

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

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| BILL #: | CS/CS/HB 1091 | FINAL HOUSE FLOOR ACTION: | | |
| SUBJECT/SHORT TITLE | Early Learning | 114 | Y's 0 | N's |
| SPONSOR(S): | PreK-12 Appropriations Subcommittee; PreK-12 Quality Subcommittee; Grall and others | GOVERNOR'S ACTION: | Approved | |
| COMPANION BILLS: | CS/CS/SB 1254 | | | |

SUMMARY ANALYSIS

CS/CS/HB 1091 passed the House on March 1, 2018, and subsequently passed the Senate on March 8, 2018. The bill revises provisions related to the School Readiness program, which is a state-federal partnership between Florida's Office of Early Learning (OEL) and the Office of Child Care of the United States Department of Health and Human Services. The program is administered by early learning coalitions (ELC) at the county or regional level. Florida's OEL administers the program at the state level, including statewide coordination of the ELCs. The program subsidizes 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.

Specifically, the bill:

- expands the definition of "at-risk" for eligibility purposes;
- requires OEL to identify observation-based child assessments;
- requires OEL to adopt program assessment requirements that measure teacher-child interactions;
- requires OEL to revise the statewide provider contract to include contracted slots and quality improvement strategies, if applicable, and program assessment requirements;
- establishes a payment differential of up to 15 percent based on program assessment results with no more than 5% of the 15% allocated based on submission of data by providers that implement an observation-based child assessment identified by OEL;
- modifies the required functionality of the single statewide information system;
- requires OEL's annual report to include certain program assessment information;
- requires ELCs to establish local eligibility priorities and include them in their biennial School Readiness plans;
- requires an ELC's biennial plan to include procedures for the use of contracted slots, a description of quality improvement strategies, and the results of a community needs assessment;
- requires School Readiness providers to participate in a program assessment; and
- allows the award of grants and financial supports to providers and instructors to meet program assessment requirements.

The bill appropriates for FY 2018-2019, the sum of \$6 million in nonrecurring funds from the Child Care and Development Block Grant Trust Fund to OEL to implement the program assessment.

The bill was approved by the Governor on March 30, 2018, ch. 2018-136, L.O.F., and will become effective on July 1, 2018.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1091z1.PKQ.docx

DATE: April 5, 2018

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

School Readiness Program

Present Situation

Established in 1999,¹ the School Readiness program provides subsidies for child care services and early childhood education for children of low-income families; children in protective services who are at risk of abuse, neglect, or abandonment; and children with disabilities.² The School Readiness program offers financial assistance for child care to support working families and children to develop skills for success in school and provides developmental screening and referrals to health and education specialists where needed. These services are provided in conjunction with other programs for young children such as Head Start, Early Head Start, and the Voluntary Prekindergarten Education (VPK) Program.³

The School Readiness program is a state-federal partnership between Florida's Office of Early Learning (OEL)⁴ and the Office of Child Care of the United States Department of Health and Human Services.⁵ It is administered by early learning coalitions (ELC) at the county or regional level.⁶ Florida's OEL administers the program at the state level, including statewide coordination of the ELCs.⁷

The Florida Department of Children and Families' Office of Child Care Regulation (DCF), as the agency responsible for the state's child care provider licensing program, inspects licensed and license exempt child care providers that provide the School Readiness program for specified health and safety standards.⁸ The law authorizes a county to designate a local licensing agency to license providers if its licensing standards meet or exceed DCF's standards. Five counties have done this – Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota. Thus, in these five counties the local licensing agency, not DCF, inspects child care providers that provide the School Readiness program⁹ for health and safety standards.

¹Section 1, ch. 99-357, L.O.F.

² Section 1002.87, F.S.

³ Florida Office of Early Learning,

Parents, http://www.floridaearlylearning.com/parents/early_learning_programs_and_services/school_readiness.aspx (last visited Jan. 17, 2018).

⁴ In 2013, the Legislature established the Office of Early Learning in the Office of Independent Education and Parental Choice within the Department of Education (DOE). The office is administered by an executive director and is fully accountable to the Commissioner of Education but shall independently exercise all powers, duties, and functions prescribed by law, as well as adopt rules for the establishment and operation of the School Readiness program and the VPK Program. Section 1, ch. 2013-252, L.O.F., *codified as s.* 1002.213, F.S.

⁵ See U.S. Department of Health and Human Services, *Child Care and Development Fund Fact Sheet*, <http://www.acf.hhs.gov/programs/occ/fact-sheet-occ> (last visited Jan. 17, 2018).

⁶ Section 1002.83, F.S.

⁷ Section 1001.213(3), F.S.

⁸ See ss. 402.301-319, F.S., and Parts V and VI, ch. 1002, F.S.

⁹ Section 402.306(1), F.S.; Department of Children and Families, *Licensing Information*, <http://www.myflfamilies.com/service-programs/child-care/licensing-information> (last visited Jan. 19, 2018).

Responsibilities of the Office of Early Learning

Present Situation

Florida's OEL is the lead agency in Florida for administering the federal Child Care and Development Fund (CCDF) from which funds are used to implement the School Readiness program. Florida law requires OEL to focus on improving the educational quality of all program providers participating in the School Readiness program while preserving parental choice by permitting parents to choose from a variety of child care categories.¹⁰

OEL must adopt, in rule, a statewide provider contract to be used by each School Readiness program provider, review and approve each ELC's School Readiness plan every 2 years, and monitor and evaluate the performance of each ELC in administering the School Readiness program and the VPK program.¹¹ OEL must also adopt specific system support services for the state's School Readiness program including statewide data information program requirements that include:

- Eligibility requirements.
- Financial reports.
- Program accountability measures.
- Child progress reports.¹²

Additional support services include child care resource and referral services and a single point of entry and uniform waiting list.¹³ To promote informed child care choices OEL may provide technical assistance and guidance on additional support services to complement the School Readiness program, including:

- Rating and improvement systems.
- Warm-line services.¹⁴
- Anti-fraud plans.
- School Readiness program standards.
- Child screening and assessment.
- Training and support for parental involvement in children's early education, including research on child development and best practices.
- Family literacy activities and services.¹⁵

OEL must develop and adopt performance standards and benchmarks to address the age-appropriate progress of children in the development of School Readiness skills. The performance standards must be aligned with the standards for children in the VPK program.¹⁶ OEL must enter into a memorandum of understanding with local licensing agencies and the Department of Children and Families, Office of Child Care Regulation for inspection of School Readiness program providers.¹⁷

¹⁰ Section 1002.82(1) and (2)(a)-(b), F.S. Care and curriculum by a faith-based provider must not be limited or excluded in any of these categories. *Id.*

¹¹ Section 1002.82(2)(e), (m), and (p), F.S.

¹² Section 1002.82(2)(f)1.a., F.S.

¹³ Section 1002.82(2)(f)1.b., F.S., and Florida's Office of Early Learning, *Welcome to Florida's Early Learning Family Portal*, <https://spe.schoolreadiness.org/pe/> (last visited Jan. 19, 2018).

¹⁴ Florida's OEL must "administer a statewide toll-free Warm-Line for the purpose of providing assistance and consultation to child care facilities and FDCHs regarding health, developmental, disability, and other special needs." Section 1002.82(2)(r), F.S.

¹⁵ Section 1002.82(2)(f)2., F.S.

¹⁶ Section 1002.82(2)(j), F.S.; rule 6M-4.700, F.A.C.; Florida's Office of Early Learning, *Early Learning and Developmental Standards*,

http://www.floridaearlylearning.com/parents/parent_resources/floridas_early_learning_and_development_standards_birth_to_five.aspx (last visited Jan. 19, 2018).

¹⁷ Section 1002.82(2)(i), F.S.

In 2014, the Legislature created the Early Learning Performance Funding Pilot in the General Appropriations Act.¹⁸ The Legislature directed OEL to organize a workgroup of early learning stakeholders to provide input to help develop the program and select ELCs to participate.¹⁹ Under the performance funding program, which is no longer a pilot and has been funded each year since 2014, ELCs are eligible for funding to award child care providers and instructors for improving School Readiness program outcomes. The method for allocating funds to ELCs must include:²⁰

- A funding differential incentive for high-need populations.
- A professional development system to significantly improve instructor quality.
- A research-based observational system to significantly improve instructor interactions with children.

Under the performance funding program, providers are assigned to one of five tiers using the OEL-adopted Class Assessment and Scoring System (CLASS) composite score, which is determined by averaging the CLASS observation dimension scores together from each classroom. Once assigned to a tier, providers must choose one continuous quality improvement strategy from a list compiled by OEL.²¹ Approximately 1,000 providers and their instructors participate in the program, which, among other things, requires participation in CLASS training and agreeing to have an evaluator conduct assessments.²²

The 2017 Legislature appropriated \$15.5 million, of which \$12,000,000 is from nonrecurring funds, to implement the program for the 2017-2018 fiscal year.²³ The funds must be administered by OEL in coordination with ELCs to provide consistent standards and leverage community efforts to support a coordinated statewide system of quality.²⁴

Effect of the Bill

The bill requires that the program accountability measures adopted by OEL include a program assessment for School Readiness providers. The program assessment must measure the quality of teacher-child interactions using a research-based observation tool. The bill establishes additional minimum requirements for the program assessment to include quality measures, including a minimum threshold for contracting purposes; a process for program participation; exemptions; and improvement through the completion of an improvement plan.

The bill requires OEL to identify observation-based child assessments for use at a minimum three times a year. The assessments must: provide interval level and criterion-referenced data that measures equivalent level of growth across core domains; measure progress in the performance standards; provide for appropriate accommodations for children with disabilities and English language learners; coordinate with the performance standards for the Voluntary Prekindergarten Education Program; and provide data in a format for use in the single statewide information system.

By July 1, 2019, the statewide information system must allow a parent to monitor the development of his or her child as the child moves among programs and enable analysis at the state, regional, and

¹⁸ Specific Appropriation 87, s. 2, ch. 2014-51, L.O.F.

¹⁹ *See id.*

²⁰ *See id.*

²¹ *See* Florida Office of Early Learning, *Early Learning Performance Funding Project 2017-18 Overview* (July 10, 2017), available at http://www.floridaearlylearning.com/school_readiness/early_learning_performance_funding_project.aspx.

²² *See id.*

²³ Specific Appropriation 83, s. 2, ch. 2017-70, L.O.F.

²⁴ *See id.*

local levels to measure child growth over time, program impact, and quality improvement and investment decisions.

The bill requires OEL to revise the statewide provider contract to include program assessment requirements and contracted slots and quality improvement strategies, if applicable. The provisions for termination for cause in the statewide provider contract must include a provider's failure to meet minimum quality measures for a period of up to 5 years. However, a provider is not subject to termination for failure to meet quality measures if the provider has an active improvement plan and the ELC finds that the provider is essential to meeting capacity needs based on the community needs assessment.

The bill also requires OEL to revise its annual report to include the number of providers that have completed the program assessment requirement, the number of providers that have not met minimum quality measures to be eligible for a contract, and the number of providers that have an active improvement plan.

Child Eligibility and Responsibilities of Early Learning Coalitions

Present Situation

Federal regulations governing the CCDF,²⁵ the primary funding source for the School Readiness program, authorize states to use grant funds for child care services, if:

- the child is under 13 years of age, or at the state's option, under age 19 if the child is physically or mentally incapable of caring for himself or herself or under court supervision;
- the child's family income does not exceed 85 percent of the state's median income for a family of the same size; and
- the child:
 - resides with a parent or parents who work or attend job training or educational programs;
 - or
 - receives, or needs to receive, protective services.²⁶

Within these broad federal eligibility categories, Florida law specifies that ELCs must admit children into the School Readiness program according to the following priorities:

- **First priority** is a child under 13 years of age from families in which an adult is receiving temporary cash assistance and subject to federal work requirements.²⁷
- **Second priority** is a child under the age of 9 who is at-risk.
- **Third priority** is a child, birth to beginning of the school year for which the child is eligible for kindergarten, from a working family that is economically disadvantaged²⁸ and may include such

²⁵ 45 C.F.R. parts 98 and 99.

²⁶ 45 C.F.R. s. 98.20(a). Florida does not provide school readiness funding for children 13-18 years of age who are physically or mentally incapable of self-care or under court supervision. See Florida Office of Early Learning, *Child Care and Development Fund (CCDF) Plan FFY 2016-2018* (2016) at 57, available at http://www.floridaearlylearning.com/sites/www/Uploads/14-Draft-FY2016-2018%20CCDF%20Plan%20Preprint%20%2012-17-15_final_markup_SC_Comments_CLEAN_PDF_ADA.pdf; see also rule 6M-4.200(1), F.A.C.

²⁷ Recipients of assistance under a state's Temporary Assistance for Needy Families Block Grant must meet Federal work requirements. These work requirements require a state to meet or exceed minimum rates of recipients participating in "work activities," e.g., employment, education, job search, community service, and vocational training. 42 U.S.C. s. 607(a)-(d). Under Florida law, the maximum number of hours a recipient of subsidized child care, who is not otherwise exempt from work activity, may be required to work is 40 hours per week. Section 445.024(2), F.S.

²⁸ "Economically disadvantaged" means having a family income that does not exceed 150 percent of the federal poverty level. Section 1002.81(7), F.S.

a child's eligible siblings who are eligible to enter kindergarten through the summer before sixth grade, provided that the ELC uses local revenues first.

- **Fourth priority** is a child of a parent who transitions from the work program into employment from birth through the summer before kindergarten.
- **Fifth priority** is an at-risk child, ages 9 through 13. Such a child is given priority over other children if his or her sibling is enrolled in the School Readiness program under eligibility priorities 1, 2, or 3.
- **Sixth priority** is a child younger than 13 years of age from a working family that is economically disadvantaged. Such a child is given priority over other children if his or her sibling is enrolled in the School Readiness program under eligibility priority 3.
- **Seventh priority** is a child under age 13 whose parent transitions from the work program into employment.
- **Eighth priority** is a child ages 3-5 years of age who has a current individual education plan with a Florida school district. Such a child is eligible until he or she is old enough for kindergarten admission.
- **Last priority** is a child who is also concurrently enrolled in the Head Start program and the VPK Program.²⁹

A child is considered to be “at risk” if, among other things, the child is in the custody of a parent who is a victim of domestic violence residing in a certified domestic violence center.³⁰

A child who is ineligible due to a parent's job loss or cessation of education or job training will continue to receive School Readiness program services for at least three months to enable the parent to obtain employment.³¹

Each ELC administers the School Readiness program,³² the VPK Program,³³ and the state's child care resource and referral network in its county or multicounty region.³⁴ There are currently 30 ELCs.³⁵ Each ELC is governed by a board of directors comprised of various stakeholders and community representatives. Three board members, including the chair, are appointed by the Governor.³⁶

In order to participate in the School Readiness program, each ELC must submit a School Readiness plan to OEL for approval.³⁷ The plan must include, but is not limited to:

- The ELC's operations, including its membership and articles of incorporation and bylaws, if applicable.
- The minimum number of children to be served by care level.
- The procedures for implementing program requirements such as single point of entry, uniform waiting list, eligibility and enrollment, sliding fee scale, and payment rate.
- A detailed description of the ELC's quality activities and services.

²⁹ Section 1002.87(1), F.S.

³⁰ At-risk children can also include children who are homeless or who may be experiencing abuse, neglect, abandonment or exploitation. *See* s. 1002.81(1), F.S. (definition of “at-risk child”).

³¹ Section 1002.87(6), F.S.

³² Part VI, ch. 1002, F.S.

³³ Part V, ch. 1002, F.S.

³⁴ Section 1002.84, F.S.

³⁵ Florida's Office of Early Learning, *Early Learning Coalition Directory* (Revised May 7, 2013), available at <http://www.floridaearlylearning.com/sites/www/Uploads/files/Parents/CoalitionDirectory.pdf>. Florida law permits the establishment of 31 or fewer ELCs. Section 1002.83(1), F.S.

³⁶ Section 1002.83(3), F.S.

³⁷ Section 1002.85(2), F.S.

- A detailed budget outlining the estimated expenditures for state, federal, and local matching funds.
- A detailed accounting of all revenues and expenditures during the previous state fiscal year.³⁸
- Policies and procedures governing procurement, maintenance of tangible personal property, maintenance of records, information technology security, and disbursement controls.
- A description of the procedures for monitoring School Readiness program providers, including the process for responding to a parental complaint.
- Documentation that the coalition has solicited and considered comments regarding the proposed School Readiness plan from the local community.

An ELC with an approved School Readiness plan must implement a comprehensive system of School Readiness services which enhances the cognitive, social, and physical development of children to achieve the children’s performance standards.³⁹ Specific ELC requirements include, but are not limited, to:

- Establishing a uniform waiting list to track eligible children.
- Administering a child care resource and referral network for its service area.
- Establishing a regional Warm-Line.
- Establishing age-appropriate screening for children birth to 5 years.
- Implementing age appropriate preassessment and postassessment of children, if specified in the coalition’s plan.
- Determining child eligibility.
- Establishing a parent sliding fee scale.
- Complying with federal and state procurement requirements.
- Establishing proper information technology security controls.
- Monitoring School Readiness program providers.⁴⁰

ELCs are required to submit an annual report to OEL by October 1 of each year. The report must include information such as the total number of children served, details of expenditures by fund source, and an evaluation of its direct enhancement services.⁴¹

Effect of the Bill

The bill revises the definition of an “at-risk child” to specify that a child is considered at risk if a certified domestic violence center verifies that the child’s custodial parent is a victim of domestic violence, rather than requiring the parent to reside in such a center.

The bill revises child eligibility priorities by requiring ELCs, after serving children in the first two priority categories, to prioritize services for children in subsequent categories based on their community needs assessments. Each ELC must include its identified priorities in its biennial School Readiness plan as part of its eligibility and enrollment processes.

The bill requires each ELC to conduct a community needs assessment and include the results in its plan. Each plan must also include a detailed description of quality improvement strategies used by the coalition to strengthen teaching practices and improve child outcomes and its procedures for the use of contracted slots, as applicable, based on the needs assessment.

³⁸ Section 1002.85(2)(a)-(i), F.S.

³⁹ Section 1002.84(1), F.S.

⁴⁰ Section 1002.84, F.S.

⁴¹ Section 1002.84(18), F.S.

Child Care Provider Eligibility and Responsibilities

Present Situation

In order to be eligible to deliver the School Readiness program, a provider must be:

- a licensed child care facility;
- a licensed or registered family day care home (FDCH);
- a licensed large family child care home (LFCCH);
- a public school or nonpublic school;
- a license-exempt faith-based child care provider;
- a before-school or after-school program; or
- an informal child care provider authorized in the state's CCDF plan.⁴²

All School Readiness providers must meet basic health and safety for its premises and comply with the age-appropriate immunizations of children enrolled in the school readiness program. For licensed providers, compliance with the requirements for licensure meets these requirements. DCF or the local licensing agency verify compliance with the specified health and safety requirements. School Readiness registered family day care homes and providers not subject to licensure by the DCF must also meet these requirements as verified by inspection by DCF or the local licensing agency.⁴³ In addition, each child care facility, family day care home, and large family day care home must annually submit an affidavit of compliance with the requirement to report instances of child abuse, abandonment, or neglect.⁴⁴

Provider responsibilities include, but are not limited, to:

- Employing child care personnel who have satisfied background screening and training requirements.
- Providing instruction and activities to enhance the age-appropriate progress of each child to attain the child development standards adopted by OEL.
- Providing activities to foster brain development in infants and toddlers in an environment rich in language and music and visual, tactile, auditory, and linguistic stimulation and including 30 minutes of reading to children each day.
- Executing the standard statewide provider contract adopted by OEL.
- Implementing a character development program.
- Maintaining minimum general liability insurance coverage.
- Maintaining any required worker's compensation insurance and any required unemployment compensation insurance.
- Administering preassessments and postassessments that have been approved by the OEL, but only if the provider chooses to administer such assessments.⁴⁵

Effect of the Bill

The bill requires School Readiness program providers, subject to appropriation, to participate in the program assessment adopted by OEL and implement quality improvement strategies identified in the ELC plan.

⁴² Section 1002.88(1)(a), F.S. Generally speaking, informal child care is care provided by a relative. *See* Florida Office of Early Learning, *Child Care and Development Fund (CCDF) Plan FFY 2016-2018* (2016) at 99, available at http://www.floridaearlylearning.com/sites/www/Uploads/14-Draft-FY2016-2018%20CCDF%20Plan%20Preprint%20%202012-17-15_final_markup_SC_Comments_CLEAN_PDF_ADA.pdf.

⁴³ Section 1002.88(1)(c), F.S.

⁴⁴ Section 402.319(3), F.S.

⁴⁵ Section 1002.88(1), F.S.

Funding for the School Readiness Program

Present Situation

The School Readiness program receives funding from a mixture of federal and state sources, including the federal CCDF block grant, the Federal Grants Trust Fund, the federal Temporary Assistance for Needy Families block grant,⁴⁶ and the state general revenue funds.⁴⁷ The Child Care Executive Partnership Program allows funding from the School Readiness program to be used for payment of matching child care funding for low-income working parents who are eligible for subsidized child care. State and federal funds are used as incentives for generating matching local funds from local governments, employers, charitable foundations, and other sources.⁴⁸

For FY 2018-19, a total of \$630.9 million was appropriated for the School Readiness program from state and federal funds, including \$144.6 million from the state's General Revenue Fund, \$389.2 million from the CCDF block grant, \$500,000 from Federal Grants Trust Fund, and \$96.6 million from the Welfare Transition Trust Fund.⁴⁹

Effect of the Bill

The bill includes implementation of the program assessment adopted by OEL as an allowable quality activity for purposes of awarding grants and providing financial support to providers. The bill also establishes a differential payment of up to 15 percent for each care level and unit of child care for a provider that scores above the minimum threshold on the program assessment for contracting purposes. The bill allows no more than 5 percent of the 15 percent to be provided to providers who submit valid and reliable data to the statewide information system in the domains of language and executive functioning using one of the OEL-identified child assessments.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill appropriates for FY 2018-2019, the sum of \$6 million in nonrecurring funds from the Child Care and Development Block Grant Trust Fund to OEL to implement the program assessment.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

⁴⁶ In 2011, the Florida Legislature created the Welfare Transition Trust Fund within the Florida Department of Education for use as a depository for receiving federal funds under the Temporary Assistance for Needy Families (TANF) Program. Section 1001.283, F.S.

⁴⁷ Specific Appropriation 84, s. 2, ch. 2017-70, L.O.F.

⁴⁸ Section 1002.94, F.S.

⁴⁹ Specific Appropriation 85, s. 2, ch. 2018-9, L.O.F.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.