

STORAGE NAME: h0869z.cf
DATE: May 7, 1999

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
CHILDREN & FAMILIES
FINAL ANALYSIS**

BILL #: HB 869 (formerly PCB CF 99-01; Chapter #: 99-207, Laws of Florida)
RELATING TO: Child Care
SPONSOR(S): The Committee on Children & Families and Representative Murman
COMPANION BILL(S): Similar SB 2092

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) CHILDREN & FAMILIES YEAS 7 NAYS 0
- (2) FINANCE & TAXATION YEAS 12 NAYS 0
- (3) HEALTH & HUMAN SERVICES APPROPRIATIONS YEAS 8 NAYS 0
- (4)
- (5)

I. FINAL ACTION STATUS:

Approved by Governor; Chapter No. 99-304; See also CS/HB 1707, SB 750 (Ch. 99-207)

II. SUMMARY:

Greater emphasis on school readiness has placed demands on child care programs. The trend is to reshape child care so that it is a quality readiness experience, thus making child care arrangements look like education programs. House Bill 869 addresses child care quality improvements by making the following changes in law:

- ▶ Allows a state agency to be responsible for the maintenance, utilities, and other operating costs associated with the child care center for the agencies employees.
- ▶ Provides an ad valorem tax exemption for a licensed child care facility operating in an enterprise zone.
- ▶ Exempts from sales tax purchases of educational materials and educational toys by child care facilities that qualify as Gold Seal Quality Care programs and provide health insurance.
- ▶ Provides legislative intent that licensed Gold Seal Quality child care facilities shall be considered educational institutions for the purposes of qualifying for exemption for ad valorem tax.
- ▶ Expands subsidized child care eligibility to 200 percent of poverty for children of working families enrolled in the Child Care Executive Partnership Program.
- ▶ Establishes an Early Head Start Collaboration Grants program to assist local agencies in securing Head Start programs.
- ▶ Creates a large family child care home classification and allows these homes to participate in the Gold Seal Quality Care program.
- ▶ Establishes requirements for the observational and developmental assessment of young children.
- ▶ Increases training requirements for child care personnel to 40 hours and adds additional child developmental and observational skill requirements.
- ▶ Requires a credential for child care directors by January 1, 2003.
- ▶ Allows for the establishment of specialized child care facilities for the care of mildly ill children.
- ▶ Allows licensed Gold Seal certified child care providers to be reimbursed at the market rate for child care services for children who are eligible to receive subsidized child care.
- ▶ Creates a statewide toll-free line to provide technical assistance to child care providers regarding health, developmental, disabilities and special needs issues in children.
- ▶ Requires additional training for family day care home operators.
- ▶ Requires the Department of Insurance to conduct a study regarding how to make affordable health insurance available to the staff of child care providers.

See section III for the fiscal impact of the bill.

The bill shall take effect July 1, 1999.

III. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Participation in an early childhood education program can provide preschoolers with skills and enrichment that can increase their chances of success in school. Studies have demonstrated that participation in high-quality, early childhood education programs has short-term positive effects on IQ and achievement, and long-term positive effects on low-income minority children's school completion.

Currently, there are three major publicly funded early child care and education programs for young children: the subsidized child care program, administered by the Department of Children and Families; the Prekindergarten Early Intervention Program, administered by the Department of Education; and, the Head Start program, administered through various local agencies by contract with the federal government.

Subsidized Child Care

Florida has operated a subsidized child care program for approximately 20 years. Subsidized child care is a state and federally funded program. The purpose of the current subsidized child care program, administered by the Department of Children and Families, as described in s. 402.3015, F.S., is "to provide quality child care to enhance the development, including language, cognitive, motor, social, and self-help skills of children who are at risk of abuse or neglect and children of low-income families." The goal is to promote financial self-sufficiency and life skills for the families of these children. The department subsidizes the cost of child day care services for children under the age of 13 who are:

- determined to be at risk of abuse and neglect and who are current clients of the department;
- at risk of welfare dependency (e.g., welfare clients, migrants, teen parents and working families whose family income is less than 100 percent of the federal poverty level; and
- members of working families whose family income is between 100 and 150 percent of the federal poverty level.

Fueled by Florida's welfare reform efforts, subsidized child care enrollments are on the rise, up from 69,185 for June 1996 to 111,150 for July 1998. Children of families participating in Florida's Wages Program make up the largest proportion of the subsidized child care enrollments with the state meeting 100 percent of the need for these families. The program's budget for FY 98/99 is \$436,337,719.

The Department of Children and Families licenses child care facilities and family day care homes. It also maintains a registry of family day care homes that are not subject to licensure. As of July 1998, the department licensed 6,052 child care facilities and 4,771 family day care homes. It has registered 3,581 family day care homes. Counties may assume licensing and inspection authority if a county's locally adopted licensing standards meet or exceed state standards.

Greater emphasis on accountability has placed demands on early childhood programs to assess the progress of children. The benefits of accountability are almost universally accepted. Florida's statutes require outcome performance measures approved by the Legislature. The performance-based measure approved for child care programs requires that 80 percent of children leaving subsidized child care programs to enter kindergarten be ready for school.

The emerging professional consensus regarding the screening and assessment of children to determine readiness is still fluid. In addition, the use of the screening and assessment information also requires careful consideration to take advantage of the data it produces and to avoid misuse. The trend is to reshape child care so that it is a quality readiness experience, thus making child care arrangements look even more often like education programs but without the funding of schools and the resources that come with that funding.

Early Brain Development

The key findings of the current brain research can be summarized in the following points (Rethinking the Brain, Families and Work Institute, 1997):

- ▶ Human development hinges on the interplay between nature and nurture. Neuroscientists have found that throughout the entire process of development, beginning before birth, the brain is affected by environmental factors such as nutrition, care, surroundings, and the amount of stimulation that an individual receives.
- ▶ Early care has a decisive and long-lasting impact on how people develop, their ability to learn, and their capacity to regulate their own emotions. Neuroscientists have found that a strong, consistent, secure attachment to a nurturing care giver can have a protective biological function that assists a child to cope with their ordinary stress.
- ▶ The human brain has a remarkable capacity to change, but timing is crucial. While learning continues throughout a lifetime, there are optimal periods during which the brain is particularly efficient at specific types of learning.
- ▶ There are times when negative experiences or the absence of appropriate stimulation are more likely to have serious and sustained effects. Conditions that prevent a baby from making a secure attachment with a care giver, prevent healthy stimulation of the child, expose a child to harmful substances or introduce unusual stress are likely to impair the cognitive and social development of the child.

State employees' health care insurance benefits

The state employees' health care insurance benefits are only for active state employees, retirees, dependents of active employees or retirees, survivors, and COBRA eligibles. The program is offered under s. 110.123, F.S., and Section 125 of the Internal Revenue Code, which may have provisions governing the addition of non-employee/retiree beneficiaries to the program. The state employees' health care insurance is administered by the Division of State Group Insurance.

Sales tax

Chapter 212, F.S., provides that a sales and use tax be imposed on the retail sale or lease of tangible personal property. The general sales tax rate is 6 percent. Local governments are authorized to levy one or more of six types of Local Discretionary Sales Surtaxes, ranging from up to 0.5% to 1.0% each. The purchase of educational materials and educational toys is subject to sales tax.

Exemption from Property Tax

Currently, ch. 196, Florida Statutes, provides for exemptions from taxes that are assessed on real or personal property. According to subsection (5) of s. 196.012, Florida Statutes, "educational institution" means:

- 1) a federal, state, parochial, church or private school, college or university conducting regular classes and courses of study required for eligibility to certification by, accreditation to, or membership in the State Department of Education of Florida, Southern Association of Colleges and Schools, or the Florida Council of Independent Schools;
- 2) a nonprofit private school--the principal activity of which is conducting regular classes and courses of study accepted for continuing postgraduate dental education credit by a board of the Division of Medical Quality Assurance;
- 3) educational direct-support organizations created pursuant to ss. 229.8021, 240.299, and 240.331, Florida Statutes; and
- 4) facilities located on the property of eligible entities which will become owned by those entities on a date certain.

Furthermore, educational institutions within the state of Florida and their property used by them, or by any other exempt entity or educational institution exclusively for educational purposes are exempt from taxation.

An exemption from ad valorem taxation for "educational institutions" was originally provided by the Legislature in 1971 in ch. 71-133, Laws of Florida.

Subsequently, several clarifications and additions to the definition of "educational institution" have been added to s. 196.012, Florida Statutes. Some of the changes include:

- the addition of federal schools;
- the addition of nonprofit private schools which provide postgraduate dental education; and
- the addition of direct-support organizations created pursuant to 229.8021, 240.299, and 240.331, Florida Statutes.

According to the Florida Association of Child Care Management, there are approximately 550 child care centers in Florida, currently accredited by national or state accrediting authorities.

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Subsequently, several clarifications and additions to the definition of "educational institution" have been added to section 196.012, Florida Statutes. Some of the changes include:

- the addition of federal schools;
- the addition of nonprofit private schools which provide postgraduate dental education; and
- the addition of direct-support organizations created pursuant to 229.8021, 240.299, and 240.331, Florida Statutes

B. EFFECT OF PROPOSED CHANGES:

The bill makes changes in law to improve the quality of child care.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

- a. Does the bill create, increase or reduce, either directly or indirectly:

- (1) any authority to make rules or adjudicate disputes?

Yes.

- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes.

Contingent on specific appropriations, the bill creates a new program that allows the Department of Children and Families to award collaboration grants for Early Head Start programs.

Authorizes the department to establish a health care insurance buy-in option through the state employees' health insurance program for center-based, subsidized child care providers who provide child care services paid for in whole or in part by the department.

Requires the department to establish a system for the observational and developmental assessment of young children.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

Yes.

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Yes. The cost of subsidized child care is on a sliding ability-to-pay scale.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

No.

- (5) Are families penalized for not participating in a program?

No.

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections: 110.151, 196.095, 212.08, 240.3821, 402.26, 402.281, 402.3015, 402.3016, 402.302, 402.3027, 402.305, 402.3051, 402.3108, 402.313 and 402.3131.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 110.151, F.S.

Allows a state agency to be responsible for the maintenance, utilities, and other operating costs associated with the child care center for the agency's employees.

Section 2. Amends s. 196.095, F.S.

Exempt from ad valorem taxation any real estate used and owned as a child care facility as defined in s. 402.302, F.S., which operates in an enterprise zone pursuant to ch. 290.

Section 3. Amends s. 212.08, F.S.

An exemption from sales and use tax is created on purchases of educational materials, such as glue, paper, paints, crayon, unique craft items, scissors, books, and educational toys when made by a child care facility that holds a Gold Seal Quality Care designation and provides basic health insurance to all employees.

Section 4. Amends s. 402.26, F.S.

Provides legislative intent that licensed Gold Seal Quality child care facilities shall be considered educational institutions for the purposes of qualifying for exemption for ad valorem tax.

Section 5. Amends s. 402.281, F.S.

Allows family group day care homes to participate in the Gold Seal Program certification.

Section 6. Amends s. 402.3015, F.S.

Expands subsidized child care eligibility to 200 percent of poverty for children of working families enrolled in the Child Care Executive Partnership Program.

Section 7. Creates s. 402.3016, F.S.

Contingent upon specific appropriations, establishes an Early Head Start Collaboration Grants program to assist local agencies in securing programs by providing required matching funds. The grants are awarded to competing agencies through an application procedure. Minimum requirements for grant applicants are provided and the department is given rule making authority to adopt further requirements.

Section 8. Amends s. 402.302, F.S.

Creates a large family child care home classification as a child care arrangement option. A large family child care home must first operate as a licensed family day care home for a period of 2 consecutive years and have an operator who has a child associate credential or equivalent for one year. A large family child care home is allowed to provide care for one of the following groups of children, which includes those children under 12 years of age who are related to the care giver:

- ▶ A maximum of 8 children from birth to 24 months of age.
- ▶ A maximum of 12 children, with no more than 4 under the age of 24 months.

Section 9. Creates s. 402.3027, F.S.

Establishes a framework for the observational and developmental assessment of young children. It creates an observational and assessment system based on three levels.

Level I.-

The purpose of Level I assessments is to identify and monitor normal development or possible developmental delay using a behavioral checklist. All 1-,2-,3-, and 4-year-old children in care must be screened every six months using a department approved developmental observation checklist. The results indicated by the checklist must be reviewed by the centers child development associate or community child care coordinating agency.

Level II.-

The purpose of Level II assessments is to determine whether a delay identified in the Level I assessment can be addressed by the child care center or home or whether a special program or further assessment is needed. A Level II assessment must be conducted by trained professional staff. The department is required to establish procedures to develop individualized learning plans, implement intensive language and/or math activities provided by a visiting specialist, and implement parent training and home visits.

Level III.-

The purpose of Level III assessments is to determine eligibility for early intervention programs. It is conducted by providers such as, Medicaid/EPSDT, Children's Medical Services, and other health services and early intervention services.

Section 10. Amends s. 402.305, F.S.

Increases training requirements for child care personnel to 40 hours and adds additional child developmental and observational skill requirements.

Requires a credential for child care directors by January 1, 2003.

Allows for the Department of Children and Families in conjunction with the Department of Health to establish standards for specialized child care facilities for the care of mildly ill children.

Section 11. Amends s. 402.3051, F.S.

Allows licensed, exempt or registered Gold Seal child care providers to be reimbursed at the market rate for child care services for children who are eligible to receive subsidized child care.

Section 12. Amends s. 402.3055, F.S.

Technical and conforming changes.

Section 13. Creates s. 402.3018, F.S.

Contingent upon specific appropriations, this section requires the Department of Children and Families to establish or contract for a statewide and regional toll-free Warm-Line for the purpose of providing assistance and consultation to child care centers and family child care homes regarding health, developmental, disability, and special needs issues of the children they are serving--particularly children with disabilities and other special needs.

Section 14. Amends s. 402.313, F.S.

Increases training requirements for family day care homes from a 3-hour to a 30-hour training course that must include:

- ▶ 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 check list or other similar observation tools and techniques to determine where a child is developmentally
- ▶ Specialized areas, as determined by the department, for owner-operators of family day care homes

Family day care homes licensed or registered on June 30, 1999, have until June 30, 2001, to comply with this requirement, except that the department shall exempt family day care homes that can demonstrate that the operator has received at least 30 hours of training.

Family day care homes initially licensed or registered on or after July 1, 1999, but before October 1, 1999, have until October 1, 1999, to comply with the 30-clock-hour course requirement.

Family day care homes initially licensed or registered on or after October 1, 1999, must comply with the 30-clock-hour course requirement before caring for children.

Section 15. Creates s. 402.3131, F.S.

Establishes licensing standards for large family child care homes. The standards include:

- ▶ screening
- ▶ a 40-clock-hour introductory course
- ▶ other standards as determined by the department through rules

Section 16. Amends s. 943.0585, F.S., 1998 Supplement.

Technical and conforming changes.

Section 17. Amends s. 943.059, F.S., 1998 Supplement.

Technical and conforming changes.

Section 18. Requires the Department of Insurance to conduct a study and report to the President of the Senate, the Speaker of the House of Representatives, and the appropriate substantive and fiscal committees of the Senate and the House of Representatives, by January 31, 2000, regarding how to make affordable health insurance available to the staff of child care providers including a program for providing medical savings accounts.

Section 19. Provides an effective date of July 1, 1999.

IV. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

| | | |
|----------------------------|------------|------------|
| <u>Sales tax exemption</u> | FY 1999-00 | FY 2000-01 |
| General Revenue | (\$0.2M) | (\$0.2M) |
| Trust Fund | (*) | (*) |
| Local Government | (*) | (*) |

Developmental observation checklist and assessment--\$260,000

Note: The House and Senate appropriation bills include an increase of \$37.9 million for subsidized child care. Some of these funds will be set aside for quality enhancements and could be used to fund the developmental observation checklist and assessment.

The following items are contingent upon a specific appropriation:

| | Recurring | Non-rec |
|---------------------------------|------------------|----------------|
| Statewide toll-free warm-line | | |
| FY 1999-2000 | \$60,000 | -0- |
| FY 2000-2001 | \$540,000 | -0- |
| FY 2001-2002 | \$1,080,000 | -0- |
| FY 2002-2003 | \$1,560,000 | -0- |
| Head Start collaboration grants | \$250,000 | |

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See III.A.2.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

See III.A.2.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Employers that choose to provide health insurance in order to qualify for tax incentives will incur a cost associated with these activities.

2. Direct Private Sector Benefits:

Centers that provide health insurance benefits to employees are exempt from payment of sales tax on educational materials.

3. Effects on Competition, Private Enterprise and Employment Markets:

Incentives in the bill should lead to improvements in the quality of child care, reduce employee turnover and the cost associated with the turnover.

D. FISCAL COMMENTS:

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Although the bill will reduce the authority of municipalities and counties to raise revenues, the impact is expected to be insignificant and the bill is therefore exempt from the provisions of Article VII, Section 18(b), Florida Constitution.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

While the bill will reduce the amount of the Local Government Half Cent Sales Tax shared with municipalities and counties, it does not reduce the percentage of a state tax shared with municipalities and counties. Therefore, Article VII, Section 18(b), Florida Constitution does not apply.

VI. COMMENTS:

By the Committee on Finance & Taxation:

The sales tax exemption created by section one of the act may cause administrative difficulties for both the Department of Revenue and the child care facilities because the term "educational materials" is not clearly defined. The bill lists the following as included educational materials: glue, paper, paints, crayon, unique craft items, scissors, books, and educational toys. For example, the facilities and the department may have trouble determining what is a unique craft item versus a nonunique craft item, or what is an educational toy versus a noneducational toy.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 8, 1999, the **Committee on Finance & Taxation** adopted two amendments.

The first amendment provides legislative intent that licensed Gold Seal Quality child care facilities shall be considered educational institutions for the purposes of qualifying for exemption for ad valorem tax. The amendment has not been addressed by the Revenue Estimating Conference, but the fiscal impact on local governments is expected to be less than (\$1.0) million.

The second amendment provides an ad valorem tax exemption for a licensed child care facility operating in an enterprise zone. The amendment has not been addressed by the Revenue Estimating Conference, but the fiscal impact on local governments is expected to be less than (\$1.0) million.

On April 16, 1999, the **Committee on Health & Human Services Appropriations** adopted a "strike everything" amendment that: removes section 2, establishing the Institutes of Excellence in Infant and Toddler Development; removes section 4, expanding the subsidized child care program to 200 percent of the federal poverty level; removes section 6, creating s. 402.3017, Florida Statutes, authorizing the Department of Children and Families to establish a health care buy-in option through the state employees' health insurance program for certain center-based subsidized child care providers; modifies section 9, relating to minimum training requirements for child care facility directors; adds language to section 14, requiring large family child care homes to be approved by the state or local fire marshal prior to licensure by the Department of Children and Families; and adds section 18, requiring a study and report by the Department of Insurance on child care provider health insurance.

VIII. SIGNATURES:

Committee on Children and Families:

Prepared by:

Bob Barrios

Staff Director:

Bob Barrios

AS REVISED BY THE COMMITTEE ON FINANCE AND TAXATION:

Prepared by:

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AS FURTHER REVISED BY THE COMMITTEE ON HEALTH AND HUMAN SERVICES
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Prepared by:

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