

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Education Pre-K -12

BILL: SB 990

INTRODUCER: Senator Grall

SUBJECT: Child Care and Early Learning Providers

DATE: March 13, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sabitsch	Bouck	ED	Favorable
2.			FT	
3.			AP	

I. Summary:

SB 990 provides programmatic and financial supports for child care facilities and early learning providers. Specifically the bill:

- Modifies requirements for Voluntary Prekindergarten (VPK) classroom instructors, program and child assessments, and implementation of the accountability measures for VPK programs.
- Establishes a program to deliver intensive reading interventions to VPK students with substantial deficiencies in early literacy.
- Modifies requirements for obtaining and maintaining the Gold Seal Quality Care designation.
- Directs 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.
- Modifies requirements related to licensing of child care facilities by the Department of Children and Families.
- Provides an exemption from licensing for child care facilities owned by certain corporations.
- Modifies the existing exemptions from special assessments levied by municipalities to include preschools.
- Provides 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.
- Clarifies cancelation and coverage from residential property insurance for large family child care homes.

The bill takes effect on July 1, 2023.

II. Present Situation:

The present situation is presented in Section III under the Effect of Proposed Changes.

III. Effect of Proposed Changes:

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.¹ 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 2005-06, 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.²

For the 2021-22 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.³

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 (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.⁴ Total administrative expenditures for the 2021-22 VPK program for all coalitions was \$12,145,890 with only 12 of 30 coalitions spending the full four percent allowed.⁵

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.⁶

¹ Section 1002.53(2), F.S.

² Florida Division of Early Learning, *About Voluntary Prekindergarten*, <https://www.floridaearlylearning.com/vpk/floridas-vpk-program> (last visited Mar. 11, 2023).

³ 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>.

⁴ Section 1002.71(7), F.S.

⁵ 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>.

⁶ Section 1002.82, F.S.

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.⁷ 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.⁸

To be eligible to deliver the VPK program, a private prekindergarten provider must be a licensed or licensed-exempt child care facility.⁹ Exempt providers include certain nonpublic schools that primarily serve children at least 5 years of age or older,¹⁰ accredited faith-based child care providers that are members of a larger organization with published health, safety, and sanitation standards,¹¹ and certain accredited child development programs on military bases.¹²

VPK Personnel

All providers, including licensed-exempt providers, must meet requirements for certification of personnel and background screening.¹³ 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.¹⁴

VPK personnel may also earn a literacy micro-credential and receive a \$2,000 stipend.¹⁵ The literacy micro-credential provides instructional personnel with high-quality, evidence-based strategies for developing emergent literacy skills.¹⁶ Enrollment in the program began on December 31, 2022.¹⁷

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

⁷ Section 1002.55(1), F.S.

⁸ Section 1002.83(6), F.S.

⁹ Section 1002.55(3)(a), F.S.

¹⁰ Section 402.3025(2), F.S.

¹¹ Section 402.316(1), F.S.

¹² Section 1002.55(3)(a), F.S.

¹³ Section 1002.55(3)(b)3., F.S.

¹⁴ Section 1002.59, F.S.

¹⁵ 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).

¹⁶ Section 1003.485(2)(h)1., F.S.

¹⁷ 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).

science, or hold a certificate to teach any age from birth through grade 6 and holds a bachelor's or higher degree in elementary education and is not otherwise disqualified.¹⁸

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:¹⁹

- 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 2022-23 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.²⁰

The program assessment score must constitute at least half of the provider performance metric to be developed by the DOE beginning with 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.²¹ 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.²²

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.²³ 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

¹⁸ Section 1002.61(4), F.S.

¹⁹ Section 1002.67(2), F.S.

²⁰ Section 1002.68(2), F.S.

²¹ Section 1002.68(4)(a), F.S.

²² Section 1002.68(4)(f), F.S.

²³ 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).

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.²⁴

Effect of Proposed Changes

Voluntary Prekindergarten Requirements

The bill modifies s. 1002.55, F.S. to add corporate-provided child care providers to the types of license-exempt private providers that may offer the VPK program.

VPK Personnel

The bill modifies s. 1022.55, F.S., to provide flexibility for a VPK instructor to complete the required three emergent literacy training courses to require completion within 45 days after commencing employment rather than as a pre-condition of employment. This may increase the number of available instructors, but VPK classes may be impacted if an instructor fails to complete all courses within the required timeframe.

The bill modifies s. 1002.61, F.S., to add options for personnel to satisfy the certification requirements for instructors in the summer VPK program. The bill allows a person to serve as an instructor of a summer VPK program if the person possesses either a Child Development Associate (CDA), or a credential approved by the Department of Children and Families as equal or greater than a CDA, as long as the instructor has completed the early literacy micro-credential program or has an instructional support score of 3 or higher on the program assessment.

VPK Administration

The bill modifies s. 1002.82, F.S., to expand 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 bill also directs the DOE to contract for, rather than establish, a single statewide information system to manage all early learning programs and child care licensing and training. The bill requires the system to allow parents to locate early learning programs online, including the provider performance profile by October 1, 2024. It is unclear if this system is intended to replace the current EFS Modernization Portal.

The bill amends s. 1002.71, F.S., to modify the method used to determine the amount of administrative funds an early learning coalition may retain for the VPK program. The bill requires the administrative fee that may be retained by an early learning coalition to be based on the number of VPK applications processed by the coalition instead of payments made to providers for VPK enrollments.

This may greatly increase the administrative funds available to a coalition. The base student allocation for the 2021-2022 VPK school year program was \$2,486 for each full-time student.²⁵ Four percent, \$12,145,890, in administrative fees was paid to coalitions out of the \$342,758,173

²⁴ Section. 1008.25(5), F.S.

²⁵ Specific Appropriation 86, ch. 2021-36, Laws of Fla.

in actual payments to VPK providers for services.²⁶ The reported number of applications processed by all early learning coalitions was 204,576 in the same year.²⁷ If the base student allocation of \$2,486 was multiplied by the 204,576 applications processed, the result amounts to \$508,575,936. Shifting the basis of the administrative fee to applications processed may have authorized the early learning coalitions to receive four percent of \$508,575,936, which would have amounted to \$20,343,037.

The bill modifies s. 1002.83, F.S., to allow 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 modifies s. 1002.67, F.S., to prohibit a public or private VPK provider's curriculum from:

- Utilizing the coordinated screening and progress monitoring program for direct student instruction; and
- The use of electronic devices except to complete the coordinated screening and monitoring program.

The bill modifies s. 1002.68, F.S., to postpone from the 2022-23 program year to the 2023-2024 program year the requirement to participate in a program assessment. The bill specifies that the program assessment may be conducted only when at least 75 percent of enrolled students are in attendance.

The bill also postpones, from the 2022-23 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 bill requires the independent expert to be identified through competitive procurement before the 2023-2024 program year and retained through the 2025-2026 program year.

Finally, 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.

The bill modifies s. 1008.25, F.S., to clarify eligibility for children in the VPK program who exhibit a substantial deficiency in early literacy skills. The bill requires that the student receive intensive reading interventions in the summer prior to kindergarten. The bill authorizes public or private VPK providers to provide the interventions if they are qualified to offer the summer VPK

²⁶ Florida 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>.

²⁷ Email, Florida Department of Education (March 9, 2023).

program. The bill provides that the summer intensive reading interventions program must consist of no more than 4 hours per day and be limited to 140 hours. The bill requires the program to be funded in the General Appropriations Act in accordance with the rate set for the Summer VPK program.

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.²⁸ 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.²⁹

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 with the performance standards adopted for children in the VPK Program and must address the following domains:³⁰

- 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.³¹

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:

²⁸ Section 1002.87, F.S.

²⁹ Section 1002.86, F.S.

³⁰ Section 1002.82, F.S.

³¹ Section 1002.89, F.S.

- 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 1996,³² 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:³³

- 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.³⁴

In order 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 I³⁵ violations within preceding 2 years;
- Less than 3 class II³⁶ violations within preceding 2 years;
- Less than 3 class III³⁷ violations within the preceding 2 years that were not corrected within 1 year.³⁸

³² Ch. 96-175, s. 72, Laws of Fla.

³³ Florida Division of Early Learning, *About the Gold Seal Quality Care Program*, available at: <https://www.floridaearlylearning.com/providers/gold-seal-quality-care-program>.

³⁴ 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>

³⁵ 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.

³⁶ 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.*

³⁷ 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.*

³⁸ Section 1002.945, F.S.

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.³⁹

Effect of Proposed Changes

The bill amends s. 1002.945, F.S., to modify requirements for obtaining or maintaining the Gold Seal Quality Care designation. The bill specifies that a provider must 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.⁴⁰

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.⁴¹ 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 2020-21, the DOE waived employer and scholar copays.⁴²

Effect of Proposed Changes

The bill modifies 1002.95, F.S., to clarify that T.E.A.C.H. scholarship program recipients are “instructors” and not “caregivers,” the bill directs early learning coalitions to 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

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

³⁹ Email, Florida Department of Education (Mar. 9, 2023).

⁴⁰ Section 1002.945, F.S.

⁴¹ Chapter 2022-156, s. 2, Specific Appropriation 78, Laws of Fla.

⁴² 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/>.

licensing requirements are met through on-going inspections of child-care facilities and homes, thus preventing the continued operation of substandard child-care programs.⁴³ There are over 8,000 licensed child care programs in Florida.⁴⁴

Florida's child-care law⁴⁵ 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 modifies s. 402.302, F.S. to define “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:⁴⁶

- 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.⁴⁷

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,⁴⁸ which are Broward, Palm Beach, Pinellas, and Sarasota.⁴⁹

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

⁴³ 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>

⁴⁴ 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>

⁴⁵ Sections 402.301-319 F.S.

⁴⁶ Section 402.305, F.S.

⁴⁷ Section 402.305(1)(b), F.S.

⁴⁸ Section 402.306, F.S.

⁴⁹ Florida Department of Children and Families, *Child Care Licensure*,

<https://www.myflfamilies.com/services/licensing/child-care-licensure> (last visited Mar. 10, 2023).

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 agencies as being key indicators of whether the child care facility continues to provide quality care and programming.⁵⁰

Effect of Proposed Changes

The bill amends s. 402.305, F.S., to modify the scope of required licensing standards for child care facilities. Specifically the bill:

- Removes from the scope of DCF licensing standards health and nutrition and child development needs.
- Clarifies that fire safety regulations for child care facilities are directed by the State Fire Marshal.
- 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 modifies s. 402.3115, F.S., to add 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 bill requires the DCF and local government agencies to 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 bill requires the DCF to 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

⁵⁰ Section 402.305, F.S.

homes that are having difficulty maintaining compliance with licensing requirements based on a history of violations, regulatory complaints, or active child protective violations.

The bill modifies s. 402.316, F.S., to add an exemption from licensing for a child care provider that receives a child care tax credit and is attended only by children or grandchildren of employees of the corporation claiming the credit.

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.⁵¹ 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.⁵²

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.⁵³ The minimum standards for training must ensure that all child care personnel take an approved 40-clock-hour introductory course in child care covering the following topic areas:⁵⁴

- 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.⁵⁵

The DCF is required to 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 is not be limited to, determining:⁵⁶

⁵¹ Section. 405.305(15), F.S.

⁵² Section. 435.04, F.S.

⁵³ 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.

⁵⁴ 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.

⁵⁵ Section. 402.305, F.S.

⁵⁶ Section. 402.305(2), F.S.

- 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.⁵⁷
- 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.⁵⁸
 - 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.⁵⁹
 - Specialized child care facilities for the care of mildly ill children.⁶⁰

Effect of Proposed Changes

The bill amends s. 402.305 to modify 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.
- Clarifies that the child care personnel competency examination will be either in-person or online.
- Requires a child care operator have two persons, instead of one, trained in cardiopulmonary resuscitation present at all times that children are present.

The bill specifies a timeline for DCF to provide background screening results of personnel to providers. The bill requires the DCF to complete the background screening and provide results to the child care facility within 5 business days. Upon failure to do so, the bill requires the DCF to 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.

⁵⁷ Section. 402.305(7), F.S.

⁵⁸ Section. 402.305(9), F.S.

⁵⁹ Section. 402.305(13), F.S.

⁶⁰ Section. 402.305(17), F.S.

The bill modifies the required evaluation by DCF, or a contracted entity, to determine the status of and means to improve staff training requirements and testing procedures. The bill removes existing requirements for the evaluation and requires, by December 31, 2023, the DCF to evaluate or contract for an evaluation of:

- The current training requirements and coursework offered to child care personnel and make recommendations to increase the quality and relevancy of training.
- The licensing and regulation of child care facilities to:
 - Identify rules that exceed specific delegated legislative authority.
 - Identify rules that are arbitrary, vague, or redundant.
 - Streamline the standards used to classify violations and eliminate redundancy or subjectivity in application by licensing counselors.

The bill provides that once the evaluation is completed, the DCF must begin revising the regulation of child care facilities to simplify ongoing licensure inspections, increase objectivity, and provide a greater emphasis on technical assistance. The evaluation must be conducted every 5 years.

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.⁶¹

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.⁶² No specific exemption exists for preschools. There are over 8,000 licensed preschools in Florida.⁶³

Special assessments represent a significant amount of tax revenue for local municipalities, which include cities and county governments. For 2019-20, 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.⁶⁴

⁶¹ Section 170.201, F.S.

⁶² Section 170.201(2), F.S.

⁶³ 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>.

⁶⁴ Florida TaxWatch, *2022 How Florida Counties Compare*, available at <https://floridataxwatch.org/Research/Full-Library/ArtMID/34407/ArticleID/19164/2022-How-Florida-Counties-Compare>.

Effect of Proposed Changes

The bill modifies s. 170.201, F.S., to add any public or private preschool to those properties that are exempt from special assessments levied by local governments and municipalities. This provision would exempt some 8,000 private preschools in Florida from special assessments levied by local governments and municipalities.

Tax Collections and Credits

Present Situation

Early Learning Tax Incentive

Child care tax credits expired in 2008.⁶⁵ There is no tax credit program against tax due for any taxpayers for contributions made to a child care facility on behalf of employees for oil and gas producers, direct pay permit-holders, corporate income/franchise filers, entities owing excise taxes on malt beverages, wines and beverages or on liquors/beverages, and insurance companies.

Corporate Income Tax

Florida imposes a 5.5 percent tax on the taxable income of certain corporations and financial institutions doing business in Florida.⁶⁶ Corporate income tax is remitted to the Department of Revenue (DOR) and distributed to General Revenue. Net collections of corporate income tax in FY 2021-2022 were \$2.9 billion.⁶⁷

Insurance Premium Tax

Florida imposes a 1.75 percent tax on most Florida insurance premiums.⁶⁸ Insurance premium taxes are paid by insurance companies under ch. 624, F.S., and are remitted to the DOR. These revenues are distributed to General Revenue with additional distributions to the Insurance Regulatory Trust Fund, the Police & Firefighters Premium Tax Trust Fund, and the Emergency Management Preparedness & Assistance Trust Fund. Net collections of insurance premium taxes in FY 2021-2022 were \$1.16 billion with distributions to General Revenue of \$750 million.⁶⁹

Severance Taxes on Oil and Gas Production

Oil and gas production severance taxes are imposed on persons who sever oil or gas in Florida for sale, transport, storage, profit, or commercial use.⁷⁰ These taxes are remitted to the DOR and distributed to General Revenue with additional distributions to the Minerals Trust Fund and to the counties where production occurred. Receipts from the severance taxes on oil and gas are

⁶⁵ Section. 220.19, F.S. (2008).

⁶⁶ Sections 220.11(2) and 220.63(2), F.S.

⁶⁷ Office of Economic and Demographic Research, Memo, August 17, 2022, *available at* http://edr.state.fl.us/Content/conferences/generalrevenue/CITNetCollections_FY2021-22.pdf

⁶⁸ Section 624.509, F.S. (Different tax rates apply to wet marine and transportation insurance, self-insurance, and annuity premiums.)

⁶⁹ Florida Revenue Estimating Conference, *2022 Florida Tax Handbook* (Nov. 4, 2022), *available at* <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2022.pdf>

⁷⁰ Sections 211.02(1) and 211.025, F.S.

estimated to be \$2.7 million in FY 2021-2022 with distributions to General Revenue of \$1.7 million.⁷¹

Sales Taxes Paid by Direct Pay Permit Holders

Section 212.183, F.S., authorizes the DOR to establish a process for the self-accrual of sales taxes due under ch. 212, F.S. The process involves the DOR granting a direct pay permit to a taxpayer, who then pays the taxes directly to the DOR.⁷²

Alcoholic Beverage Taxes

Florida imposes excise taxes on malt beverages, wines, and other beverages.⁷³ The taxes are due from manufacturers, distributors and vendors of malt beverages, and from manufacturers and distributors of wine, liquor, and other specified alcoholic beverages. Taxes are remitted to the Division of Alcoholic Beverages and Tobacco (Division) in the Department of Business and Professional Regulation (DBPR).

The Division is responsible for supervising the conduct, management, and operation of the manufacturing, packaging, distribution, and sale of all alcoholic beverages in Florida.⁷⁴ Distributions of the excise taxes on alcoholic beverages are made to the General Revenue Fund, the Alcoholic Beverage and Tobacco Trust Fund, and Viticulture Trust Fund. Collections of alcoholic beverage taxes were \$359 million in FY 2021-2022 with distributions to General Revenue of \$352 million.⁷⁵

Florida Tax Credit Scholarship Program

The Florida Tax Credit (FTC) Scholarship Program was established to encourage private, voluntary contributions from corporate donors to non-profit scholarship funding organizations (SFOs) that award scholarships to children from low-income families. Scholarship Funding Organizations (SFOs) are responsible for the receipt and distribution of contributed funds to eligible students attending participating Florida private schools. Scholarships are awarded to low-income students to attend a private school or assist with transportation costs to attend a public school in an adjacent district.⁷⁶

Taxpayers can receive a tax credit for use against their liability for corporate income tax, insurance premium tax, severance taxes on oil and gas production, self-accrued sales tax

⁷¹ Florida Revenue Estimating Conference, *2022 Florida Tax Handbook* (Nov. 4, 2022), available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2022.pdf>

⁷² Section 212.183, F.S., and rule 12A-1.0911, F.A.C. Direct pay permit holders include: dealers who annually make purchases in excess of \$10 million per year in any county; dealers who annually purchase at least \$100,000 of tangible personal property, including maintenance and repairs for their own use; dealers who purchase promotional materials whose ultimate use is unknown at purchase; eligible air carriers, vessels, railroads, and motor vehicles engaged in interstate and foreign commerce; and dealers who lease realty from a number of independent property owners.

⁷³ Sections 563.05, 564.06, and 565.12, F.S.

⁷⁴ Section 561.02, F.S.

⁷⁵ Florida Revenue Estimating Conference, *2022 Florida Tax Handbook* (Nov. 4, 2022), available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2022.pdf>

⁷⁶ Florida Department of Education, *Fact Sheet Florida Tax Credit Scholarship Program*, available at: <https://www.fldoe.org/core/fileparse.php/5606/urlt/FTC-Oct-2022-line.pdf>.

liabilities of direct pay permit holders or alcoholic beverage taxes on beer, wine, and spirits.⁷⁷ The tax credit is equal to 100 percent of the eligible contributions made.⁷⁸ To receive a tax credit the taxpayer must submit an application to the DOR and specify each tax for which the taxpayer requests a credit and the applicable taxable or state fiscal year for the credit.⁷⁹ Taxpayers can rescind tax credits, which will become available to another eligible taxpayer in that fiscal year.⁸⁰

Effect of Proposed Changes

The bill modifies s. 200.19, F.S., to establish the Early Learning Tax Incentive. This tax incentive works in conjunction with the Florida Tax Credit Scholarship Program by allowing a for a tax credit of 100 percent of a donation made to a child care facility on behalf of an employee by a corporation against the following tax liabilities:

- Corporate income tax;
- Insurance premium tax;
- Severance taxes on oil and gas production;
- Alcoholic beverage tax on beer, wine, and spirits; or
- Self-accrued sales tax liability of direct pay permit holders.

New sections are created in each of the applicable tax chapters to create the credit authorized in s. 220.19, F.S., for the Early Learning Tax Incentive for:

- A tax credit of up to 50 percent of the startup costs of a child care facility for children under the age of 5 by a corporation for its employee for any tax due in a taxable year.
- An additional tax credit for the operational costs of a child care facility for children under the age of 5 by a corporation for its employees. The tax credit is an amount of \$300 per month for each child or grandchild of an employee.
- A tax credit for any tax due for a tax year for a corporation that makes payments to an eligible facility if the payments are made in the name of a child or grandchild of an employee for a maximum credit of \$3,600 per child. Payments may be made directly to the facility or the corporation may contract with the early learning coalition to process payments. However, the maximum credit needs clarification if the \$3,600 per child credit is for one occasion or can be claimed annually.

The bill caps the maximum amount of tax credits based on the number of employees employed by the corporation during the year ranging from:

- \$50,000 for a corporation with 1 to 25 employees.
- \$100,000 for a corporation with 26 to 50 employees.
- \$150,000 for a corporation with 51 to 75 employees.
- \$200,000 for a corporation with 76 to 100 employees.
- \$300,000 for a corporation with 101 to 200 employees.
- \$500,000 for a corporation with 201 to 500 employees.

The bill establishes eligibility requirements for claiming the credit. The bill specifies that:

⁷⁷ Section 1002.395(1) and (5), F.S.

⁷⁸ Sections 220.1875 and 1002.395(5), F.S.

⁷⁹ Section 1002.395(5)(b), F.S.

⁸⁰ Section 1002.395(5)(e), F.S.

- A corporation may only claim a credit for an eligible child care facility.
- The services of a child care facility for which a corporation claims a credit for operating a child care facility must be available to all employees of the corporation, or must be allocated on a first-come, first-served basis, and must be used by employees employed by the corporation.
- Child care payments for which a corporation claims a credit for making payments to a child care facility in the name of and for the benefit of an employee of the corporation whose child or grandchild attends the child care facility may not exceed the amount charged by the child care facility for other children of like age and ability of persons not employed by the corporation.

The bill authorizes two or more corporations to jointly establish and operate a child care facility. If two or more corporations choose to jointly establish and operate a child care facility, or cause a not-for-profit corporation to establish and operate a child care facility, the corporations must file a joint application, or the not-for-profit corporation may file an application setting forth the corporations' proposal. The bill authorizes the participating corporations to proportion the credits in any manner they choose; however, participating corporations may not receive more than \$150,000 in credits for all approved child care costs incurred by the participating corporations in any one taxable year.

The bill delineates the application process for the credit. The bill requires an application for a credit to be approved by the DOR prior to claiming a credit on a return. The bill authorizes, beginning January 1, 2024, a corporation to submit an application to the DOR for the purposes of determining qualification for an Early Learning Tax Incentive credit to be applied to a taxable year beginning on or after January 1, 2024. The application must include:

- For a credit for operating a child care facility, a proposal for establishing a child care facility for use by a corporation's employees, the total number of employees' children and grandchildren expected to be enrolled, and the expected date operations will begin. A credit may not be claimed on a return until operations have begun.
- For a credit for donating to a child care facility, the total number of employees' children and grandchildren for which child care payments will be paid and the estimated total annual amount of such payments.
- The taxable year in which the credit is expected to be earned. A corporation may apply for a credit to be used for a prior taxable year at any time before the date on which the corporation is required to file a return for that year.
- Written verification by the DCF or local licensing agency that the facility is a child care facility and is an eligible facility. Such verification must be attached to the application.

The bill requires the DOR to approve tax credits on a first-come, first-served basis.

The bill authorizes the DOR to adopt all rules pursuant to the Administrative Procedure Act to administer the tax incentive, including rules for the approval or disapproval of proposals submitted by corporations and rules to provide for cooperative arrangements between for-profit and not-for-profit corporations.

The bill specifies that the DOR's decision to approve or disapprove a proposal must be in writing, and, if the proposal is approved, the decision must state the maximum credit authorized for the corporation.

Insurance

Present Situation

Homeowners' insurance is a specific type of property insurance. Homeowners' insurance covers damage or loss by theft and against perils which can include fire, and storm damage. It also may insure the owner for accidental injury or death for which the owner may be legally responsible. Mortgage lenders usually require homeowners' insurance as part of the mortgage terms.⁸¹

While homeowners' insurance can specifically refer to the insurance of a house, it also encompasses the insurance of other types of structures associated with personal residences, including tenants (renters) and condominium unit owners.⁸²

Florida recognizes that family day care homes fulfill a vital role in providing child care and that residential property insurance coverage should not be canceled, denied, or nonrenewed solely on the basis of the family day care services at the residence. The potential liability of residential property insurers is substantially increased by the operation of child care services on the premises. Contractual liabilities that arise in connection with the operation of the family day care home are excluded from residential property insurance policies unless they are specifically included in such coverage.⁸³

In addition to family day care services, there are also over 400 large family day care services in Florida.⁸⁴ A large family day care home is an occupied residence in which child care is regularly provided for children from at least two unrelated families where there is payment for the care provided and which has at least two full-time child care personnel on the premise during hours of operation.⁸⁵ The insurance protections for family day care homes do not extend to large family day care homes.⁸⁶

Effect of Proposed Changes

The bill modifies s. 627.70161, F.S., to add specific language to include large family child care homes to existing law to prevent cancelation of the residential property insurance solely on the basis of offering those services at a residence, and to include "large family child care homes" in language stating the liabilities arising out of such services are excluded from property insurance policies specifically included in that coverage.

⁸¹ Florida Office of Insurance Regulation, *Homeowners' Insurance*, <https://floir.com/Sections/PandC/Homeowners/default.aspx> (last visited Mar. 11, 2023).

⁸² Florida Office of Insurance Regulation, *Homeowners' Insurance*, <https://floir.com/Sections/PandC/Homeowners/default.aspx> (last visited Mar. 11, 2023).

⁸³ Section 627.70161, F.S.

⁸⁴ 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>.

⁸⁵ Section 402.302(11), F.S.

⁸⁶ Section 627.70161, F.S.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

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 provides an exemption from special assessments levied by municipalities, which may reduce tax revenue. An impact estimating conference is required to estimate the impact on tax revenue for local governments as a result of introducing the exemption for preschool from special assessments levied by municipal governments.

The bill provides corporate tax credits for contributions to child care facilities, which may reduce the collection of taxes.

B. Private Sector Impact:

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.

C. Government Sector Impact:

This bill may have a significant but 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.
- Allows for intensive reading interventions by a qualified private or public prekindergarten provider consisting of 4 hours of instruction per day, totaling 140 hours; subject to an appropriation in the General Appropriations Act.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill establishes in ss. 220.1878 and 624.51058, F.S., credits for corporate and insurance premium taxes. However, unlike other tax credits that are enacted on January 1, 2024, these taxes are enacted on January 1, 2023. The bill may be amended to reconcile the dates for enactment of the tax credits, or provide the Department of Revenue with emergency rulemaking authority for these sections.⁸⁷

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.101, 170.201, 220.19, 402.302, 402.305, 402.3115, 402.316, 627.70161, 1002.55, 1002.61, 1002.67, 1002.68, 1002.71, 1002.82, 1002.83, 1002.89, 1002.945, 1002.95, 1008.25, 1002.57, and 1002.59. This bill creates the following sections of the Florida Statutes: 211.0254, 212.1835, 220.1878, 561.1214, and 624.51058.

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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁸⁷ Florida Department of Revenue, *2023 Agency Analysis of SB 990* (Mar. 7, 2023).