

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

BILL: CS/SB 1738

INTRODUCER: Education Committee and Senator Stewart

SUBJECT: Voluntary Prekindergarten Education Program

DATE: February 7, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Olenick, Bouck	Graf	ED	Fav/CS
2.	_____	_____	AED	_____
3.	_____	_____	AP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1738 authorizes an early learning coalition to refuse to contract with a private provider of the Voluntary Prekindergarten Education Program if the provider has been cited for a class I violation.

The bill takes effect July 1, 2018.

II. Present Situation:

Voluntary Prekindergarten Education Program

The Legislature established the Voluntary Prekindergarten Education Program (VPK program) in 2004 as a voluntary, free prekindergarten program offered to eligible four-year-old children in the year before admission to kindergarten.¹ A child must be a Florida resident and attain four

¹ Section 1, ch. 2004-484, L.O.F.; part V, ch. 1002, F.S.; *see also* Art. IX, s. 1(b), Fla. Const. The VPK program originated from a ballot initiative proposing an amendment to the Florida Constitution in the November 2002 general election. The amendment required the Legislature to establish a free prekindergarten education program for every four-year old child residing in Florida by the 2005 academic year. Voters approved the amendment by a total of 59 percent for to 41 percent against. Art. IX, s. 1(b)-(c), Fla. Const.; *see also* Florida Department of State, Division of Elections, Voluntary Universal Prekindergarten Education, <http://dos.elections.myflorida.com/initiatives/initdetail.asp?account=34708&seqnum=1> (last visited Feb. 5, 2018).

years of age on or before September 1 of the program year, and not enrolled in the Gardiner Scholarship program to be eligible for the VPK program.² The child is eligible for the VPK program during that program year or the subsequent program year and remains eligible until enrollment in kindergarten or attaining six years of age by February 1 of any school year.³ Parents may choose either a school-year or summer program offered by either a public school or private prekindergarten provider.⁴

Local oversight of the VPK program is provided by early learning coalitions (ELC) and school districts. The ELCs provide administration over programs delivered by private prekindergarten providers and school districts administer public school VPK programs.⁵ Florida's Office of Early Learning (OEL),⁶ and the Department of Children and Families (DCF) each play a role in the state-level oversight of the VPK program. As lead agency for Florida's school readiness system, Florida's OEL governs the day-to-day operations of the VPK program.⁷ The OEL oversees ELCs regarding child enrollment, attendance reporting, and reimbursement of VPK program providers and monitors VPK program providers for compliance with program requirements.⁸

Florida law specifies eligibility criteria for private prekindergarten providers to deliver the VPK program.

VPK Program Provider Eligibility Requirements

To be eligible to deliver the VPK program, a private prekindergarten provider must:⁹

- Be a child care facility, family day care home (FDCH), or large family child care home (LFCCH) licensed in accordance with the law or a nonpublic school or faith-based child care provider exempt from licensure in accordance with the law;
- Be accredited by an accrediting association in accordance with the law;
- Hold a current Gold Seal Quality Care designation;¹⁰ or

² Sections 1002.385(4)(a) and 1002.53(2), F.S.

³ Section 1002.53(2), F.S. Children who attain five years of age on or before September 1 of the academic year are eligible for admission to public kindergarten during that school year under rules adopted by the district school board. Section 1003.21(1)(a)2., F.S.

⁴ Section 1002.53(3), F.S. In 2010, the Legislature established a specialized instructional services program for children with disabilities as an option under the VPK program. Section 3, ch. 2010-227, *codified at s.* 1002.53(3)(d), F.S.

⁵ Sections 1002.55(1), 1002.61(1)(a)-(b), and 1002.63(1), F.S.

⁶ In 2013, the Legislature established the Office of Early Learning in the Office of Independent Education and Parental Choice within 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 Voluntary Prekindergarten Education Program. s. 1, ch. 2013-252, *codified at* 1001.213, F.S.

⁷ Sections 1001.213 and 1002.75(1)-(2), F.S.

⁸ Section 1002.75(2), F.S.

⁹ Section 1002.55(3), F.S.

¹⁰ Section 402.281, F.S.; rule 65C-22.009, F.A.C.; *see also* Florida Department of Children and Families (DCF), *Gold Seal Quality Care*, <http://www.dcf.state.fl.us/childcare/goldseal.shtml> (last visited Feb. 6, 2018). DCF issues the Gold Seal Quality Care designation to child care facilities, LFCCHs, and FDCHs that are accredited by a nationally recognized accrediting association with standards that meet or exceed DCF-adopted standards. DCF's standards are based upon those of the National Association for the Education of Young Children, National

- Be licensed under Florida law and demonstrate, before delivering the VPK program, that the provider meets each of the requirements specified in law for the program.

Additionally, private prekindergarten providers must also sign and agree to the terms outlined in the approved statewide VPK provider contract¹¹ and meet specified requirements related to prekindergarten instructors, prekindergarten directors, and program operations and delivery.¹²

A private prekindergarten provider may not participate in the VPK program if the provider has child disciplinary policies that do not prohibit children from being subjected to discipline that is severe, humiliating, frightening, or associated with food, rest, toileting, spanking or any other form of physical punishment as provided in law.¹³ Additionally, an ELC is permitted to terminate a provider's contract for cause at any time.¹⁴

III. Effect of Proposed Changes:

CS/SB 1738 authorizes an early learning coalition to refuse to contract with a private provider of the Voluntary Prekindergarten Education Program if the provider has been cited for a class I violation.

Class I violations are the most serious in nature, pose an imminent threat to a child including abuse or neglect and which could or does result in death or serious harm to the health, safety or well-being of a child.¹⁵ Class II violations are less serious than Class I violations.¹⁶ Class III violations are less serious than either Class I or Class II violations.¹⁷

Accordingly, this may assist with maintaining a safe environment for children enrolled in a VPK program.

The bill takes effect July 1, 2018.

Association of Family Child Care, and National Early Childhood Program Accreditation Commission. Section 402.281(1)-(3), F.S.

¹¹ Florida Office of Early Learning, *State of Florida Statewide Voluntary Prekindergarten Provider Contract* (Oct. 2016), at 1 of 15, which is incorporated by reference in rule 6M-8.301, F.A.C.

¹² Section 1002.55(3)(c)-(m), F.S.

¹³ *Id.* at (5).

¹⁴ Florida Office of Early Learning, *State of Florida Statewide Voluntary Prekindergarten Provider Contract* (Oct. 2016), at 10 of 15, which is incorporated by reference in rule 6M-8.301, F.A.C. The Statewide Voluntary Prekindergarten Providers Contract specifies the following grounds for termination for cause: a) Action, or lack of action, which threatens the health, safety or welfare of children; (b) The material failure to comply with one or more of the terms of this contract, including failure to implement corrective action; (c) The refusal to accept any notice described under this contract which coalition is required to send to provider; or (d) Reasonable or probable cause for coalition to suspect that fraud has been committed by provider. *Id.*

¹⁵ Rule 65C-22.012(1)(e)1., F.A.C.; *see also* Florida Department of Children and Families, *Child Care Facility Classification Summary* (July 2012), at 24 of 25, available at [http://ccrain.fl-dcf.org/\(X\(1\)\)/documents/2/443.pdf#page=1](http://ccrain.fl-dcf.org/(X(1))/documents/2/443.pdf#page=1), which is incorporated by reference in rule 65C-22.010, F.A.C.

¹⁶ Rule 65C-22.012(1)(e)2., F.A.C.

¹⁷ *Id.* at (e)3.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1002.55 of the Florida Statutes.

IX. Additional Information:A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Education on February 6, 2018:**

The committee substitute modifies the provisions in the bill regarding Voluntary Prekindergarten Education Program (VPK program) provider participation and school readiness program provider eligibility to:

- Modify the bill provision prohibiting a private prekindergarten provider from participation in the VPK program for specified violations, to specify that if a private prekindergarten provider has been cited for a class I violation, the early learning coalition (ELC) may refuse to contract with the provider.
- Remove from the bill, the bill provision authorizing ELCs to revoke school readiness program providers' eligibility to deliver the school readiness program a period of 5 years from the date of the last violation if the provider has been cited for four or more violations relating to the supervision of children within a 2-year period.

B. Amendments:

None.

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