

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1405 Influenza Vaccine

SPONSOR(S): Homan and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 2296

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Health Care Services Policy Committee		Preston	Schoolfield
2)	Insurance, Business & Financial Affairs Policy Committee			
3)	Health & Family Services Policy Council			
4)	Full Appropriations Council on General Government & Health Care			
5)				

SUMMARY ANALYSIS

The bill requires children enrolled or enrolling in a child care facility, a family day care home, or a large family child care home to be immunized against influenza, beginning September 1, 2010, subject to the availability of vaccine. The Department of Children and Family Services (DCF or the department) is required to adopt rules to add the influenza vaccine to its current list of required vaccines and child care facilities, family day care homes, and large family child care homes are required to furnish proof of compliance to the department for each child receiving care by March 31, 2010.

The bill is expected to have no fiscal impact on state or local governments.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

CURRENT SITUATION

Required Immunizations

Currently, the US Department of Health and Human Services, Centers for Disease Control and Prevention, recommends that all children who are from 6 months through 18 years of age receive the inactivated influenza vaccine. The vaccine is not approved for children younger than 6 months of age.¹

One of the statutory duties of the Department of Health (DOH or department) is to administer and enforce laws and rules relating to sanitation, control of communicable diseases, illnesses and hazards to health among humans and from animals to humans, and the general health of the people of the state.² The department's communicable disease prevention and control program must include programs for the prevention and control of vaccine-preventable diseases, including programs to immunize school children as required by s. 1003.22(3)-(11).³ Immunization requirements for children are established by rule.⁴

The Department of Children and Family Services, as authorized by statute and rule,⁵ currently requires each child care facility, family day care home and large family child care home to provide proof of immunization for the children in care. Each child care facility is responsible for obtaining from the custodial parent or legal guardian of each child in care a current, complete, and properly executed DOH Florida Certification of Immunization form (DH 680), or Religious Exemption from Immunization form (DH 681). Specific immunization requirements are detailed in the most current edition of the Department of Health publication entitled "Immunization Guidelines: Florida Schools, Child Care Facilities and Family Day Care Homes" (DH 150-615, July 2008), and include:

- Diphtheria, tetanus, and pertussis vaccine
- Polio vaccine

¹ Centers for Disease Control and Prevention. Available at: <http://www.cdc.gov/FLU/protect/keyfacts.htm> .

² See s. 381.0011(4), Florida Statutes.

³ See s. 381.003(1)(e), Florida Statutes.

⁴ See 64D-3.046, Florida Administrative Code.

⁵ See ss. 402.305(9)a., 402.313(13), and 402.3131(7), Florida Statutes, and 65C-20.011(1) and 65C-22.006(2), Florida Administrative Code.

- Measles vaccine
- Mumps vaccine
- Rubella vaccine
- Varicella vaccine (Effective July 1, 2001)
- Haemophilus influenzae type b (Hib) vaccine
- Pneumococcal Conjugate vaccine (Effective January 1, 2008 for children 2 to 24 months of age)

School-aged children attending public or non-public schools are not required to have student health examination and immunization records on file at the child care facility, as such records are on file at the school where the child is enrolled.

The Bill:

- Requires children enrolled or enrolling in a child care facility, a family day care home, or a large family child care home to be immunized against influenza, beginning September 1, 2010, subject to the availability of vaccine;
- Requires the Department of Children and Family Services (DCF or the department) to adopt rules to add the influenza vaccine to its current list of required vaccines; and
 - Requires child care facilities, family day care homes, and large family child care homes to furnish proof of compliance to the department for each child receiving care by March 31, 2010.

B. SECTION DIRECTORY:

Section 1. Amends s. 402.305, Florida Statutes, relating to licensing standards for child care facilities.

Section 2. Amends s. 402.313, Florida Statutes, relating to family day care homes.

Section 3. Amends s. 402.3131, Florida Statutes, relating to large family day care homes.

Section 4. Provides for an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides the Department of Children and Family Services with the authority to adopt rules to add the influenza vaccine to its current list of required vaccines.

C. DRAFTING ISSUES OR OTHER COMMENTS:

- The CDC recommends that all children who are from 6 months through 18 years of age receive the inactivated influenza vaccine. The vaccine is not approved for children younger than 6 months of age. The bill does not appear to exempt children under the age of 6 months from the vaccine requirement.
- The bill amends a number of sections of chapter 402, Florida Statutes, relating to child care facilities, family day care homes, and large family child care homes and provides the “department” with the authority to adopt rules to add the influenza vaccine to its current list of required vaccines. It also requires that child care facilities, family day care homes, and large family child care homes provide proof of compliance to the “department”.

As used in chapter 402, Florida Statutes, the term “department” means The Department of Children and Family Services. Therefore the bill delegates authority for rulemaking to add the influenza vaccine to its list of required vaccines to and requires proof of compliance be provided to the Department of Children and Family Services, rather than to the Department of Health which would appear to be the appropriate agency.

An amendment to the bill, including a title amendment, would be necessary to correct this.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES