

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1021 Child Care and Early Learning Providers

**SPONSOR(S):** Education & Employment Committee, McFarland

**TIED BILLS:** None. **IDEN./SIM. BILLS:** SB 990

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Education & Employment Committee	15 Y, 0 N, As CS	Wolff	Hassell
2) Ways & Means Committee			
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

To increase employer sponsored child care, the bill exempts child care facilities owned by certain corporations from licensure and establishes tax credits for:

- Contributions to child care facilities by corporations.
- Startup costs and operational costs for child care facilities established by corporations.
- Contributions to child care facilities on behalf of employees by corporations.

In addition, the bill provides programmatic and financial supports for child care facilities and early learning providers by:

- modifying requirements for Voluntary Prekindergarten (VPK) classroom instructors, program and child assessments, and implementation of the accountability measures for VPK programs.
- requiring intensive reading interventions to VPK students with substantial deficiencies in early literacy.
- modifying requirements for obtaining and maintaining the Gold Seal Quality Care designation.
- directing early learning coalitions to support the Teacher Education and Compensation Helps (T.E.A.C.H.) Scholarship Program by assisting with co-pays for providers.
- modifying requirements related to licensing of child care facilities by the Department of Children and Families.
- modifying the existing exemptions from special assessments levied by municipalities to include preschools.
- clarifying requirements of residential property insurance for large family child care homes.

The bill has an indeterminate fiscal impact. See Fiscal Comments, *infra*.

The bill provides an effective date July 1, 2023.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Tax Credit Programs

##### Present Situation

The Florida Tax Credit Scholarship Program (FTC) was created in 2001<sup>1</sup> and allows taxpayers to make private, voluntary contributions to non-profit scholarship-funding organizations that award scholarships to eligible low-income students for private school tuition and fees. Taxpayers can receive a tax credit for use against their liability for corporate income tax, insurance premium tax, oil and gas production tax, and use tax under a direct pay permit or alcoholic beverage taxes on beer, wine, and spirits.<sup>2</sup> The tax credit is equal to 100 percent of the eligible contributions made.<sup>3</sup> To receive a tax credit, the taxpayer must submit an application to Department of Revenue (DOR) and specify each tax for which the taxpayer requests a credit and the applicable taxable or state fiscal year for the credit.<sup>4</sup> Taxpayers can rescind tax credits, which will become available to another eligible taxpayer in that fiscal year.<sup>5</sup> Similar credits exist for the New Worlds Reading Initiative Tax Program<sup>6</sup> and the Strong Families Tax Program.<sup>7</sup>

##### *Past Corporate Income Tax Benefits Related to Child Care*

In 1985, the Legislature adopted a deduction from net income for specified “child care facility start-up costs,” defined as expenditures for playground equipment, kitchen appliances and cooking equipment, and real property used to establish a child care facility located on the premises or within 5 miles of the employer’s location, for use exclusively by the employees of the taxpayer.<sup>8</sup>

In 1998, and effective for 1999 and thereafter, the Legislature replaced the deduction for child care facility start-up costs with a credit against corporate income tax for employers that opened or operated a child care facility for its employees, or which made child care payments directly to a child care facility on behalf of employees.<sup>9</sup> The credit, codified in s. 220.19, F.S., was for 50 percent of the startup costs, along with \$50 per month per child for employer-provided child care, or 50 percent of child care payments made to independent child care facilities.<sup>10</sup> The total benefit per corporation was limited to \$50,000 per year, and the total credits statewide were capped at \$2 million each year.<sup>11</sup> Any credit unused in one year due to insufficient liability could be carried forward and used in any of the following five years.<sup>12</sup>

If a facility for which a taxpayer received a credit for startup costs ceased operation within the first five years, a pro rata share of the credit was required to be repaid.<sup>13</sup> Eligible child care facilities had to fall within the statutory definition found in s. 402.302, F.S., and had to be licensed in accordance with s.

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<sup>1</sup> Section 1002.395, F.S.

<sup>2</sup> Section 1002.395(1) and (5), F.S.

<sup>3</sup> Sections 220.1875 and 1002.395(5), F.S.

<sup>4</sup> Section 1002.395(5)(b), F.S.

<sup>5</sup> Section 1002.395(5)(e), F.S.

<sup>6</sup> Section 1003.485, F.S.

<sup>7</sup> Section 402.62, F.S.

<sup>8</sup> Ch. 85-118, L.O.F.

<sup>9</sup> Ch. 98-293, L.O.F.

<sup>10</sup> Section 220.19(2)(a), F.S. (1999)

<sup>11</sup> Section 220.19(2)(b) and (c), F.S. (1999)

<sup>12</sup> Section 220.19(2)(e), F.S. (1999)

<sup>13</sup> Section 220.19(2)(f), F.S. (1999)

402.305, F.S., or had to be a facility providing daily care to children who were mildly ill.<sup>14</sup> The child care services must have been available to all employees, or allocated on a first-come, first-served basis.<sup>15</sup>

The Department of Revenue was authorized to adopt rules for the credit program, and was required to approve or disapprove applications for the program in writing.<sup>16</sup> All approvals required verification by the Department of Children and Family Services or the local licensing agency that the facility qualified for the credit program.<sup>17</sup>

The program expired June 30, 2008,<sup>18</sup> other than the section related to carryover of unused tax credits and the section requiring pro rata repayment if a facility ceased operations within five years, which remain in statute.<sup>19</sup>

### Effect of Proposed Changes

The bill amends s. 220.19, F.S., to reenact a tax credit for corporations providing specified child care services. The program states that it allows a credit against any tax required under chapters 220, 211, 212, 561, or 624, as well as any tax due under chapter 212 from a direct pay permit holder.

The bill provides for a credit for either of the following:

- A credit of 50 percent of the startup costs of a child care facility for children under the age of 5 operated by the corporation for the benefit of its employees. An additional credit is allowed for the operation of the facility in the amount of \$300 per month for each child or grandchild of an employee enrolled in the facility. Such a facility must be available to all employees or must be allocated on a first-come, first-served basis and must be used by employees of the corporation. Such a facility may be jointly established and operated by two or more corporations.
- A credit for 100 percent of the child care payments made to an outside child care facility in the name of and for the benefit of an employee of the corporation whose child or grandchild attends the facility. The credit is limited to a maximum of \$3,600 per child under the age of 5, per year, and the amount for which a credit is claimed may not exceed the amount charged by the facility for other children of like age and ability who are not the children of employees of the corporation.

The child care facility under either scenario must fall within the definition of “child care facility” in s. 402.302, F.S., and must either be licensed under s. 402.305, F.S., or be exempt from licensure under s. 402.316, F.S. The bill designates corporate-provided child care providers as a type of license-exempt private providers that may offer the VPK program and exempts from licensure a child care provider that receives the tax credit and is attended only by children or grandchildren of employees of the corporation claiming the credit.

The total credit allowed in each taxable year is limited based on the number of employees of the applicable corporation as follows:

<b>Number of Employees</b>	<b>Maximum Credit per Taxable Year</b>
1-25	\$50,000
26-50	\$100,000
51-75	\$150,000
76-100	\$200,000
101-200	\$300,000
201-500	\$500,000

<sup>14</sup> Section 220.19(3)(a), F.S. (1999)

<sup>15</sup> Section 220.19(3)(b), F.S. (1999)

<sup>16</sup> Section 220.19(5), F.S. (1999)

<sup>17</sup> Section 200.19(5)(c), F.S. (1999)

<sup>18</sup> Section 220.19(6), F.S. (1999)

<sup>19</sup> Section 220.19, F.S.

More than 500	\$600,000
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The total statewide credit amount that could be approved for all applications is \$7.5 million.

Beginning January 1, 2024, and for taxable years beginning on or after January 1, 2024, the program requires corporations to apply to the Department of Revenue and receive approval before claiming the credit on a return.

The application must include a proposal for an employer-operated facility, including the number of children and grandchildren of employees who are expected to enroll; or the total number of children and grandchildren for whom child care payments will be made, along with the estimated total amount of such payments; the taxable year in which the credit is expected to be earned; and written verification from the Department of Children and Families or a local licensing agency that the facility meets the definition of child care facility in s. 402.302, F.S., and is eligible under the program.

The Department of Revenue must approve the tax credits on a first-come, first-served basis, and is authorized to adopt rules to implement the program. The department's decisions on taxpayer applications must be in writing, and, if approved, must state the maximum credit authorized for the corporation.

The program retains the five-year carryforward from the original 1998 credit, as well as the pro rata repayment provision for any child care facility that does not operate for a full five years after receiving a credit.

A corporation that files a consolidated return for corporate income tax purposes can apply the credit on a consolidated basis.

### **Voluntary Prekindergarten Program**

#### Present Situation

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

The Voluntary Prekindergarten Education Program (VPK) prepares early learners for success in kindergarten and beyond. VPK helps build a strong foundation for school using educational material corresponding to various stages in a child's development. To be eligible, children must live in Florida and be 4 years old on or before September 1 of the current school year.<sup>20</sup> Parents whose children are born between February 2 and September 1 can postpone enrolling their 4-year-old until the following year when their child is age 5. Private child care centers and schools, public schools, and specialized instructional services providers offer VPK. Since the program began in 2005-2006, more than 2.6 million children have benefited from VPK. Data collected by the Department of Education (DOE) show that children who participate in VPK are more ready for kindergarten than children who do not participate in VPK.<sup>21</sup>

For the 2021-2022 VPK program year, 150,212 children participated in the school year VPK program and 2,882 children participated in the summer VPK program. Program participation was 64.14% of the 4 year old population.<sup>22</sup>

##### *VPK Administration*

The DOE is responsible for ensuring that administrative expenditures are kept to the minimum necessary for efficient and effective administration of the VPK Program. Each early learning coalition

<sup>20</sup> Section 1002.53(2), F.S.

<sup>21</sup> Florida Division of Early Learning, *About Voluntary Prekindergarten*, <https://www.floridaearlylearning.com/vpk/floridas-vpk-program> (last visited Mar. 11, 2023).

<sup>22</sup> Office of Economic & Demographic Research, *Early Learning Programs Estimating Conference Prekindergarten Education Program, February 16, 2023, Conference Package*, available at <http://edr.state.fl.us/Content/conferences/vpk/index.cfm>.

(coalition) may retain and expend no more than four percent of the funds paid by the coalition to VPK providers. Funds retained by a coalition may be used only for administering the VPK Program.<sup>23</sup> Total administrative expenditures for the 2021-2022 VPK program for all coalitions was \$12,145,890 with only 12 of 30 coalitions spending the full four percent allowed.<sup>24</sup>

The DOE is required to establish a single statewide information system that each coalition must use for the purposes of managing the single point of entry, tracking children's progress, coordinating services among stakeholders, determining eligibility of children, tracking child attendance, and streamlining administrative processes for providers and early learning coalitions.<sup>25</sup>

Each coalition administers the VPK Program at the county or regional level for students enrolled in a school-year VPK program delivered by a private prekindergarten provider.<sup>26</sup> Each coalition is composed of at least 15 but not more than 30 members. The Governor appoints the chair and two other members of each early learning coalition, who must each meet the qualifications of a private sector business member. The coalition may appoint additional private sector business members.<sup>27</sup>

To be eligible to deliver the VPK program, a private prekindergarten provider must be a licensed or licensed-exempt child care facility.<sup>28</sup> Exempt providers include certain nonpublic schools that primarily serve children at least 5 years of age or older,<sup>29</sup> accredited faith-based child care providers that are members of a larger organization with published health, safety, and sanitation standards,<sup>30</sup> and certain accredited child development programs on military bases.<sup>31</sup>

### *VPK Personnel*

All providers, including licensed-exempt providers, must meet requirements for certification of personnel and background screening.<sup>32</sup> For the school year VPK program, a VPK instructor must successfully complete three emergent literacy training courses that include developmentally appropriate and experiential learning practices for children and a student performance standards training course approved by the DOE. The prekindergarten instructor must also complete an emergent literacy training course at least once every five years after initially completing the three emergent literacy training courses.<sup>33</sup>

VPK personnel may also earn a literacy micro-credential and receive a \$2,000 stipend.<sup>34</sup> The literacy micro-credential provides instructional personnel with high-quality, evidence-based strategies for developing emergent literacy skills.<sup>35</sup> Enrollment in the program began on December 31, 2022.<sup>36</sup>

Instructor requirements are more stringent for the summer VPK program. Each summer VPK program provider must have, for each prekindergarten class, at least one prekindergarten instructor who is a certified teacher or holds a bachelor's or higher degree in early childhood education, prekindergarten or primary education, preschool education, or family and consumer science, or hold a certificate to teach

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<sup>23</sup> Section 1002.71(7), F.S.

<sup>24</sup> Florida Department of Education, Division of Early Learning, *Annual Report 2021-22*, available at <https://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/images/DEL%20Annual%20Report%202021-2022%20FINAL.pdf>.

<sup>25</sup> Section 1002.82, F.S.

<sup>26</sup> Section 1002.55(1), F.S.

<sup>27</sup> Section 1002.83(6), F.S.

<sup>28</sup> Section 1002.55(3)(a), F.S.

<sup>29</sup> Section 402.3025(2), F.S.

<sup>30</sup> Section 402.316(1), F.S.

<sup>31</sup> Section 1002.55(3)(a), F.S.

<sup>32</sup> Section 1002.55(3)(b)3., F.S.

<sup>33</sup> Section 1002.59, F.S.

<sup>34</sup> University of Florida Lastinger Center, *Emergent Literacy Micro-Credential*, <https://lastinger.center.ufl.edu/work/literacy/flamingo-literacy/literacy-microcredentials/emergent-literacy-microcredential/> (last visited Mar. 10, 2023).

<sup>35</sup> Section 1003.485(2)(h)1., F.S.

<sup>36</sup> University of Florida Lastinger Center, *Emergent Literacy Micro-Credential*, <https://lastinger.center.ufl.edu/work/literacy/flamingo-literacy/literacy-microcredentials/emergent-literacy-microcredential/> (last visited Mar. 10, 2023).

any age from birth through grade 6 and holds a bachelor's or higher degree in elementary education and is not otherwise disqualified.<sup>37</sup>

### *VPK Accountability*

Each VPK provider may select or design the curriculum that the provider uses to implement the VPK Program. The curriculum must be developmentally appropriate and must:<sup>38</sup>

- Be designed to prepare a student for early literacy and provide for instruction in early math skills.
- Enhance the age-appropriate progress of students in attaining the performance standards adopted by DOE.
- Support student learning gains through differentiated instruction that shall be measured by the coordinated screening and progress monitoring program.

All VPK providers are required to participate in a program assessment of each VPK classroom beginning with the 2022-2023 VPK Program. The program assessment measures the quality of teacher-child interactions, including emotional support, classroom organization, and instructional support for children ages 3 to 5 years. Early learning coalitions are responsible for the administration of the program assessments.<sup>39</sup>

The program assessment score must constitute at least half of the provider performance metric developed by the DOE for the 2022-2023 VPK program year. The performance metric must include program assessment scores, learning gains, and learning outcomes from the coordinated screening and progress monitoring system. The methodology is required to include a statistical latent profile analysis developed by the DOE that produces a limited number of performance metric profiles which summarize the profiles of all VPK programs in designations consisting of "unsatisfactory," "emerging proficiency," "proficient," "highly proficient," and "excellent" or similar designations.<sup>40</sup> Beginning with the 2023-2024 program year, each VPK provider will be assigned a designation within 45 days after the conclusion of the VPK Program.<sup>41</sup>

The coordinated screening and progress monitoring program is the statewide, standardized assessment program known as Florida's Assessment of Student Thinking (FAST) using Star Early Literacy. This program is used to assess student achievement in early literacy and mathematics.<sup>42</sup> VPK Programs began implementing the FAST using Star Early Literacy in the 2022-2023 VPK Program Year.

A VPK student who exhibits a substantial deficiency in early literacy skills in accordance with the standards and based upon the results of the administration of the final coordinated screening and progress monitoring must be referred to the local school district and may be eligible to receive intensive reading interventions before participating in kindergarten. Such intensive reading interventions must be paid for using funds from the district's evidence-based reading instruction allocation.<sup>43</sup>

### Effect of Proposed Changes

#### *VPK Personnel*

The bill authorizes a VPK instructor to complete the required three emergent literacy training courses within 45 days after commencing employment rather than as a pre-condition of employment. This may

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<sup>37</sup> Section 1002.61(4), F.S.

<sup>38</sup> Section 1002.67(2), F.S.

<sup>39</sup> Section 1002.68(2), F.S.

<sup>40</sup> Section 1002.68(4)(a), F.S.

<sup>41</sup> Section 1002.68(4)(f), F.S.

<sup>42</sup> Florida Division of Early Learning, *Florida's Assessment of Student Thinking (FAST) using Star Early Literacy*, <https://www.floridaearlylearning.com/vpk/fast> (last visited Mar. 10, 2023).

<sup>43</sup> Section. 1008.25(5), F.S.

increase the number of available instructors, but VPK classes may be impacted if an instructor fails to complete all courses within the required timeframe.

### *VPK Administration*

The bill expands the requirements of the statewide data information program to include the Florida Education Identifier for all instructors and enrolled children in the VPK and school readiness programs. The DOE must contract for, rather than establish, a single statewide information system to manage all early learning programs and child care licensing and training. The system must allow parents to locate early learning programs online, including the provider performance profile by October 1, 2024.

The bill authorizes early learning coalitions to appoint additional at-large members to their board as long as the at-large members do not comprise more than one-third of the board's composition. The bill also removes private sector business members from the allowable composition of at-large appointees.

### *VPK Accountability*

The bill prohibits a public or private VPK provider's curriculum from using electronic devices except to complete the coordinated screening and monitoring program, which may not be used for direct instruction.

The bill postpones from the 2022-2023 program year to the 2023-2024 program year the requirement to participate in a program assessment. The bill specifies that the program assessment may only be conducted in accordance with the requirements of the assessment provider.

The bill also postpones, from the 2022-2023 program year to the 2023-2024 program year, the requirement for the DOE to adopt the methodology for calculating each VPK provider's performance metric. The bill removes the responsibility for the DOE to develop the performance metric and instead requires the methodology for the performance metric to include an analysis that has been conducted by an independent expert with experience in relevant quantitative analysis, early childhood assessment, and designing state-level accountability systems. The independent expert must be identified through competitive procurement before the 2023-2024 program year and retained through the 2025-2026 program year.

The bill postpones from the 2023-24 VPK program year to the 2024-25 program year the requirement for the DOE to issue a performance designation based on the provider's performance metric.

## **School Readiness Program Administration**

### Present Situation

The School Readiness (SR) 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>44</sup> The SR Program offers financial assistance for child care to support working families and help children to develop skills for success in school. The program also provides developmental screening and referrals to health and education specialists where needed.<sup>45</sup>

The DOE is required to monitor the alignment and consistency of the standards developed and adopted by DOE that address the age-appropriate progress of children in the development of school readiness skills. The standards for children from birth to kindergarten entry in the SR Program must be aligned

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<sup>44</sup> Section 1002.87, F.S.

<sup>45</sup> Section 1002.86, F.S.

with the performance standards adopted for children in the VPK Program and must address the following domains:<sup>46</sup>

- Approaches to learning.
- Cognitive development and general knowledge.
- Numeracy, language, and communication.
- Physical development.
- Self-regulation.

Early learning coalitions may award grants and provide financial support to SR Program providers and their staff to assist them in meeting applicable state requirements for the program assessment, child care performance standards, implementing developmentally appropriate curricula and related classroom resources that support curricula, providing literacy supports, and providing continued professional development and training. Early learning coalitions provide training, technical assistance, and financial support to school readiness program providers, staff, and parents on standards, child screenings, child assessments, child development research and best practices, developmentally appropriate curricula, character development, teacher-child interactions, age-appropriate discipline practices, health and safety, nutrition, first aid, cardiopulmonary resuscitation, the recognition of communicable diseases, and child abuse detection, prevention, and reporting.<sup>47</sup>

### Effect of Proposed Changes

The bill modifies s. 1002.89, F.S., to specifically authorize early learning coalitions to use School Readiness program funds to improve quality by:

- Implementing a developmentally appropriate curriculum that meets the performance standards for the School Readiness program.
- Supporting parent engagement.
- Supporting professional development through the Teacher Education and Compensation Helps (TEACH) Scholarship program.
- Providing training aligned to the early learning professional development standards and career pathways.
- Reimbursing providers for the cost for background screening.

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

#### Present Situation

The DOE administers the Gold Seal Quality Care program. In 1996,<sup>48</sup> the Florida Legislature established the Gold Seal Quality Care Program to recognize child care facilities and family day care homes that have gone above the required minimum licensing standards to become accredited by recognized agencies whose standards reflect quality in the level of care and supervision provided to children. The Gold Seal Quality Care Program is not an accreditation, but a designation with potential benefits to those that participate including, but not limited to:<sup>49</sup>

- A positive marketing tool for prospective parents.
- Tax exemptions. The Department of Revenue issues the exemption certificates for sales tax. This exemption is for certain educational materials.
- Higher reimbursement for School Readiness providers.
- Eligibility to participate in Voluntary Prekindergarten (VPK).

Currently, 2,890 providers are listed as a Gold Seal Quality Care provider.<sup>50</sup>

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<sup>46</sup> Section 1002.82, F.S.

<sup>47</sup> Section 1002.89, F.S.

<sup>48</sup> Ch. 96-175, s. 72, Laws of Florida.

<sup>49</sup> Florida Division of Early Learning, *About the Gold Seal Quality Care Program*, available at:

<https://www.floridaearlylearning.com/providers/gold-seal-quality-care-program>.

<sup>50</sup> Department of Children and Families, *Child Care Provider List, 3-1-2023*, available at:

<https://www.myflfamilies.com/sites/default/files/2023-03/Public%20-%202023-3-1%20-%20Statewide.pdf>



To obtain and maintain a designation as a Gold Seal Quality Care provider, a child care facility, large family child care home, or family day care home must have:

- No class I<sup>51</sup> violations within preceding 2 years;
- Less than 3 class II<sup>52</sup> violations within preceding 2 years;
- Less than 3 class III<sup>53</sup> violations within the preceding 2 years that were not corrected within 1 year.<sup>54</sup>

The DOE has not terminated any providers from the program. The Children's Forum has denied renewal applications for 33 Gold Seal Quality Care Program providers.<sup>55</sup>

### Effect of Proposed Changes

The bill modifies requirements for obtaining or maintaining the Gold Seal Quality Care designation by requiring a provider to not have three or more of the same Class II violations, rather than just three or more class II violations in general.

## **T.E.A.C.H. Scholarship Program**

### Present Situation

The DOE administers the Teacher Education and Compensation Helps (T.E.A.C.H.) Scholarship Program in partnership with the Children's Forum, which provides educational scholarships to caregivers and administrators of early childhood programs, family day care homes, and large family child care homes. The goal of the program is to increase the education and training for caregivers, increase the compensation for child caregivers who complete the program requirements, and reduce the rate of participant turnover in the field of early childhood education.<sup>56</sup>

The Legislature appropriated \$3 million in recurring funds and \$7 million in nonrecurring funds for the T.E.A.C.H. Program in the 2022-2023 fiscal year.<sup>57</sup> According to the T.E.A.C.H. 2020-2021 annual report, the DOE provided \$9,999,885 in funding to support 4,215 scholarships. In 2020-2021, the DOE waived employer and scholar copays.<sup>58</sup>

### Effect of Proposed Changes

The bill clarifies that T.E.A.C.H. scholarship program recipients are "instructors" and not "caregivers." Early learning coalitions must support the T.E.A.C.H. scholarship program by reimbursing child care providers for the co-pay portion of the program for each instructor who completes a child development associate credential in his or her service area.

## **Child Care Licensing Program**

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<sup>51</sup> Class "I" violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines present an imminent danger to the clients of the provider or a substantial probability that death or serious physical or emotional harm would result therefrom. Section 408.813, F.S.

<sup>52</sup> Class "II" violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines directly threaten the physical or emotional health, safety, or security of the clients, other than class I violations. *Id.*

<sup>53</sup> Class "III" violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients, other than class I or class II violations. *Id.*

<sup>54</sup> Section 1002.945, F.S.

<sup>55</sup> Email, Florida Department of Education (Mar. 9, 2023).

<sup>56</sup> Section 1002.945, F.S.

<sup>57</sup> Chapter 2022-156, s. 2, Specific Appropriation 78, Laws of Florida.

<sup>58</sup> T.E.A.C.H. Early Childhood Scholarship Program, *Annual Report 2021*, available at: <https://teach-fl.org/download/t-e-a-c-h-annual-report-for-2021/>.

## Present Situation

The child-care licensing program is a component of the services provided by Department of Children and Families (DCF). The program is accountable for the statewide licensure of Florida's child-care facilities, specialized child-care facilities for the care of mildly ill children, large family child-care homes, and licensure or registration of family day care homes. The purpose of the program is to ensure a healthy and safe environment for the children in child-care settings and to improve the quality of their care through regulation and consultation. DCF ensures that licensing requirements are met through ongoing inspections of child-care facilities and homes, thus preventing the continued operation of substandard child-care programs.<sup>59</sup> There are over 8,000 licensed child care programs in Florida.<sup>60</sup>

Florida's child-care law<sup>61</sup> provides for any county whose licensing standards meet or exceed the state minimum standards to designate by ordinance a local licensing agency in their county. Counties not choosing to administer their own child care licensing programs are licensed by (DCF).

## Effect of Proposed Changes

The bill defines "preschool" to mean any childcare care facility that is licensed pursuant to the standards of DCF and serves children under 5 years of age.

## **Child Care Facility Standards**

### Present Situation

DCF establishes licensing standards that each licensed child care facility must meet regardless of the origin or source of the fees used to operate the facility or the type of children served by the facility. The standards are required to address the following areas:<sup>62</sup>

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

All standards established by DCF must be consistent with the rules adopted by the State Fire Marshal for child care facilities. However, if the facility is operated in a public school, the DCF is required to use the public school fire code, as provided in the rules of the State Board of Education, as the minimum standard for firesafety.<sup>63</sup>

DCF child-care licensing staff are responsible for the inspection and licensure of child-care facilities and homes in 63 out of 67 counties, as well as registration of family day care homes in those counties which do not require licensure. Four counties have elected to regulate licensing of child care facilities and homes,<sup>64</sup> which are Broward, Palm Beach, Pinellas, and Sarasota.<sup>65</sup>

The DCF and local governmental agencies that license child care facilities must develop and implement a plan to eliminate duplicative and unnecessary inspections of child care facilities. In addition, DCF and the local governmental agencies are required to develop and implement an abbreviated inspection plan for child care facilities that have had no Class 1 or Class 2 deficiencies for at least 2 consecutive years. The abbreviated inspection must include those elements identified by DCF and the local governmental

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<sup>59</sup> Florida Department of Children and Families, *About Child Care Licensure*, available at:

<https://www.myflfamilies.com/services/child-family/child-care/child-care-providers-and-staff/about-child-care-licensure>

<sup>60</sup> Florida Department of Children and Families, *Child Care Provider List, 3-1-2023*, available at

<https://www.myflfamilies.com/sites/default/files/2023-03/Public%20-%202023-3-1-%20-%20Statewide.pdf>

<sup>61</sup> Sections 402.301-319 F.S.

<sup>62</sup> Section 402.305, F.S.

<sup>63</sup> Section 402.305(1)(b), F.S.

<sup>64</sup> Section 402.306, F.S.

<sup>65</sup> Florida Department of Children and Families, Child Care Licensure, <https://www.myflfamilies.com/services/licensing/child-care-licensure> (last visited Mar. 10, 2023).

agencies as being key indicators of whether the child care facility continues to provide quality care and programming.<sup>66</sup>

### Effect of Proposed Changes

The bill modifies the scope of required licensing standards for child care facilities. Specifically the bill:

- Removes periodic health examinations from licensing requirements.
- Removes the requirement for child care facilities to provide parents of children enrolled in the facility detailed information regarding:
  - The causes, symptoms, and transmission of the influenza virus and the importance of immunizing their children.
  - The potential for a distracted adult to fail to drop off a child at the facility and instead leave the child in the adult's vehicle upon arrival at the adult's destination.
- Removes the requirements that the written plan for the daily provision of age-appropriate activities include a program to assist the children in preventing and avoiding physical and mental abuse.
- Removes minimum standards for specialized child care facilities of the care of mildly ill children.

The bill adds family day care homes and large family child care homes to the list of facilities that the DCF must include in its plan to eliminate duplicative and unnecessary inspections.

The bill expands the requirement for DCF and local government agencies to develop an abbreviated inspection plan for certain child care facilities. The DCF and local government agencies must develop and implement an abbreviated inspection plan for child care facilities that:

- Have been licensed for a period of not less than 2 consecutive years, and do not have a Class 1 and no more than two of the same Class 2 deficiencies, for at least 2 consecutive years.
- Have received at least two full onsite renewals in the most recent 2 years.
- Do not have any current uncorrected violations.
- Do not have any open regulatory complaints or active child protective services investigations.

The DCF must annually calculate efficiencies and moneys saved due to the implementation of abbreviated inspections and use the savings to focus resources and technical assistance to support child care facilities, family day care homes, and large family child care homes that are having difficulty maintaining compliance with licensing requirements based on a history of violations, regulatory complaints, or active child protective violations.

## **Child Care Personnel**

### Present Situation

The DCF establishes minimum standards for child care personnel that include minimum requirements for good moral character based upon background screening.<sup>67</sup> This screening must be conducted using the level 2 standards for screening which include employment history checks, a search of criminal history records, sexual predator and sexual offender registries, and the child abuse and neglect registry of any state in which the current or prospective child care personnel resided during the preceding 5 years.<sup>68</sup>

The DCF also establishes minimum training requirements for child care personnel. DCF has adopted the Child Care Facility Handbook to describe these requirements in detail.<sup>69</sup> The minimum standards for

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<sup>66</sup> Section 402.305, F.S.

<sup>67</sup> Section. 405.305(15), F.S.

<sup>68</sup> Section. 435.04, F.S.

<sup>69</sup> Florida Department of Children and Families, *Child Care Facility Handbook, October 2021, available at:*

[https://www.myflfamilies.com/sites/default/files/2022-12/FacilityHandbook\\_0.pdf](https://www.myflfamilies.com/sites/default/files/2022-12/FacilityHandbook_0.pdf).

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training must ensure that all child care personnel take an approved 40-clock-hour introductory course in child care covering the following topic areas:<sup>70</sup>

- State and local rules and regulations which govern child care.
- Health, safety, and nutrition.
- Identifying and reporting child abuse and neglect.
- Child development, including typical and atypical language, cognitive, motor, social, and self-help skills development.
- Observation of developmental behaviors, including using a checklist or other similar observation tools and techniques to determine the child's developmental age level.
- Specialized areas, including computer technology for professional and classroom use and early literacy and language development of children from birth to 5 years of age, as determined by the DCF, for owner-operators and child care personnel of a child care facility.
- Developmental disabilities, including autism spectrum disorder and Down syndrome, and early identification, use of available state and local resources, classroom integration, and positive behavioral supports for children with developmental disabilities.<sup>71</sup>

The DCF must evaluate or contract for an evaluation to determine the status of and means to improve staff training requirements and testing procedures. The evaluation must be conducted every 2 years. The evaluation must include, but not be limited to, determining:<sup>72</sup>

- The availability, quality, scope, and sources of current staff training.
- The need for specialty training.
- Ways to increase in-service training.
- Ways to increase the accessibility, quality, and cost-effectiveness of current and proposed staff training.

The DCF also establishes minimum standards for:

- Sanitary and safety conditions, first aid treatment, emergency procedures, and pediatric cardiopulmonary resuscitation. The minimum standards must require that at least one staff person trained in cardiopulmonary resuscitation, as evidenced by current documentation of course completion, must be present at all times that children are present.<sup>73</sup>
- Admissions and recordkeeping. During the months of August and September of each year, each child care facility must provide parents of children enrolled in the facility detailed information regarding:
  - The causes, symptoms, and transmission of the influenza virus and the importance of immunizing their children.
  - The potential for a distracted adult to fail to drop off a child at the facility and instead leave the child in the adult's vehicle upon arrival at the adult's destination.<sup>74</sup>
  - A plan of activities which must ensure that each child care facility has and implements a written plan for the daily provision of varied activities and active and quiet play opportunities appropriate to the age of the child.<sup>75</sup>
  - Specialized child care facilities for the care of mildly ill children.<sup>76</sup>

### Effect of Proposed Changes

The bill modifies the minimum standards for child care personnel. Specifically, the bill:

- Requires the 40-clock-hour introductory course in child care to be taken by child care personnel to include online training coursework, provided at no cost by the DCF, to meet minimum training standards for child care personnel.

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<sup>70</sup> Florida Department of Children and Families, *Child Care Facility Handbook, October 2021*, available at: [https://www.myflfamilies.com/sites/default/files/2022-12/FacilityHandbook\\_0.pdf](https://www.myflfamilies.com/sites/default/files/2022-12/FacilityHandbook_0.pdf).

<sup>71</sup> Section. 402.305, F.S.

<sup>72</sup> Section. 402.305(2), F.S.

<sup>73</sup> Section. 402.305(7), F.S.

<sup>74</sup> Section. 402.305(9), F.S.

<sup>75</sup> Section. 402.305(13), F.S.

<sup>76</sup> Section. 402.305(17), F.S.

- Clarifies that the child care personnel competency examination will be either in-person or online.
- Revises the requirement that a child care operator have at least one person trained in cardiopulmonary resuscitation present at all times that children are present, to require no more than two persons with such training.

The bill requires the DCF to complete background screening and provide results to the child care facility within 3 business days. Upon failure to do so, the DCF must issue a current or prospective child care personnel a 45-day provisional hire status while all required information is being requested and the DCF is awaiting results. During the 45-day period, the current or prospective child care personnel must be under the direct supervision of a screened and trained staff member when in contact with children.

The bill requires, by December 31, 2024, and every 5 years thereafter, the DCF to report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, at a minimum, information concerning the following:

- The current training requirements and coursework offered to child care personnel and any recommendations of the DCF to increase the quality and relevancy of training.
- The licensing and regulation of child care facilities, including the DCF's identification of and recommendations regarding:
  - rules that exceed specific delegated legislative authority.
  - rules that are unnecessary, vague, or redundant.
  - streamlining the standards used to classify violations and eliminate redundancy or subjectivity in application by licensing counselors.

## Special Assessments

### Present Situation

There are 67 county governments and over 400 municipal governments. Municipalities levy and collect special assessments to fund capital improvements and municipal services including but not limited to; fire protection, emergency medical services, garbage disposal, sewer improvement, street improvement and parking facilities. Small municipalities with a population fewer than 100 persons may use special assessments to fund special security and crime prevention services and facilities.<sup>77</sup>

Property owned or occupied by a religious institution, a public or private elementary, middle, or high school, or by a governmentally financed, insured or subsidized housing facility that is used primarily for persons who are elderly or disabled is exempt from any special assessments levied by a municipality.<sup>78</sup> No specific exemption exists for preschools. There are over 8,000 licensed preschools in Florida.<sup>79</sup>

Special assessments represent a significant amount of tax revenue for local municipalities, which include cities and county governments. For 2019-2020, special assessment levied by local governments were \$123.63 per capita, this compares with \$77.33 per capita for school impact fees, \$63.17 for local public service tax revenue, \$26.12 for communication services tax revenue as examples.<sup>80</sup>

### Effect of Proposed Changes

The bill exempts any public or private preschool from special assessments levied by municipalities. This provision would exempt approximately 8,000 private preschools in Florida from special assessments levied by municipalities.

<sup>77</sup> Section 170.201, F.S.

<sup>78</sup> Section 170.201(2), F.S.

<sup>79</sup> Department of Children and Families, *Child Care Provider List, 3-1-2023*, available at

<https://www.myflfamilies.com/sites/default/files/2023-03/Public%20-%202023-3-1%20-%20Statewide.pdf>.

<sup>80</sup> Florida TaxWatch, *2022 How Florida Counties Compare*, available at [https://floridataxwatch.org/Research/Full-](https://floridataxwatch.org/Research/Full-Library/ArtMID/34407/ArticleID/19164/2022-How-Florida-Counties-Compare)

[Library/ArtMID/34407/ArticleID/19164/2022-How-Florida-Counties-Compare](https://floridataxwatch.org/Research/Full-Library/ArtMID/34407/ArticleID/19164/2022-How-Florida-Counties-Compare).

**B. SECTION DIRECTORY:**

- Section 1:** Amends s. 170.201, F.S., exempting preschools from special assessment by municipalities.
- Section 2:** Amends s. 220.19, F.S., creating tax credit for certain child care facilities.
- Section 3:** Amends s. 402.305, F.S., revising duties related to background screening; and revising requirements for child care providers.
- Section 4:** Amends s. 402.3115, F.S., revising requirements for abbreviated inspections; and requiring a report on training requirements and reduction of licensing and regulation of child care facilities.
- Section 5:** Amends s. 402.316, F.S., exempting certain child care facilities from regulation.
- Section 6:** Amends s. 627.70161, F.S., regarding residential property insurance for large family day care homes.
- Section 7:** Amends s. 1002.55, F.S., revising requirement for completion of courses by prekindergarten instructors.
- Section 8:** Amends s. 1002.67, F.S., prohibiting use of electronic devices for direct instruction.
- Section 9:** Amends s. 1002.68, F.S., regarding accountability for the Voluntary Prekindergarten Program.
- Section 10:** Amends s. 1002.82, F.S., requiring the Department of Education to contract for certain curriculum and a single statewide information system.
- Section 11:** Amends s. 1002.83, F.S., authorizing early learning coalitions to appoint at-large members.
- Section 12:** Amends s. 1002.89, F.S., authorizing early learning coalitions to expend certain funds for training.
- Section 13:** Amends s. 1002.945, F.S., revising eligibility for the Gold Seal Quality Care Program.
- Section 14:** Amends s. 1002.95, F.S., requiring early learning coalitions to reimburse providers for certain expenses.
- Section 15:** Amends s. 1008.25, F.S., requiring certain voluntary prekindergarten students to receive intensive interventions.
- Section 16:** Amends s. 39.101, F.S., conforming cross-reference.
- Section 17:** Amends s. 1002.57, F.S., conforming cross-reference.
- Section 18:** Amends s. 1002.59, F.S., conforming cross-references.
- Section 19:** Provides an effective date.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

The tax credits created by the bill have a maximum value of \$7.5 million annually. Therefore, the state could lose revenue up to this amount, annually.

2. Expenditures:

This bill may have an indeterminate negative fiscal impact on state general revenue and federal Child Care Development Funds. For example, the bill:

- Requires a statistical analysis be conducted by an independent expert; identified through competitive procurement before 2023-2024 program year.
- Requires a statewide information system to be used to manage all early learning programs.
- Provides a reimbursement for child care providers for the copayment portion of the program for each instructor who completes a child development associate credential in his or her service.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill limits the ability of municipalities to collect special assessments to fund capital improvements and municipal services under s. 170.201, F.S., by providing exemptions for preschools.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may reduce costs to School Readiness and Voluntary Prekindergarten providers by providing reimbursements for:

- Background screening of personnel; and
- Co-pays for providers related to the TEACH scholarship program.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill limits the ability of municipalities to collect special assessments to fund capital improvements and municipal services under s. 170.201, F.S., by providing exemptions for preschools.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Department of Revenue to adopt rules to administer the tax credits established in the bill. While the bill does not grant it additional rulemaking authority, the State Board of Education may need to amend existing rules to address changes made by the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On March 23, 2023, the Education & Employment Committee adopted a Proposed Committee Substitute (PCS) and reported the PCS favorably as a committee substitute. The PCS differed from HB 1021 in the following ways:

- clarified that the maximum tax credit afforded was \$3,600 per child per year;
- clarified what taxes the tax credit could be applied to;
- requires that the employee that receives the benefit be the caregiver, as defined in statute, for the child or grandchild;
- established a cap of \$7.5 million for all tax credits granted under the bill;
- authorized the DCF to prevent an individual from beginning work at a child care facility while awaiting background screening results if the DCF has reason to believe a disqualifying factor may exist;
- clarified that DCF is responsible for developing the criteria for the abbreviated inspection process;
- clarified that mandatory program assessments must be conducted in accordance with the requirements of the assessment provider;
- authorized an early learning coalition to reimburse providers and staff for background screenings; and
- authorized, rather than required, early learning coalitions to support TEACH scholarship instructors through specified reimbursements.

The bill analysis is drafted to the committee substitute adopted by the Education & Employment Committee.