input from accrediting associations. The bill requires the SBE to adopt rules to provide criteria for reviewing and approving accrediting associations and for conferring and revoking GSQC status.

The bill codifies and specifies standards for approval of accrediting associations by the DOE for participation in the GSQC Program. In order to be approved by the DOE, an accrediting association must apply to the DOE and demonstrate that it:

- Is a recognized accrediting association.<sup>94</sup>
- Meets or exceeds SBE standards.<sup>95</sup>

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<sup>94</sup> This is an existing statutory requirement of the DCF GSQC Program.

<sup>95</sup> This is an existing statutory requirement of the DCF GSQC Program.

- Is a registered corporation with the Department of State.
- Demonstrates accreditation requirements that include clearly defined accreditation prerequisites and procedures for:
  - Completion of a self-study and comprehensive onsite verification for each classroom that documents compliance with standards.
  - Training for accreditation verifiers to ensure inter-rater reliability.
  - Ongoing compliance to include an audit and filing of an annual report with the DOE;
  - Renewal requiring onsite verification at least every three years.
  - Verifying compliance upon transfer of ownership.
  - Revoking accreditation.
  - Communicating issues to state agencies with oversight.

The bill requires the DOE to remove the approval of an accrediting association that fails to comply with the processes and procedures submitted to and approved by the DOE. The DOE must remove a noncompliant accrediting association for a period of two to five years. The bill provides one year for a child care provider that was accredited by a noncompliant accrediting association to obtain a new accreditation from an approved accrediting association.

The bill prohibits minimum child care licensing standards developed by the DCF from exceeding standards expressly set forth in law and further provides that any licensing standards adopted by the DCF on or after July 1, 2020, must be ratified by the Legislature. The bill disqualifies child care providers from accreditation if they have received a specified number of Class I, II, or III violations of the minimum licensing standards for child care facilities. The bill disqualifies a child care provider from accreditation if, within the two-year period preceding its application, the accredited provider has received:

- Any class I violations.
- Three or more class II violations.
- Three or more class III violations that were not corrected within one year.

The bill adds an exemption from sales, rental, use, consumption, distribution, and storage tax for the purchase of educational curricula by a GSQC designee, which is in addition to existing exemptions for the purchase of certain other educational supplies.

The bill requires licensed or legally exempt child care facilities that participate in the school readiness program and achieve GSQC status to receive at least a 20 percent rate differential for each enrolled school readiness child by care level and unit of child care. The bill authorizes the Early Learning Estimating Conference to determine a rate differential of between 20 to 40 percent for school readiness program providers that maintain group size and teacher-to-child ratios in accordance with standards set by their accrediting associations.

#### **IV. Constitutional Issues:**

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

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

The bill adds an exemption from sales, rental, use, consumption, distribution, and storage tax for the purchase of educational curricula by a Gold Seal Quality Care designee, which is in addition to existing exemptions for the purchase of certain other educational supplies. The revenue estimating conference has not estimated the fiscal impact of the bill, but the additional exemption is expected to have a negative fiscal impact.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The revised assessment and screening requirements specified in the bill will likely result in additional state costs. Additional clarification may be needed to determine whether the required assessment must be custom-designed to fully align with new academic content standards in English language arts and mathematics. The Florida Department of Education estimates:<sup>96</sup>

- \$6.9 million is required to implement the new program assessment required for Voluntary Prekindergarten Education Program providers.
- Annual expenditures of \$15 million associated with the coordinated screening and progress monitoring program.

**VI. Technical Deficiencies:**

The bill repeals the law providing for the Gold Seal Quality Care Program within the Department of Children and Families (DCF) and reestablishes the program within the Department of Education. However, the bill does not include a provision for a related type two transfer.

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<sup>96</sup> Florida Department of Education, *Agency Legislative Bill Analysis for HB 1013 (2020)*.

It is unclear if the 15 percent differential payment for VPK providers would be implemented within the existing appropriation or would require an additional appropriation.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The bill substantially amends ss. 20.055, 20.15, 39.202, 39.604, 212.08, 216.136, 383.14, 391.308, 402.26, 402.281, 402.305, 402.315, 402.56, 411.226, 411.227, 414.295, 1000.01, 1000.02, 1000.03, 1000.04, 1000.21, 1001.02, 1001.03, 1001.10, 1001.11, 1001.213, 1001.215, 1001.23, 1001.70, 1002.32, 1002.34, 1002.36, 1002.53, 1002.55, 1002.57, 1002.59, 1002.61, 1002.63, 1002.67, 1002.68, 1002.69, 1002.71, 1002.72, 1002.73, 1002.75, 1002.77, 1002.79, 1002.81, 1002.82, 1002.83, 1002.84, 1002.85, 1002.88, 1002.89, 1002.895, 1002.91, 1002.92, 1002.93, 1002.94, 1002.945, 1002.95, 1002.96, 1002.97, 1002.995, 1003.575, 1007.01, 1008.25, 1008.31, 1008.32, 1008.33, 1011.62, and 1002.22, of the Florida Statutes.

The bill repeals the following section of the Florida Statutes: 402.281

The bill create the following section of the Florida Statutes: 1008.2125.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.